Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir : Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 58, Permitting Adjournment to a certain date.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

THIRTY-FOURTH DAY

(Monday, March 10, 1941)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Leonard.

The roll of the House was called, and the following Members were present:

Mr. Speaker
Allen
Allison
Alsup
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bray
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fitzgerald
Fuchs
Gandy
Garland
Gilmer
Goodman
Halsey
Hanna
Hargis
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Helpinstill
Henderson
Hileman
Hobbs
Howington
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kennedy
Kersey
Kinard
King
Klingeman
Knight
Lansberry
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lucas
Lyle
McAlister
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Markle
Martin
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Pace
Parker
Pevehouse
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Sallas
Senterfitt
Sharpe
Shell
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Stubbs
Taylor
Thornton
Turner
Vale
Voigt
Walters
Wattner
Weatherford
White
Whitesides
Winfree

Absent—Excused

Cleveland
Hardeman
Howard
McCann

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain, as follows:

"Lord, Thou hast bidden us to draw nigh unto Thee, and hast promised that Thou wouldst draw nigh unto us. As our larger tasks press upon us do Thou open the ways in which we should go, and restrain us when we would make mistakes. May each succeeding day find us on higher and better ground in all our work. In Christ's name. Amen."

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence on account of important business:

Mr. McCann for today on motion of Mr. Senterfitt.

Mr. Hardeman for today on motion of Mr. Heflin.

Mr. Howard for today on motion of Mr. Stinson.

Mr. Donald temporarily for today on motion of Mr. Lucas.

The following members were granted leaves of absence on account of illness:

Mr. Cleveland for today on motion of Mr. Crosthwait.

Mr. Gandy temporarily for today on account of illness in family on motion of Mr. Stubbs.

PRESENTATION OF TRINITY UNIVERSITY CHOIR

In accordance with the provisions of House Simple Resolution No. 140, by Miss Files, inviting the Trinity University Choir to appear before the House, the Speaker presented Miss Files who introduced Mr. Alton Clay Pierce, Director of the Choir, to the House.

Mr. Pierce then led the Choir in several selections.

Speaker Leonard on behalf of the members of the House expressed appreciation to the Choir.

RELATIVE TO HOUSE BILL NO. 476

On motion of Mr. Hobbs and by unanimous consent of the House the following amendment was adopted to House Bill No. 476:

Amend House Bill No. 476 by inserting in the Bill and at the proper place the following references:

"as amended by the following articles: Acts, Forty-fifth Legislature, page 606, Chapter 305, Section 1; Acts, Forty-fifth Legislature, page 639, Chapter 313, Section 1; Acts, 1937, Forty-fifth Legislature, First Called Session, page 1778, Chapter 17; Acts, 1937, Forty-fifth Legislature, Second Called Session, page 1951, Chapter 50, Section 1; Acts, 1937, Forty-fifth Legislature, page 158, Chapter 84, Section 1; Acts, 1937, Forty-fifth Legislature, page 852, Chapter 420, Section 1; Acts, 1937, Forty-fifth Legislature, First Called Session, page 1798, Chapter 24; Acts, 1937, Forty-fifth Legislature, Second Called Session, page 1908, Chapter 29, Section 1; Acts, 1937, Forty-fifth Legislature, Second Called Session, page 1902, Chapter 25, Section 1; Acts, 1937, Forty-fifth Legislature, First Called Session, page 1826, Chapter 45, Section 3; Acts, 1939, Forty-sixth Legislature, Special Laws, page 595, Section 1; Acts, 1939, Forty-sixth Legislature, Special Laws, page 600, Section 1; Acts, 1939, Forty-sixth Legislature, Special Laws, page 598, Section 1; Acts, 1939, Forty-sixth Legislature, Special Laws, page 594, Section 1; Acts, 1939, Forty-sixth Legislature, Special Laws, page 591; Acts, 1939, Forty-sixth Legislature, Special Laws, page 599, Section 1; Acts, 1939, Forty-sixth Legislature, Special Laws, page 597, Section 1; and Acts, 1939, Forty-sixth Legislature, Special Laws, page 593, Section 1,"

and by striking out the words: "to be known as Article 1645f" wherever they appear.

Amend caption to conform.

MOTIONS TO PLACE HOUSE BILL NO. 8 ON SECOND READING

Mr. Taylor moved that the necessary rules be suspended for the purpose of taking up and considering at this time, House Bill No. 8.

The roll of the House was called on the motion by Mr. Taylor and the vote announced as follows: Yeas, 85; nays, 50.

Mr. Taylor requested a verification of the vote.

Mr. Kersey moved a call of the House pending the verification and the call was duly ordered.

The roll of the "yeas" and "nays" was again called and the verified vote resulted as follows:

Yeas—87

Allen	Benton
Allison	Blankenship
Alsup	Boone
Bell	Bridgers

Brown
Bullock
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Dickson of Nolan
Duckett
Eubank
Files
Fitzgerald
Fuchs
Garland
Halsey
Hanna
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Hileman
Howington
Hoyo
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
King
Klingeman
Lansberry
Leyendecker
Little
Lock
Love
Lowry
Lyle
McAlister
McGlasson
McNamara
Manning
Markle
Martin
Mills
Montgomery
Moore
Morgan
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Simpson
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Nays—51

Anderson
Avant
Bailey
Baker
Bruhl
Burnaman
Daniel
Davis
Deen
Dickson of Bexar
Donald
Dove
Dwyer
Evans
Ellis
Favors
Ferguson
Gandy
Goodman
Hargis
Helpinstill
Henderson
Hobbs
Huddleston
Huffman
Kennedy
Kersey
Knight
Lehman
Lucas
McLellan
McMurry
Manford
Matthews
Murray
Pace
Parker
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Absent

Bean
Brawner
Bray
Gilmer
Hutchinson
McDonald
Pevehouse

Absent—Excused

Cleveland
Hardeman
Howard
McCann

The Speaker announced that the motion by Mr. Taylor to suspend all necessary House Rules for the purpose of considering House Bill No. 8 was lost (not receiving the necessary two-thirds vote).

Mr. Taylor again moved that the necessary rules be suspended for the purpose of taking up and considering at this time, House Bill No. 8, until same is disposed of.

The motion was lost by the following vote (not receiving the necessary two-thirds vote).

Yeas—94

Allen
Alsup
Bell
Benton
Blankenship
Boone
Brawner
Bridgers
Brown
Bullock
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Dickson of Nolan
Donald
Duckett
Eubank
Evans
Ferguson
Files
Fitzgerald
Fuchs
Garland
Gilmer
Halsey
Hanna
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Hileman
Howington
Hoyo
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
King
Klingeman
Lansberry
Leyendecker

Little
Lock
Love
Lowry
Lyle
McAlister
McDonald
McGlasson
McMurry
McNamara
Manning
Markle
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Phillips
Rampy
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Simpson
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Nays—50

Allison
Anderson
Avant
Bailey
Baker
Bray
Bruhl
Burnaman
Daniel
Davis
Deen
Dickson of Bexar
Dove
Dwyer
Ellis
Favors
Gandy
Goodman
Hargis
Helpinstill
Henderson
Hobbs
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
Knight
Lehman
Lucas
McLellan
Manford
Martin
Matthews
Pace
Parker
Pevehouse
Price
Reed of Bowie
Roark
Sallas
Sharpe
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Absent

Bean

Absent—Excused

Cleveland
Hardeman
Howard
McCann

REASON FOR VOTE

My reason for voting nay on motion to consider H. B. No. 8 is because in my opinion it is grossly inadequate to meet the demands for which intended.

BAILEY.

MOTION TO REREFER HOUSE BILL NO. 322

Mr. Turner moved that House Bill No. 322 be withdrawn from the Committee on Appropriations and referred to the Committee of the Whole House.

Mr. McAlister moved to suspend the Rules in order that the above motion by Mr. Turner may be debated.

The motion to suspend the Rules was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—81

Allen
Alsup
Anderson
Bell
Blankenship
Brawner
Bray
Brown
Bullock
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crosthwait
Dickson of Nolan
Eubank
Evans
Ferguson
Files
Fitzgerald
Fuchs
Gilmer
Halsey
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Huffman
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Lock
Lowry
Lyle
McAlister
McGlasson
McNamara
Markle
Matthews
Mills
Montgomery
Moore
Morris
Morse
Murray
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford
Winfree

Nays—61

Allison	Hutchinson
Avant	Kennedy
Bailey	Kersey
Baker	King
Benton	Knight
Boone	Lehman
Bridgers	Love
Bruhl	Lucas
Burnaman	McDonald
Crossley	McLellan
Daniel	McMurry
Davis	Manford
Deen	Manning
Dickson of Bexar	Martin
Dove	Morgan
Duckett	Pace
Dwyer	Parker
Ellis	Pevehouse
Favors	Price
Gandy	Rampy
Garland	Reed of Bowie
Goodman	Roark
Hanna	Sallas
Hargis	Sharpe
Harris of Hill	Spacek
Helpinstill	Stinson
Henderson	Stubbs
Hobbs	Turner
Hoyo	White
Huddleston	Whitesides
Hughes	

Absent

Bean

Absent—Excused

Cleveland	Howard
Donald	McCann
Hardeman	

Mr. McAlister moved to table the motion by Mr. Turner, that House Bill No. 322 be rereferred to the Committee of the Whole House.

Question recurring on the motion to table, yeas and nays were demanded.

The roll of the House was called and the vote announced as follows: Yeas, 67; nays, 72.

Mr. McAlister requested a verification of the vote.

Mr. Kersey moved a call of the House pending the verification, and the call was duly ordered.

Mr. Lucas moved that the Sergeant at Arms be instructed to bring in all absent Members within the city who are not ill.

Mr. Morris moved that the Sergeant at Arms be instructed to bring in all absent Members within the city except those Members who are excused by the House on today.

The motion by Mr. Morris prevailed.

The roll of the "yeas" and "nays" was again called on the motion by Mr. McAlister to table the motion to rerefer House Bill No. 322, and the verified vote resulted as follows:

Yeas—67

Allen	Isaacks
Alsup	Kelly
Bell	Kinard
Benton	Klingeman
Blankenship	Lansberry
Boone	Leyendecker
Bridgers	Little
Brown	Lowry
Bruhl	Lyle
Bundy	McAlister
Burkett	McGlasson
Carlton	McNamara
Carrington	Markle
Cato	Montgomery
Celaya	Morris
Chambers	Morse
Clark	Nicholson
Coker	Phillips
Colson, Mrs.	Reed of Dallas
Craig	Ridgeway
Crosthwait	Roberts
Dickson of Nolan	Rhodes
Files	Skiles
Fitzgerald	Smith of Atascosa
Fuchs	Spangler
Gilmer	Stanford
Hanna	Taylor
Harris of Dallas	Thornton
Hartzog	Vale
Heflin	Voigt
Hileman	Walters
Howington	Wattner
Hughes	Weatherford
Humphrey	

Nays—72

Allison	Crossley
Anderson	Daniel
Avant	Davis
Bailey	Deen
Baker	Dickson of Bexar
Bullock	Dove
Burnaman	Duckett
Connelly	Dwyer

Ellis	McLellan
Eubank	McMurry
Evans	Manford
Favors	Manning
Ferguson	Martin
Gandy	Matthews
Garland	Moore
Goodman	Morgan
Halsey	Murray
Hargis	Pace
Harris of Hill	Parker
Helpinstill	Pevehouse
Henderson	Price
Hobbs	Rampy
Hoyo	Reed of Bowie
Huddleston	Roark
Huffman	Sallas
Hutchinson	Senterfitt
Jones	Sharpe
Kennedy	Simpson
Kersey	Smith of Bastrop
King	Spacek
Knight	Stinson
Lehman	Stubbs
Lock	Turner
Love	White
Lucas	Whitesides
McDonald	Winfree

Present—Not Voting

Brawner

Absent

Bean	Mills
Bray	Shell

Absent—Excused

Cleveland	Howard
Donald	McCann
Hardeman	

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absset), who would vote "nay."

The Speaker announced that the motion by Mr. McAlister to table the motion by Mr. Turner was lost.

Mr. Morris moved to suspend the Rules in order that the opponents and proponents may be allowed five minutes each in order to debate the motion by Mr. Turner.

The motion to suspend the Rules was lost.

Mr. McAlister moved to postpone further consideration of the motion by Mr. Turner until the routine motion period next Wednesday.

Mr. Anderson moved to table the motion to postpone.

Mr. Kersey moved the previous question on the motion by Mr. Turner to rerefer House Bill No. 322 and the motion to postpone and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

Question then recurring on the motion by Mr. Anderson to table the motion to postpone further consideration of the motion to rerefer House Bill No. 322 until the routine motion period next Wednesday, the motion to table was lost.

Question then recurring on the motion to postpone further consideration of the motion by Mr. Turner to rerefer House Bill No. 322 to the Committee of the Whole House, yeas and nays were demanded.

The roll of the House was called and the vote announced, as follows: Yeas, 70; nays, 72.

Mr. McAlister requested a verification of the vote.

Mr. Kersey moved a call of the House pending the verification, and the call was duly ordered.

The roll of the "yeas" and "nays" was again called and the verified vote resulted as follows:

Yeas—69

Allen	Colson, Mrs.
Alsup	Crossley
Bean	Crosthwait
Bell	Dickson of Nolan
Benton	Files
Blankenship	Fitzgerald
Boone	Fuchs
Brown	Garland
Bruhl	Gilmer
Bundy	Hanna
Burkett	Harris of Dallas
Carlton	Hartzog
Carrington	Heflin
Cato	Hileman
Celaya	Howington
Chambers	Hughes
Clark	Humphrey
Coker	Isaacks

Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Lowry
Lyle
McAlister
McNamara
Markle
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Nays—72

Allison
Anderson
Avant
Bailey
Baker
Bridgers
Bullock
Burnaman
Connelly
Craig
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Love
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Martin
Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Present—Not Voting

Brawner

Absent

Bray
Stanford

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absent), who would vote "nay."

The Speaker announced that the motion to postpone further consideration of the motion to re-refer House Bill No. 322 was lost.

Mr. Harris of Dallas moved as a substitute motion that House Bill No. 322 be withdrawn from the Committee on Appropriations and referred to the Committee on State Affairs, with the instructions that the Committee be instructed to report the bill by 10:30 o'clock a. m. tomorrow.

Mr. Turner moved to table the substitute motion by Mr. Harris of Dallas.

Mr. Lucas moved the previous question on the substitute motion by Mr. Harris of Dallas and the motion by Mr. Turner, and the motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—76

Allison
Anderson
Avant
Bailey
Baker
Bridgers
Bruhl
Bullock
Burnaman
Cato
Coker
Connelly
Craig
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman

Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Senterfitt
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Nays—65

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bray
Brown
Bundy
Burkett
Carlton
Carrington
Celaya
Chambers
Clark
Colson, Mrs.
Crosthwait
Files
Fitzgerald
Garland
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Present—Not Voting

Brawner

Absent

Fuchs

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "nay," with Mr. Donald (absent), who would vote "yea."

Mr. Lucas moved to reconsider the vote by which the previous question was ordered, and to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The roll of the House was called and the vote announced as follows: Yeas, 71; nays, 69.

Mr. Harris of Dallas requested a verification of the vote.

Mr. Kersey moved a call of the House pending the verification, and the call was duly ordered.

The roll of the "yeas" and "nays" was again called on the above motion to table, and the verified vote resulted as follows:

Yeas—73

Allison
Anderson
Avant
Bailey
Baker
Bruhl
Bullock
Burnaman
Connelly
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Dove
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Fuchs
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kelly
Kennedy
Kersey
King
Knight
Lehman
Lock
Love
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning

Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Nays—69

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bridgers
Brown
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Craig
Crosthwait
Duckett
Files
Fitzgerald
Garland
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kinard
Klingeman
Lansberry
Leyendecker
Little
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Present—Not Voting

Brawner

Absent

Bray

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "nay," with Mr. Donald (absent), who would vote "yea."

The Speaker announced that the motion to table prevailed.

Mr. Taylor moved to suspend all necessary Rules in order that the House may debate the pending motions to re-refer House Bill No. 322.

The motion to suspend the Rules was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—73

Allen
Alsup
Bean
Bell
Blankenship
Brawner
Bridgers
Brown
Bruhl
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Craig
Crossley
Crosthwait
Ferguson
Files
Fitzgerald
Fuchs
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Lock
Love
Lowry
Lyle
McAlister
McGlasson
McNamara
Markle
Martin
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford
Winfree

Nays—70

Allison
Anderson
Avant
Bailey
Baker
Benton

Boone
Bray
Bullock
Burnaman
Connelly
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Gandy
Garland
Gilmer
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hughes
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lucas
McDonald
McLellan
McMurry
Manford
Manning
Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides

Absent

Dickson of Nolan

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

Mr. Love moved to suspend all necessary Rules in order that the House may take up and consider, at this time, House Simple Resolution No. 153.

The motion to suspend the Rules was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—89

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bray
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Carlton
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Dickson of Bexar
Dickson of Nolan
Duckett
Eubank
Evans
Ferguson
Files
Fitzgerald
Fuchs
Garland
Halsey
Hanna
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Hileman
Howington
Hoyo
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McNamara
Manning
Markle
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Simpson
Skiles
Smith of Atascosa
Spangler
Stanford
Stubbs
Taylor
Thornton
Vale
Voigt
Wattner
Weatherford

Nays—54

Allison
Anderson
Avant
Bailey
Baker
Burnaman
Carrington
Daniel
Davis
Deen
Dove
Dwyer
Ellis
Favors
Gandy
Gilmer
Goodman
Hargis
Helpinstill
Henderson
Hobbs
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Lucas
McDonald
McLellan
McMurry
Manford
Martin
Matthews
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe

Smith of Bastrop
Spacek
Stinson
Turner
Walters
White
Whitesides
Winfree

Absent

McGlasson

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

Question recurring on the motion by Mr. Turner to table the substitute motion by Mr. Harris of Dallas that House Bill No. 322 be re-referred to the Committee on State Affairs yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—72

Allison
Anderson
Avant
Bailey
Baker
Bridgers
Bullock
Burnaman
Carlton
Connelly
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Fuchs
Gandy
Garland
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Reed of Dallas
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Nays—70

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bray
Brown
Bruhl
Bundy
Burkett
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Craig
Crossley
Crosthwait
Files
Fitzgerald
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Mills
Montgomery
Morris
Morse
Nicholson
Phillips
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Present—Not Voting

Brawner

Absent

Dickson of Nolan

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absent), who would vote "nay."

Question then recurring on the motion by Mr. Turner that House Bill No. 322 be withdrawn from the Committee on Appropriations and re-

ferred to the Committee of the Whole House yeas and nays were demanded.

The motion to re-refer prevailed by the following vote:

Yeas—73

Allison
Anderson
Avant
Bailey
Baker
Benton
Bruhl
Bullock
Burnaman
Connelly
Craig
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Gandy
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Senterfitt
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Taylor
Thornton
Turner
White
Whitesides
Winfree

Nays—67

Allen
Alsup
Bean
Bell
Blankenship
Boone
Bray
Bridgers
Brown
Bundy
Burkett
Carlton
Carrington
Cato
Chambers
Clark
Coker
Colson, Mrs.
Crosthwait
Files
Fitzgerald
Fuchs
Garland
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Mills
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Vale
Voigt
Walters
Wattner
Weatherford

Present—Not Voting

Brawner

Absent

Celaya
Dickson of Nolan
Goodman

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "nay," with Mr. Donald (absent), who would vote "yea."

Mr. Taylor moved to reconsider the vote by which House Bill No. 322 was withdrawn from the Committee on Appropriations and referred to the Committee of the Whole House.

Mr. Lucas moved to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The roll of the House was called and the vote was announced as follows: Yeas, 70; nays, 72.

Mr. Taylor requested a verification of the vote.

Mr. Turner moved a call of the House pending the verification, and the call was duly ordered.

The roll of the "yeas" and "nays" was again called and the verified vote resulted, as follows:

Yeas—70

Allison
Anderson
Avant
Bailey
Baker
Benton
Bruhl
Bullock
Burnaman
Connelly
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Evans
Eubank
Favors
Ferguson
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Love
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Nays—72

Allen
Alsup
Bean
Bell
Blankenship
Boone
Bray
Bridgers
Brown
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Craig
Crossley
Crosthwait
Files
Fitzgerald
Fuchs
Garland
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Mills
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Present—Not Voting

Brawner

Absent

Dickson of Nolan

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "nay," with Mr. Donald (absent), who would vote "yea."

The Speaker announced that the motion to table the motion to reconsider the vote by which House Bill No. 322 was re-referred was lost.

Question then recurring on the motion by Mr. Taylor to reconsider the vote by which House Bill No. 322 was re-referred to the Committee of the Whole House yeas and nays were demanded.

The motion to reconsider prevailed by the following vote:

Yeas—75

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bray
Bridgers
Brown
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Craig
Crossley
Crosthwait
Evans
Files
Fitzgerald
Garland
Gilmer
Hanna
Harris of Dallas

Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Mills
Montgomery
Morris
Morse
Murray
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Nays—66

Allison
Anderson
Avant
Bailey
Baker
Bruhl
Bullock
Burnaman
Connelly
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Favors
Ferguson
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Moore
Morgan
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Present—Not Voting

Brawner

Absent

Dickson of Nolan
Fuchs

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absent), who would vote "nay."

Question: Shall House Bill No. 322 be withdrawn from the Committee on Appropriations and referred to the Committee of the Whole House?

Mr. Morris moved to table the motion by Mr. Turner to re-refer House Bill No. 322 to the Committee of the Whole House.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—70

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bray
Bridgers
Brown
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Crosthwait
Files
Fitzgerald
Fuchs
Garland
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McNamara
Markle
Martin
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes

Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Nays—72

Allison
Anderson
Avant
Bailey
Baker
Bruhl
Bullock
Burnaman
Connelly
Craig
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kennedy
Kersey
King
Knight
Lehman
Lock
Lucas
McDonald
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Senterfitt
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Present—Not Voting

Brawner

Absent

Dickson of Nolan

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absent), who would vote "nay."

HOUSE BILL NO. 322 ORDERED PRINTED ON MINORITY REPORT

Mr. McDonald moved that House Bill No. 322, reported adversely with a minority favorable report, be printed.

The motion prevailed by the following vote:

Yeas—86

Allison
Anderson
Avant
Bailey
Baker
Benton
Blankenship
Bruhl
Bullock
Burnaman
Carrington
Cato
Celaya
Coker
Connelly
Craig
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Fuchs
Gandy
Goodman
Halsey
Hargis
Harris of Hill
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Kelly
Kennedy
Kersey
King
Knight
Lehman
Lock
Love
Lucas
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Sallas
Senterfitt
Sharpe
Simpson
Smith of Bastrop
Smith of Atascosa
Spacek
Stinson
Stubbs
Turner
White
Whitesides
Winfree

Nays—53

Allen
Alsup
Bean
Bell
Boone
Bray
Bridgers
Brown

Bundy
Burkett
Carlton
Chambers
Clark
Colson, Mrs.
Crosthwait
Files
Fitzgerald
Garland
Gilmer
Hanna
Harris of Dallas
Hartzog
Heflin
Hileman
Howington
Hughes
Humphrey
Isaacks
Jones
Klingeman
Lansberry
Leyendecker
Lyle
McAlister
Markle
Martin
Montgomery
Morris
Morse
Nicholson
Phillips
Rhodes
Shell
Skiles
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford

Present—Not Voting

Brawner

Absent

Dickson of Nolan
Kinard
Little
Lowry

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absent), who would vote "nay."

HOUSE BILL NO. 8 ON SECOND READING

Mr. Morris moved that the necessary Rules be suspended for the purpose of taking up and considering, at this time, House Bill No. 8 until finally disposed of.

The motion prevailed by the following vote:

Yeas—100

Allen
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Duckett
Eubank
Evans
Ferguson
Files
Fitzgerald
Fuchs
Garland
Gilmer
Halsey
Hanna
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Hileman
Howington
Hoyo
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kinard
Klingeman
Lansberry
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lyle
McAlister
McDonald
McGlasson
McNamara
Manning
Markle
Martin
Matthews
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Pevehouse
Phillips
Rampy
Reed of Dallas
Roberts
Rhodes
Senterfitt
Shell
Simpson
Skiles
Smith of Atascosa
Spangler
Stanford
Stinson
Stubbs
Taylor
Thornton
Vale
Voigt
Walters
Wattner
Weatherford
Winfree

Nays—39

Allison
Anderson
Avant
Bailey
Baker
Bray
Davis
Deen
Dickson of Bexar
Dove
Dwyer
Ellis
Favors
Gandy
Goodman
Hargis
Helpinstill
Henderson
Hobbs
Huddleston
Kennedy
Kersey
Knight
Lucas
Manford
Mills
Pace
Parker
Price
Reed of Bowie
Ridgeway
Roark
Sallas
Sharpe
Smith of Bastrop
Spacek

Turner Whitesides
White

Present—Not Voting

Brawner

Absent

Dickson of Nolan McLellan
King McMurry

Absent—Excused

Cleveland Howard
Donald McCann
Hardeman

PAIRED

Mr. Brawner (present), who would vote "yea," with Mr. Donald (absent), who would vote "nay."

The Speaker then laid before the House, on its second reading and passage to engrossment,

H. B. No. 8, A bill to be entitled "An Act levying various taxes and providing certain revenue for the payment of Old Age Assistance, aid to Destitute Children, aid to Needy Blind, and the obligations of the State under the Teachers Retirement Act; amending Section 2 of Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, and levying certain taxes on persons making the first sale in this State of cigarettes and providing for the collection and administration thereof; amending Section 2 of Article 7057a of the Revised Civil Statutes of Texas, 1925, same being Section 2, Chapter 162, Acts of the Forty-third Legislature, Regular Session, 1933, as amended by Acts of the First Called Session of the Forty-third Legislature, 1933, Chapter 12, Section 1, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Chapter 495, Article 4, Section 4, levying certain occupation taxes on oil produced within this State, defining certain terms in connection therewith, establishing the liability thereof, and providing for the computation, collection, and administration thereof; amending Section 3, Chapter 75, Acts of the Regular Session of the Forty-second Legislature, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, Chapter 495, Article 4, Section 8, levying certain taxes on the market value of gas produced and saved within this State, or sold if imported into this State; defining certain terms in connection therewith, establishing the liability thereof, and providing for the computation, collection, and administration thereof; amending Section 40A of Article 7047, Revised Civil Statutes of Texas, 1925, as amended by Acts of 1931, Forty-second Legislature, Regular Session, Page 355, Chapter 212, Section 1, as amended by Acts of 1936, Forty-fourth Legislature, Third Called Session, Page 2040, Chapter 493, Article 4, Section 6, levying certain taxes against producers of sulphur within this State, and providing for the computation, collection, and administration thereof; etc., and declaring an emergency."

The bill was read second time.

Mr. Taylor moved a call of the House for the purpose of maintaining a quorum until House Bill No. 8 is disposed of and the call was duly ordered.

Mr. Taylor offered the following amendment to the bill:

Amend H. B. No. 8 by striking out all below the enacting clause and inserting in lieu thereof the following:

Article I

Section 1. That Section 2 of Article 7057a of the Revised Statutes of Texas, 1925, as amended by Acts of 1933, Forty-third Legislature, Page 409, Chapter 162, and as further amended by Acts of 1933, Forty-third Legislature, First Called Session, Page 43, Chapter 12, Section 1, and as further amended by Acts of 1936, Forty-fourth Legislature, Third Called Session, Page 2040, Chapter 495, Article 4, Section 4, be amended so as to read hereafter as follows:

"Sec. 2 (1) There is hereby levied an occupation tax on oil produced within this State of three and one-half cents (3½¢) per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one

hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be three and one-half per cent (3½%) of the market value of said oil whenever the market value thereof is in excess of One Dollar ($1) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein shall be the actual market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such oil will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

(7) The taxes herein provided for, when paid shall be, and hereby are, allocated as follows, to-wit:

One-half (½) of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the Available School Fund, and one-half (½) of such taxes when and as received by the Comptroller, shall be paid to the State Treasurer to be placed to the credit of the General Fund of the State.

Article II

Section 1. That Sections 1, 2, 3, 4, 5, 6, 7, 8, and 9, Chapter 73, Acts of Regular Session of the Forty-second Legislature, Chapter 495, Article 4, Section 8, as amended by Chapter 3 and Chapter 4 of Subdivision II of the title "Taxes and Taxation" of the Acts of Regular Session of the Forty-sixth Legislature, be and the same is hereby amended so as to read as follows:

"Section 1. (1) There is hereby levied an occupation tax on all gas produced within this State, computed as follows:

(a) On sweet gas, one-fifth (1/5) of one (1) cent per thousand cubic feet; (b) on sour gas, one-tenth (1/10) of one (1) cent per thousand cubic feet; and (c) on casinghead gas, one-tenth (1/10) of one (1) cent per thousand cubic feet specified in Section 2; provided, that in determining the quantity of gas

for the purpose of such tax, and in the calculation of such tax, there shall be excluded: gas injected into the earth in the State of Texas for the following bona fide purpose: (1) storage thereof; (2) recycling; (3) repressuring; (4) lifting oil; and provided that this exemption shall not apply to gas severed in lifting oil, and (5) gas lawfully vented or flared in connection with the production of oil.

(2) The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of each such producer to keep accurate records in Texas of all gas produced, making monthly reports under oath as hereinafter provided.

(3) The purchaser of gas shall pay the tax on all gas purchased and deduct the tax so paid from the payment due the producer or other interest holders, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer; such monies so deducted from payments due producers for the payment of this tax shall be held by the purchaser in trust for the use and benefit of the State of Texas and shall not be commingled with any other funds held by said purchaser, and shall be remitted to the State Treasurer in accordance with the terms and provisions of this Act.

(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all gas produced during the calendar month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make such payment and shall be entitled to reasonable attorney's fees and court costs incurred by such legal action.

(5) Provided, that unless such payment of tax on all gas produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests; and producers and/or purchasers of gas are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due and remit the same to the Comptroller.

"Sec. 2. (1) For the purpose of this Act "producer" shall mean any person owning, controlling, managing or leasing any gas well and/or any person who produces in any manner any gas by taking it from the earth or waters in this State, and shall include any person owning any royalty or other interest in any gas or its value whether produced by him, or by some other person on his behalf, either by lease, contract or otherwise.

(2) "First purchaser" shall mean any person purchasing gas from the producer.

(3) "Subsequent purchaser" shall mean any person who purchases gas for any purpose whatsoever, when said gas is purchased from any person other than the producer.

(4) "Carrier" shall mean the owner, operator, or manager of any means of transporting gas or any instrumentality that may now be used or come into use for such purpose.

(5) "Gas" shall mean natural and casinghead gas or other gas taken from the earth or waters, regardless of whether produced from a gas well or from a well also productive of oil, distillate and/or condensate, or other product.

(6) The term "sweet gas" shall

mean all natural gas except sour gas and casinghead gas.

(7) The term "sour gas" shall mean any natural gas containing more than one and one-half (1½) grains of hydrogen sulphide per hundred (100) cubic feet, or more than 30 grains of total sulphur per one hundred (100) cubic feet.

(8) The term "casinghead gas" shall mean any gas and/or vapor indigenous to an oil stratum and produced from such stratum with oil.

(9) "Report" shall mean any report required to be furnished in this Act or that may be required by the Comptroller in the administration of this Act.

(10) "Person" shall include any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, company, corporation, and persons acting under declarations of trust as well as the trustees acting under such declarations of trust.

(11) "Production" or "total gas produced" shall mean the total gross amount of gas produced, including all royalty or other interest; that is, the amount for the purpose of the tax imposed by this Article shall be measured or determined by meter readings showing one hundred (100) per cent of the full volume expressed in cubic feet.

(12) For the purpose of this Article, by the term "cubic feet of gas" is meant volume of gas expressed in cubic feet and computed at a base pressure of four (4) ounces per square inch above the average barometric pressure of 14.4 pounds per square inch, a standard base and flowing temperature of sixty (60) degrees Fahrenheit; correction to be made for pressure according to Boyle's Law, and for specific gravity according to test made by the balance method.

(13) "Royalty owners" shall mean and include all persons owning any mineral rights under any producing leasehold within this State, other than the working interest, which working interest is that of the person having the management and operation of the well.

(14) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

(15) The tax herein imposed on the producing of gas shall be the primary liability of the producer as hereinbefore defined, and every person purchasing gas from producer thereof and taking delivery thereof at or near the premises where produced shall collect said tax imposed by this Act from the producer. Every purchaser including the first purchaser and the subsequent purchaser, required to collect any tax under this Act, shall make such collection by deducting and withholding the amount of such tax from any payments made by such purchaser to the producer, and remit same as herein provided. This section shall not affect any pending lawsuit in the State of Texas, or any lease agreement or contract now or that hereafter may be in effect between the State of Texas or any political subdivision thereof and/or the University of Texas and any gas producer.

(16) When it shall appear that a taxpayer to whom the provisions of this Act shall apply has erroneously paid more taxes than were due during any tax paying period either on account of a mistake of fact or law, it shall be the duty of the State Comptroller to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid.

(17) The tax hereby levied shall be a liability upon the producer, the first purchaser, and/or subsequent purchaser or purchasers as herein provided.

(18) The tax hereby levied shall be paid by the first purchaser purchasing the same from the producer, who shall deduct the same from the amount paid producer, as aforesaid, provided, however, that the failure of first purchaser to pay said tax shall not relieve the producer from the payment of same, nor shall it relieve any subsequent purchaser from the payment of same, where the first purchaser does not account for and pay said tax, and it shall be

the duty of every person purchasing gas produced in Texas to satisfy himself or itself that the tax on said gas has been or will be paid by the persons primarily liable therefor.

"Sec. 3. The Comptroller shall employ auditors and/or other technical assistants for the purpose of verifying reports and investigating the affairs of producers and/or purchasers to determine whether the tax is being properly reported and paid. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Act, and any other premises necessary in determining the correct tax liability; and to examine, or cause to be examined, any books, or records of any person, subject to a tax under this Act, and to secure any other information directly or indirectly concerned in the enforcement of this Act, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Act, which shall have the full force and effect of law. Before any division or allotment of the occupation tax collected under the provisions of this Act is made, one-half of one per cent of the gross amount of said tax shall be set aside in the Treasury for the use of the Comptroller in the administration and enforcement of the provisions of this Act; and so much of the said proceeds of one-half of one per cent of the occupation tax paid monthly as may be needed in such administration and enforcement is hereby appropriated for such purpose.

"Section 4. In the event any person engaged in the business of producing any gas in this State shall become delinquent in the payment of the proper taxes herein imposed, or fail to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person from producing gas until the delinquent tax is paid or said reports are filed, and the venue of any such suit for injunction is hereby fixed in Travis County.

"Sec. 5. If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than One Hundred Dollars ($100) for each violation and each day's violation shall constitute a separate offense. If any person shall fail to pay the proper tax within due date, he shall forfeit ten per cent (10%) thereof as penalty. Delinquent taxes and penalties shall draw interest at the rate of six per cent (6%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest, on all property and equipment used by the producer of gas in his business of producing gas, and if any producer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the producer of gas shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in a gas audit fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said gas audit fund are hereby appropriated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, penalties, and other amounts due, and for the enforcement of all liens under this law; and the venue of any such suit is hereby fixed in Travis County.

"Sec. 6. (a) If any producer or purchaser of natural and/or casinghead gas fails or refuses to pay any tax, penalty or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such producer or purchaser or representative of said producer or purchaser or a certified copy thereof certified to by the Comptroller of Public Accounts showing the amount of gas

produced on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said producer or purchaser when filed and sworn to by such representative as being made from the records of said producer or purchaser, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown; provided, further, that such report or audit may be admitted in evidence only against the party by or from whom it was made.

(b) In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said producer or purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid; that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

(c) On notice from the State Comptroller, it shall be unlawful for any person to remove any natural and/or casinghead gas from any lease in this State whenever the owner or operator of said lease has failed to file reports as required under the provisions of this Act.

(d) Whenever any lease producing natural and/or casinghead gas changes hands, it shall be the duty of the owner or operator of said lease to note on his last report that said lease has been sold or transferred, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, or receiver who will operate said lease and be responsible for the filing of reports provided for in this Act. It further shall be the duty of the new owner or operator of said lease to note on his first report that said lease has been acquired, showing the effective date of said change and the name and address of the individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, or receiver formerly owning and/or operating said lease.

"Sec. 7. Whoever shall, as a producer or purchaser or as agent or representative of a producer, or purchaser, knowingly make any false entries or fail to make any proper entries in the books required by this Act with intent to defraud the State; or whoever as such, shall knowingly make a false or incomplete report as required by the provisions of this Act; or whoever as such shall knowingly fail or refuse to make the report required to be made; or whoever, as such shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this Act; or whoever shall, as such, hide or secrete with intent to defraud, any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars ($100), nor more than One Thousand Dollars ($1,000), or be confined in the county jail not more than twelve (12) months, or by both such fine and imprisonment.

In addition thereto, such producer or purchaser or agent thereof shall forfeit to the State of Texas, for any said offense or the violation of any of the provisions hereof, or any rule or regulation, a penalty of One Thousand Dollars ($1,000) for each such offense, to be recovered by the Attorney General in a Civil Suit in the name of the State of Texas; and the venue of such suit is hereby fixed in Travis County, and such suit may be brought separately or joined and made a part of any one Civil Suit provided for by this Act. The penalties prescribed in this section both criminal and civil, are in addition to any and all other penalties prescribed in this law.

Article III

Section 1. That Section 40A of Article 7074, Revised Civil Statutes of Texas, 1925, as amended by Acts of 1931, Forty-second Legislature, Regular Session, Page 355, Chapter 212, Section 1, as amended by Acts of 1936, Forty-fourth Legislature, Third Called Session, Page 2040, Chapter 495, Article 4, Section 6, be, and the same is, hereby amended so as to read as follows:

"40A. Sulphur producers: Each person, firm, association, or corporation who owns, controls, manages, leases, or operates any sulphur mine, or mines, wells, or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller in this State, or if such person be other than individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar and Fifteen Cents ($1.15) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Said tax shall be in lieu of the tax imposed by House Bill No. 251, Chapter 212, Page 355, Section 1, Acts of the Regular Session of the Forty-second Legislature, as amended by Acts of 1926, Forty-fourth Legislature, Third Called Session, Page 2040, Chapter 495, Article 4, Section 6, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said act, except that said funds shall be allocated as hereinafter provided."

Article IV

Section 1. Every corporation, association or person engaging in the business of a motor vehicle loan broker shall on or before the tenth day of each month make a report to the Comptroller showing the aggregate amount of notes, purchase contracts, and all other evidences of indebtedness secured by lien on motor vehicles, acquired during the preceding calendar month, and pay a tax of one (1) per cent of the aggregate face value of all such notes, purchase contracts and evidences of indebtedness.

Sec. 2. The term "Motor Vehicle Loan Broker" as used in this Article means the business of discounting, buying or acquiring for a consideration notes, purchase contracts or other evidences of indebtedness irrespective of form, by which the purchaser of any motor vehicle obligates himself to pay any part of the purchase price therefor. A motor vehicle is any vehicle capable of propelling itself from one place to another by means of an internal combustion motor.

Sec. 3. The Comptroller shall make such rules and regulations as may be necessary for the proper enforcement of this Act, and shall prepare such forms, and require such reports as he may deem proper to enable his office to perform the duties here imposed on him. He shall have authority, on reasonable notice, to inspect the books, accounts and records of any corporation, association, or person taxable under this Article, and upon his request, the Attorney General shall by injunction, receivership or other appropriate proceeding enforce the provisions hereof. Any person, association or corporation, failing or refusing to pay any taxes legally due hereunder shall, at the suit of the Attorney General, be enjoined from further engaging in the business of a motor vehicle loan broker.

Sec. 4. The Comptroller is hereby authorized to set aside one per cent of the taxes collected hereunder as an "enforcement fund," so much thereof as may be necessary to be used by him to pay the expenses of enforcing the provisions of this Article.

Article V

Section 1. That Chapter 111 of Title 122 of the Revised Civil Statutes of 1925, as amended by Acts 1927, Fortieth Legislature, Page 294, Chapter 208, as amended by the Acts of 1930, Forty-first Legislature,

Fifth Called Session, Page 220, Chapter 68, Section 2, as amended by the Acts of 1931, Forty-second Legislature, Page 441, Chapter 265, Section 1, be, and it is, hereby amedned so as to read as follows:

"Article 7084. Amount of Tax. (a) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus, and undivided profits, plus the amount of outstanding bonds, notes, and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed at the following rates for each One Thousand ($1,000.00) Dollars, or fractional part thereof; One ($1.00) Dollar to One Million ($1,000,000.00) Dollars, ninety (90¢) cents; in excess of One Million ($1,000,000.00) Dollars, fifty (50¢) cents; provided, that such tax shall not be less than Twenty ($20.00) Dollars in the case of any corporation, including those without capital stock. Where a foreign corporation applying for a permit has theretofore done on business in Texas, such tax shall not be payable until the end of one year from the date of such permit, at which time the tax shall be computed according to first year's business; and, at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May 1, following. In all other cases, the tax shall be computed from the data contained in the reports required by Articles 7087 and 7089. Capital Stock as applied to corporations without capital stock shall mean the net assets.

"(b) Corporations which are now required by law to pay annually a tax upon intangible assets, corporations owning or operating street railways in or upon the public streets of any town or city, and corporations organized to maintain or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth (1/5) of the franchise tax herein imposed against all other corporations under Section (a) herein.

"(c) Provided, however, that this Act shall not apply to corporations organized as terminal companies not organized for profit, and having no income from the business done by them.

"(d) Except as provided in preceding clauses (b) and (c), all public corporations, which shall include every such corporation engaged solely in the business of a public utility whose rates or services are regulated, or subject to regulation in whole or in part, by law, shall pay a franchise tax as provided in this Act, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus, and undivided profits, which the gross receipts of the business of said corporation done in this State bears to its total gross receipts, instead of the gross assets; and in lieu of the rate hereinabove prescribed said tax shall be computed as follows:

"One ($1.00) Dollar to One Million ($1,000,000.00) Dollars, ninety (90¢) cents for each One Thousand ($1,000.00) Dollars, or fractional part thereof;

"Sixty-seven (67¢) cents for each One Thousand ($1,000.00) Dollars or fractional part thereof in excess of One Million ($1,000,000.00) Dollars, and not exceeding Ten Million ($10,000,000.00) Dollars.

"And fifty-two (52¢) cents for each One Thousand ($1,000.00) Dollars or fractional part thereof in excess of Ten Million ($10,000,000.00) Dollars.

"For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock.

"(2) Corporations engaged partly in the business of a public utility as defined in Clause (d) and partly in businesses embraced in Clause (a) shall pay the franchise tax in the

following manner: As to those businesses which come under Clause (a) on that proportion of the entire taxable capital under said Clause (a) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and as to those businesses which come under Clause (d) on that proportion of the entire taxable capital under said Clause (d) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be the same period used in computing the proportion of Texas taxable capital under Clauses (a) and (d).

"(f) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth (¼) of such amount for each additional purpose named in their charters."

Article VI

Section 1. That Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Article 4, Section 1, House Bill No. 8, be, and the same is, hereby amended so as to read as follows:

"Article 7070. (1) Each individual, company, corporation, association owning, operating, managing, or controlling any telephone line or lines, or any telephones within this State, and charging for the use of same, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller, under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone or telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said reports, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half (1½%) per cent of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand, five hundred (2,500) inhabitants, according to the last preceding Federal Census; and an occupation tax for the quarter beginning on said date, equal to one and three-fourths (1¾%) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand, five hundred (2,500) inhabitants, and not more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census; an occupation tax for the quarter beginning on said date, equal to two and one-fouth (2¼%) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census.

No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation, or association, required to pay an occupation tax under this article. Nothing in this article shall be construed as affecting in any way the collection of Ad Valorem taxes authorized by law, or any tax or charge imposed by a franchise or by any contract or agreement now in existence or hereafter made between a city and a public utility. Nothing in this article shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys and public ways by a public utility in the conduct of its business, but any such charges, whether designated as rentals or otherwise, and whether measured by gross receipts, units of installation or in any other manner, shall not in the aggregate exceed the equivalent of two per cent of the gross receipts of such utility

within such municipality, as reported to the Comptroller under this article. Any public utility now paying special taxes, charges or contributions of any sort to a city or town by virtue of a stipulation in its franchise or because of an agreement or contract, shall be entitled to a credit for the amount of such special taxes, rentals, charges, and contributions paid, after the effective date of any ordinance imposing a charge for the use of streets, alleys, and public ways, on any sum that may be due under such ordinance.

Article VII

Section 1. That Article 7060, Revised Civil Statutes of Texas, 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be, and the same is, hereby amended so as to read as follows:

"Article 7060. Each individual, company, corporation, or association, owning, operating, managing, or controlling any gas, electric light, electric power or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first day of January, April, July, and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer, or superintendent of such company, corporation, or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation, or association, at the time of making said report for any such incorporated town or city of two thousand, five hundred (2,500) inhabitants, and less than ten thousand (10,000) inhabitants, according to the last Federal Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to eight-tenths (8/10ths) of one (1) per cent of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal Census next preceding the filing of said report, the said individual, company, corporation, or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and one-half (1 ½) per cent of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power, or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district.

No city or other political subdivision of this State, by virtue of its taxing power, proprietary power, police power or otherwise, shall impose an occupation tax or charge of any sort upon any person, corporation or association required to pay an occupation tax under this Article. Nothing in this Article shall be construed as affecting in any way the collection of ad valorem taxes authorized by law, or any tax or charge imposed by a franchise or by any contract or agreement now in existence or hereafter made between a city and a public utility. Nothing in this Article shall be construed as prohibiting an incorporated city or town from making a reasonable charge, otherwise lawful, for the use of its streets, alleys and public ways by a public utility in the conduct of its business, but any such charges, whether designated as rentals or otherwise, and whether measured by gross receipts, units of installation or in any other manner, shall not in the aggregate exceed the equivalent of two per cent of the gross receipts of such utility within such municipality, as reported to the Comptroller under this Article. Any public utility now paying special taxes, charges or contributions of any sort to a city or town by virtue of a stipulation in its franchise or because of an agreement or contract, shall be entitled to a credit for the amount of such special taxes,

rentals, charges and contributions paid, after the effective date of any ordinance imposing a charge for the use of streets, alleys and public ways, on any sum that may be due under such ordinance."

Article VIII

Section 1. That in addition to all other licenses and taxes now levied and assessed in the State of Texas, there is hereby levied, upon every person, firm, association or corporation engaged in gathering gas produced in this State, all as is more fully hereinafter provided, an occupation tax for the privilege of engaging in such business, at the rate of one-fourth (¼) of one cent per thousand (1,000) cubic feet (corrected to a base pressure of 14.65 pounds per square inch, absolute pressure) of such gas so gathered.

In determining the quantity of gas for the purposes of such tax and in the calculation of such tax, there shall be excluded:

(a) Gas injected into the earth for the bona fide purpose of storing, recycling, repressuring or lifting oil, in the State of Texas.

(b) Gas used for fuel in connection with plant and/or lease operation and development for oil or gas.

(c) Gas lawfully vented or flared.

For all purposes of this Act, the following terms shall have the following meanings:

"Gas," for the purposes of this Act, shall mean natural gas and casinghead gas, and residue gas.

"Gathering gas," for the purposes of this Act, shall mean the first taking or acquiring of custody, possession, title or control in Texas of gas produced in this State for transmission through a pipe line, after the severance of such gas from the earth, and after the passage of such gas through any separator, drip, trap or meter that may be located at or near the well; provided that in the case of gas containing gasoline or liquid hydrocarbons that are removed or extracted in Texas in commercial quantities at a plant by scrubbing, absorption, compression, or any similar process, the term "gathering gas" shall mean the first taking or acquiring of custody, possession, title or control of such gas for transmission through a pipe line after such gas has passed through the outlet of such plant.

Sec. 2. Every person, firm, association or corporation liable for this tax shall keep books and records showing the quantity in thousand (1,000) cubic feet (corrected to the pressure specified in Section 1 hereof) of gas gathered by such person, firm, association or corporation. Such books and records shall be maintained in this State, and shall be open to the inspection of all officers authorized to enforce the collection of this tax. Every person, firm, association or corporation liable for this tax shall make available for inspection by all officers authorized to enforce the collection of this tax, all meter charts kept by, or to which such person, firm, association or corporation may have access.

Any person, firm, association or corporation required to keep the records prescribed by this section shall be subject to a penalty of One Hundred Dollars ($100) per day for each day's failure or omission to keep such required records.

Sec. 3. The Comptroller of Public Accounts of this State, or his duly authorized representatives, shall administer and enforce the collection of the tax imposed by this Act. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Act, and any other premises necessary in determining the correct tax liability; and to examine, or cause to be examined, any books, or records of any person, firm, association or corporation subject to a tax under this Act, and to secure any other information directly or indirectly concerned in the enforcement of this Act, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Act, which shall have the full force and effect of law.

Sec. 4. The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the twenty-fifth day of each succeeding month, based on the business done the preceding calendar month, and on or before said date each such gatherer shall make and deliver to the Comptroller a verified report

showing the gross amount of gas gathered, less the exclusions and at the pressure base set out herein, upon which the tax herein levied accrues, together with details as to amounts of gas, from what leases and/or plants said gas was gathered, the disposition thereof, and such other information as the Comptroller may require; such report to be accompanied by legal tender or cashier's check payable to the State Treasurer for the proper amount of taxes herein levied. The tax herein levied shall follow said gas into the hands of purchasers and/or subsequent purchasers, and said purchasers or subsequent purchasers shall be liable for payment of the proper tax, penalties and interest levied by this Act, if same have not been properly paid by the gatherer. Provided further that the tax herein levied being strictly an occupation or privilege tax for the privilege of engaging in the business of gathering gas, shall in no case be deducted from any payments due by purchasers to sellers of gas, under the provisions of any contracts in which the seller agrees to pay taxes levied upon the gas.

Sec. 5. The Comptroller shall employ auditors and/or other technical assistants for the purpose of verifying reports and investigating the affairs of gatherers and/or purchasers to determine whether the tax is being properly reported and paid. Before any division or allotment of the occupation tax collected under the provisions of this Act is made, one-half of one per cent of the gross amount of said tax shall be set aside in the Treasury for the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of the said proceeds of one-half of one per cent of the occupation tax paid monthly as may be needed in such administration and enforcement is hereby appropriated for such purpose.

Sec. 6. In the event any person engaged in the business of gathering any gas in this State shall become delinquent in the payment of proper taxes herein imposed, or fail to file required reports with the Comptroller, the Attorney General by a suit in the name of the State of Texas shall have the right to enjoin such person from gathering gas until the delinquent tax is paid, or said reports are filed, and the venue of any such suit for injunction is hereby fixed in Travis County.

Sec. 7. If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than One Hundred Dollars ($100), nor more than One Thousand Dollars ($1,000) for each violation and each day's violation shall constitute a separate offense. If any person shall fail to pay the proper tax within due date, he shall forfeit 10% thereof as penalty. Delinquent taxes and penalties shall draw interest at the rate of six per cent (6%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest, on all property and equipment used by the gatherer of gas in his business of gathering gas, and if any gatherer of gas shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the gatherer of gas shall be liable, as in additional penalty, for the reasonable expense or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in a Gas Audit Fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said Gas Audit Fund are hereby appropriated for such purpose. The Attorney General shall file suit in the name of the State of Texas for all delinquent taxes, and other amounts due, and for the enforcement of all liens, under this law; and the venue of any such suit is hereby fixed in Travis County.

Sec. 8. If any gatherer of gas fails or refuses to pay any tax, penalty or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said

claim in any judicial proceedings, any report filed in the office of the Comptroller by such gatherer or representative of said gatherer or a certified copy thereof certified to by the Comptroller of Public Accounts showing the amount of gas gathered on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said gatherer or purchaser when filed and sworn to by such representative as being made from the records of said gatherer or purchaser, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, however, that the incorrectness of said report or audit may be shown; provided, further, that such report or audit may be admitted in evidence only against the party by or for whom it was made.

In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said gatherer or purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid; that all payments and credits have been allowed, then unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

Sec. 9. Whoever shall, as a gatherer or as agent or representative of a gatherer, knowingly make any false entries or fail to make any proper entries in the books required by this Act with intent to defraud the State; or whoever as such, shall knowingly make a false or incomplete report as required by the provisions of this Act; or whoever as such shall knowingly fail or refuse to make the report required to be made; or whoever, as such shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this Act; or whoever shall, as such, hide or secrete with intent to defraud, any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars ($100), or be confined in the County Jail not more than twelve (12) months, or by both such fine and imprisonment. In addition thereto, such gatherer or purchaser or agent thereof shall forfeit to the State of Texas, for any said offense or the violation of any of the provisions hereof, or any rule or regulation, a penalty of One Thousand Dollars ($1,000) for each such offense to be recovered by the Attorney General in a civil suit in the name of the State of Texas, and the venue of such suit is hereby fixed in Travis County, and such suit may be brought separately or joined and made a part of any other civil suit provided for by this Act. The penalties prescribed in this Section, both criminal and civil, are in addition to any and all other penalties prescribed in this law.

Sec. 10. When it shall appear that a taxpayer to whom the provisions of this Act shall apply has erroneously paid more taxes than were due during any taxpaying period either on the account of a mistake of fact or law, it shall be the duty of the State Comptroller to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid.

Article IX

Section 1. There is hereby levied an occupation or privilege tax on every person in this State owning, controlling or operating a plant or facility of any kind which processes any kind of gas in any manner so as to liquefy any part of such gas; said tax on said processing to be computed on the amount of liquids extracted as follows: (a) 1/40 of one cent per gallon on all liquid hydrocarbon compounds or products extracted and saved, by means of compression, absorption, refrigeration, distillation, or other mechanical methods; provided (b) that on any distillate, condensate or other liquid hydrocarbon compound or product recovered from

any gas without the application or use of mechanical means or methods, said tax shall be computed at 1/10 of one cent per gallon so recovered and saved. In all cases where distillate, condensate, and/or natural gasoline, butane, or other hydrocarbons are extracted in a commingled state, the tax shall be computed as follows: The theoretical content as determined by tests taken at the wellhead or separator, and at the discharge or outlet side of the plant, shall be taxable under Method (a); the difference between the actual yield and the theoretical content so taxed under Method (a) described above, shall be taxed under Method (b) described above. Provided further that the tax herein levied being strictly an occupation or privilege tax for the privilege of engaging in such business of processing gas, shall in no case be deducted from any payments due by purchasers to sellers of gas, under the provisions of any contracts in which the seller agrees to pay taxes levied upon the gas.

Sec. 2. The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the twenty-fifth day of each succeeding month, based on the business done the preceding calendar month, and on or before said date each such manufacturer or processor shall make and deliver to the Comptroller a verified report showing the gross amount of (1) gas processed, (2) from what leases taken, (3) disposition of residue, (4) the gross amount of liquids extracted and saved, upon which a tax accrues, the disposition thereof, and such other information as the Comptroller may require; such report shall be accompanied by legal tender or cashier's check made payable to the State Treasurer for the proper amount of taxes hereinbefore levied. The tax herein levied shall follow said liquids into the hands of purchasers and/or subsequent purchasers, and said purchasers or subsequent purchasers shall be liable for payment of the proper tax, penalties and interest levied by this Act, if same have not been properly paid by the processor.

Sec. 3. A complete record of the business done, together with any other information the Comptroller may require, shall be kept in Texas by each such processor; which said record shall be open to the Comptroller and the Attorney General, and their representatives.

Sec. 4. The Comptroller of Public Accounts of this State, or his duly authorized representatives, shall administer and enforce the collection of the tax imposed by this Act. He shall have the power to enter upon the premises of any taxpayer liable for a tax under this Act, and any other premises necessary in determining the correct tax liability; and to examine, or cause to be examined, any books, or records of any person, subject to a tax under this Act, and to secure any other information directly or indirectly concerned in the enforcement of this Act, and to promulgate and enforce, according to law, rules and regulations pertinent to the enforcement of this Act, which shall have the full force and effect of law.

Sec. 5. The Comptroller shall employ auditors and/or other technical assistants for the purpose of verifying reports and investigating the affairs of processors and/or purchasers to determine whether the tax is being properly reported and paid. Before any division or allotment of the occupation tax collected under the provisions of this Act is made, one-half of one (1) per cent of the gross amount of said tax shall be set aside in the Treasury for the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of the said proceeds of one-half of one (1) per cent of the occupation tax paid monthly as may be needed in such administration and enforcement are hereby appropriated for such purpose.

Sec. 6. In the event any person engaged in the business of processing any gas in this State shall become delinquent in the payment of proper taxes herein imposed, or fail to file the required reports, the Attorney General may enjoin such person from doing business until the delinquent tax is paid, or said reports are filed; and the venue of any such suit for injunction is hereby fixed in Travis County.

Sec. 7. If any person shall fail to pay the proper tax within due date, he shall forfeit ten (10) per cent

thereof as penalty. Delinquent taxes and penalties shall draw interest at the rate of six (6) per cent from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest, on all property and equipment used by the processor of gas in his business of processing gas, and if any processor shall fail to remit the proper taxes, penalties, and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the processor shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in a gas audit fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds placed in said gas audit fund are hereby appropriated for such purpose.

Sec. 8. If any processor or purchaser fails or refuses to pay any tax, penalty, or interest within the time and manner provided by this Act and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim in any judicial proceedings, any report filed in the office of the Comptroller by such processor or representative of said processor or a certified copy thereof certified to by the Comptroller of Public Accounts showing the amounts of liquids extracted on which tax, penalties or interest have not been paid, or any audit made by the Comptroller or his representative from the books of said processor or purchaser when filed and sworn to by such representative as being made from the records of said processor or purchaser, such report or audit shall be admissible in evidence in such proceedings and shall be prima facie evidence of the contents thereof; provided, further, that such report or audit may be admitted in evidence only against the party by or for whom it was made.

In the event the Attorney General shall file suit or claim for taxes, provided for in the foregoing, and attach or file as an exhibit any report or audit of said processor or purchaser, and an affidavit made by the Comptroller or his representative that the taxes shown to be due by said report or audit are past due and unpaid; that all payments and credits have been allowed, then, unless the party resisting the same shall file an answer in the same form and manner as required by Article 3736, Revised Civil Statutes of 1925, as amended by Chapter 239, Acts of the Regular Session of the Forty-second Legislature, said audit or report shall be taken as prima facie evidence thereof, and the proceedings of said Article are hereby made applicable to suits to collect taxes hereunder.

Sec. 9. Whoever shall, as a processor of gas or as agent or representative of a processor of gas, knowingly make any false entries or fail to make any proper entries in the books required by this Act with intent to defraud the State; or whoever as such, shall knowingly make a false or incomplete report as required by the provisions of this Act; or whoever as such shall knowingly fail or refuse to make the report required to be made; or whoever, as such shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this Act; or whoever shall, as such, hide or secrete with intent to defraud, any of the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum of not less than One Hundred Dollars ($100), nor more than One Thousand Dollars ($1,000), or be confined in the County Jail not more than twelve (12) months, or by both such fine and imprisonment; and, in addition thereto, shall forfeit to the State of Texas, for any said offense or the violation of any of the provisions hereof, or any rule or regulation, a penalty of One Thousand Dollars ($1,000) for each such offense, to be recovered by the Attorney General.

Sec. 10. When it shall appear that a taxpayer to whom the provisions of this Act shall apply has erroneously paid more taxes than were

due during any taxpaying period either on the account of a mistake of fact or law, it shall be the duty of the State Comptroller to credit the total amount of taxes due by such taxpayer for the current period with the total amount of taxes so erroneously paid.

Sec. 11. Definitions: Unless the context otherwise requires, the words defined in this section shall have the following meaning when used in this Article:

(a) "Person" as used herein shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator and a fiduciary or representative of any kind.

(b) "Processor" shall mean and include all persons owning and/or operating any plant or facility which extracts any compound of hydrocarbons in a liquid form in any manner from any kind of gas in this State.

(c) "Gas" as used herein shall mean any natural and/or casinghead gas, whether produced from gas wells, or from wells also productive of oil, condensate or distillate.

(d) "Liquids" as used herein shall mean any product or products manufactured, recovered and/or extracted from gas in liquid form. It shall mean and include all crude, distillate, condensate, natural gasoline, butane, propane, kerosene, gas oil, and any other hydrocarbon compound or product recovered or extracted from any gas in liquid form. "Crude" shall mean any mixture of hydrocarbons, regardless of gravity, naturally occurring as liquids in the reservoir from which obtained and capable of being produced from said reservoir at the well head by ordinary production methods. "Condensate" and/or "Distillate" shall mean any mixture of hydrocarbons naturally occurring as gases in the reservoir and capable of being condensed into a liquid by pressure reduction, or other non-mechanical methods.

(e) "Gallon" shall mean a standard U. S. Gallon of 231 cubic inches.

(f) "Mechanical Processing" shall mean and include processing by compression, absorption, refrigeration, distillation and/or other methods of a mechanical nature, wherein the use of machinery and the occurrence of actual operating expenses are required to extract, manufacture, or recover liquids from gas.

(g) "Non-mechanical Process" shall mean such methods not requiring the methods set out in the preceding paragraph, and shall include the use of separators and similar devices by which liquids are extracted from gas by pressure reduction or other non-mechanical means.

(h) "Theoretical Content" shall mean the content as revealed by field or plant tests of any nature made in any manner approved by the U. S. Bureau of Mines or American Petroleum Institute.

(i) "Actual Yield" shall mean the gross amount of hydrocarbon compounds or products extracted and saved or used in liquid form.

Article X

Section. 1. All revenue derived from and collected under the provisions of this Act by the State of Texas, except as herein expressly provided to the contrary, shall be deposited in an account to be set up and administered by the proper administrative officials, which fund shall be known as the "Available Social Security Fund," and from said fund the revenues so derived and collected shall be transferred and allocated monthly as follows:

(1) To the Available School Fund: One-fourth (¼) of the revenue collected under each Article of this Act.

(2) To the General Revenue Fund: One-fourth (¼) of the net revenue collected under Article I of this Act; one-half (½) of the net revenue collected under Article II of this Act; one-half (½) of the revenue collected under Article III of this Act; one-fourth (¼) of the revenue collected under Article IV of this Act; three-fourths (¾) of the revenue collected under Article V of this Act; one-half (½) of the revenue collected under Article VI of this Act; one-fourth (¼) of the revenue collected under Article VII of this Act; one-half (½) of the revenue collected under Article VIII of this Act; and one-half (½) of the revenue collected under Article IX of this Act.

(3) To the State Department of Public Welfare Fund, for the purpose of providing assistance to the

blind in the manner prescribed by law; such part of Three Hundred Thousand Dollars ($300,000) as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred to such fund Three Hundred Thousand Dollars ($300,000) for each fiscal year thereafter, the said amounts to be provided on the basis of equal monthly installments.

(4) To the State Department of Public Welfare Fund, for the purpose of providing assistance to dependent and destitude children in the manner prescribed by law; such part of One Million, Five Hundred Thousand Dollars ($1,500,000) as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred to such fund One Million, Five Hundred Thousand Dollars ($1,500,000) for each fiscal year thereafter, said amount to be provided on the basis of equal monthly installments.

(5) To the State Accumulation Fund created under the provisions of Acts of 1937, Forty-fifth Legislature, Page 1178, Chapter 470, commonly known as the Teachers Retirement Act, and for the purposes provided in such Act; such part of Two Million, Five Hundred Thousand Dollars ($2,500,000) as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred to such fund Two Million, Five Hundred Thousand Dollars ($2,500,000) for each fiscal year thereafter, said amount to be provided on a basis of equal monthly installments.

(6) To the State Old Age Assistance Fund, for the purpose of providing assistance to the aged in the manner prescribed by law, there shall be transferred all amounts remaining in said "Available Social Security Fund" at the end of each calendar month after provision has been made for the allocations hereinabove mentioned.

(7) The revenue derived from the levies imposed by this Act are hereby appropriated for the uses and purposes as provided hereinabove from the effective date of the Act until August 31, 1941. For the biennium beginning September 1, 1941, and ending August 31, 1943, and for each ensuing biennium, the revenue derived from the levies imposed by this Act shall be expended in the manner and for the purposes as provided in the General Appropriation Bill.

Sec. 2. All taxes, fines, penalties, and interest due by any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver to the State of Texas shall be a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any individual, firm, association, joint stock company, syndicate, copartnership, corporation, agency, trustee, or receiver. This lien shall be cumulative, and in addition to the liens for taxes, fines, penalties, and interest now provided by law, and shall attach as of the date such tax or taxes are due and payable.

Sec. 2a. Any person, firm, corporation, or association of persons purchasing any natural resources upon which a tax is levied by this Act who fails to deduct and withhold the proper amount of taxes which are due and unpaid under any provision of this Act, shall be liable to the State for the full amount of such taxes plus any accrued penalties and interest thereon.

Sec. 3. All sales, occupation, excise or other taxes, penalties, and interest accruing to the State of Texas by virtue of any of the repealed or amended provisions as set out in this Act before the effective date of this Act, shall be and remain valid and binding obligations to the State of Texas, and all taxes, fines, penalties, and interest accruing under the provisions of prior or existing occupation, excise or other tax laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Texas are hereby expressly preserved and declared to be legal and valid obligations to the State of Texas.

Sec. 4. The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be con-

ducted under the law as it existed at the time of the commission of the offense.

Sec. 5. If any Article, section, subsection, sentence, clause, or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Sec. 6. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses, or phrases should be declared unconstitutional.

Sec. 7. All laws or parts of laws in conflict with any section, subsection, sentence, clause, or phrase of this Act are hereby expressly repealed; provided, however, nothing herein shall be construed to alter, modify or repeal Article 5764, Revised Civil Statutes of the State of Texas, 1925, or Acts of 1937, Forty-fifth Legislature, Regular Session, Chapter 86, page 161.

Sec. 8. The fact that the State of Texas is faced with an ever increasing deficit in the General Revenue Fund, Old Age Assistance Fund, and Teachers Retirement Fund; and the further fact that additional revenue is needed to carry out the mandate of the people of Texas for the purpose of providing assistance for the adult blind and dependent and destitute children create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after the date of its passage, and it is so enacted.

Mr. Turner moved that further consideration of House Bill No. 8 be postponed until two weeks from today.

Mr. Bean moved to table the motion to postpone.

The motion to table prevailed.

Mr. Huffman moved that further consideration of House Bill No. 8 be postponed until 2:30 o'clock P. M. today.

On motion of Mr. Harris of Dallas the motion to postpone was tabled.

Mr. Turner moved to reconsider the vote by which the call of the House was ordered.

On motion of Mr. Taylor the motion to reconsider was tabled.

Mr. Anderson moved that the House adjourn until 10:00 o'clock A. M. tomorrow.

Mr. Reed of Bowie moved that the House stand at ease until 2:45 o'clock P. M. today.

Question first recurring on the motion to adjourn, it was lost.

Mr. Morris raised a point of order on the motion by Mr. Reed of Bowie at this time, on the ground that the motion to stand at ease takes unanimous consent.

The Speaker sustained the point of order.

Mr. Lucas asked unanimous consent that the House stand at ease until 2:30 o'clock p. m. today.

There was objection offered.

Mr. Reed of Bowie moved that the House adjourn until 9:30 o'clock a. m. tomorrow.

The motion to adjourn was lost.

Mr. Morris asked unanimous consent that the House stand at ease until 1:15 o'clock p. m. today.

There was objection offered.

Mr. Morris asked unanimous consent that the House stand at ease until 1:30 o'clock p. m. today.

There was objection offered.

Mr. Anderson called for a full reading of the committee substitute to House Bill No. 8.

Mr. Taylor moved to dispense with the full reading of the committee substitute.

Mr. Reed of Bowie moved to table the motion to dispense with the full reading of the committee substitute.

The motion to table was lost.

Question then recurring on the

motion to dispense with the full reading of the committee substitute to House Bill No. 8, it prevailed.

Mr. Kersey moved to suspend the Rules in order that a motion may be made to rerefer House Bill No. 133 to the Committee of the Whole House.

The motion to suspend the Rules was lost by the following vote:

Yeas—57

Allison	Huddleston
Avant	Hutchinson
Bailey	Kennedy
Baker	Kersey
Bullock	Knight
Bundy	Lehman
Burkett	Lock
Chambers	Love
Craig	Lucas
Crossley	McGlasson
Daniel	McMurry
Davis	McNamara
Deen	Manford
Dickson of Bexar	Martin
Donald	Montgomery
Dove	Pace
Ellis	Parker
Eubank	Pevehouse
Evans	Reed of Dallas
Favors	Roark
Ferguson	Sallas
Fuchs	Sharpe
Gandy	Smith of Bastrop
Halsey	Spacek
Helpinstill	Stubbs
Henderson	Turner
Hobbs	White
Howington	Whitesides
Hoyo	

Nays—86

Allen	Clark
Alsup	Coker
Anderson	Colson, Mrs.
Bean	Connelly
Bell	Crosthwait
Benton	Duckett
Blankenship	Dwyer
Boone	Files
Brawner	Fitzgerald
Bray	Garland
Bridgers	Gilmer
Brown	Hanna
Bruhl	Hargis
Burnaman	Harris of Dallas
Carlton	Harris of Hill
Carrington	Hartzog
Cato	Heflin
Celaya	Hileman
Huffman	Murray
Hughes	Nicholson
Humphrey	Phillips
Isaacks	Price
Jones	Rampy
Kelly	Reed of Bowie
Kinard	Ridgeway
King	Roberts
Klingeman	Rhodes
Lansberry	Senterfitt
Leyendecker	Shell
Little	Simpson
Lowry	Skiles
Lyle	Smith of Atascosa
McAlister	Spangler
McDonald	Stanford
McLellan	Stinson
Manning	Taylor
Markle	Thornton
Matthews	Vale
Mills	Voigt
Moore	Walters
Morgan	Wattner
Morris	Weatherford
Morse	Winfree

Absent

Dickson of Nolan	Goodman

Absent—Excused

Cleveland	Howard
Hardeman	McCann

Mr. Taylor asked unanimous consent of the House that the committee substitute be read in full.

There was no objection offered.

(Pending reading of the committee substitute, Mr. Little and Mr. Hanna occupied the Chair temporarily.)

(Speaker in the Chair.)

Mr. Morris offered the following amendments to the committee amendment:

Amend Committee Amendment No. 1, Article No. 1, of House Bill No. 8, by striking out all of subsection No. 7 on page 3.

MORRIS,
BELL.

Amend Committee Amendment No. 1, Article No. 2, line 12, page 3, by adding at the end of the words and figures "Section 8" the following:

"Third Called Session of the Forty-fourth Legislature."

MORRIS,
BELL.

Amend Committee Amendment No. 1, Article 5, page 13, line 25, by adding after the word "public" the word "utility."

MORRIS,
BELL.

Amend Committee Amendment No. 1, Section 5, page 14, line 15, after the word "Clause A" the following:

"the tax shall be computed as provided in Clause A."

MORRIS,
BELL.

Amend Committee Amendment No. 1 of House Bill No. 8 by striking out the figures "1926" in line 13 on page 11, and inserting in lieu thereof the figures "1936."

MORRIS,
BELL.

Amend Committee Amendment No. 1 to House Bill No. 8 by striking out the first paragraph of Section 1 of Article 5 and inserting in lieu thereof the following:

"That Article 7084 of the Revised Civil Statutes of 1925, as amended by the Acts of 1930, Forty-first Legislature, Fifth Called Session, page 220, Chapter 68, Section 2, as amended by the Acts of 1931, Forty-second Legislature, page 441, Chapter 265, Section 1, be, and it is, hereby amended so as to read as follows:"

MORRIS,
BELL.

Amend Committee Amendment to House Bill No. 8 by striking out the last paragraph in Article VI and insert in lieu thereof the following:

No city or other political subdivision of this State, by virtue of its taxing power, police power, or otherwise, shall impose an occupation tax or charge of any sort for the privilege of doing business, upon any person, corporation, or association required to pay an occupation tax under this Article; provided, that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law, or any tax now imposed by franchise, and provided further that this Article shall not affect any contract now in existence, or hereafter made between a city and the holder of a franchise.

MORRIS,
BELL.

Amend Committee Amendment No. 1 to H. B. No. 8, by striking out the figure 1926 in Article 111, subsection "40-A," page 11, line 13, and insert in lieu thereof the figure "1936."

MORRIS,
BELL.

Amend Committee Amendment No. 1 to H. B. No. 8, by striking out the figure 7074 in Article 111, page 10, line 28, and insert in lieu thereof the figure "7047."

MORRIS,
Bell.

Amend Section 1 of Article X so that it shall hereafter read as follows:

Article X

Section 1. All revenue derived from and collected under the provisions of this Act by the State of Texas, except as herein expressly provided to the contrary, shall be deposited in a clearance fund in the Treasury, and from said fund the revenues so derived and collected shall be transferred and allocated monthly as follows:

(1) To the Available School Fund: One-fourth (¼) of the net revenue collected under Article I of this Act; one-third (1/3) of the net revenue collected under Article II of this Act; one-fourth (¼) of the net revenue collected under Article III of this Act; one-third (1/3) of the net revenue collected under Article IV of this Act; one-fourth (¼) of the net revenue collected under Article VI of this Act; one-fourth (¼) of the net revenue collected under Article VII of this Act; one-half (½) of the net revenue collected under Article VIII of this Act; one-half (½) of the net revenue collected under Article IX of this Act.

(2) To the General Revenue Fund: One-half (½) of the net revenue collected under Article I of this Act; all of the net revenue collected under Article V of this Act; and one-half (½) of the net revenue collected under Article VIII of this Act.

(3) To a special fund in the Treasury to be known as the "Blind

Assistance Fund" for the purpose of providing and administering assistance to the blind in the manner prescribed by law, such part of Three Hundred Thousand Dollars ($300,000) as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred to such fund Three Hundred Thousand Dollars ($300,000) for each fiscal year thereafter, the said amount to be provided on the basis of equal monthly installments.

(4) To a special fund in the Treasury to be known as the "Children Assistance Fund" for the purpose of providing and administering assistance to dependent and destitute children in the manner prescribed by law, such part of One Million, Five Hundred Thousand Dollars ($1,500,000) as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred to such fund One Million, Five Hundred Thousand Dollars ($1,500,000) for each fiscal year thereafter, said amount to be provided on the basis of equal monthly installments.

(5) To the State Accumulation Fund created under the provisions of Acts of 1937, Forty-fifth Legislature, page 1178, Chapter 470, commonly known as the Teachers Retirement Act, and for the purposes provided in such Act; such part of Two Million, Five Hundred Thousand Dollars ($2,500,000) as the effective period of this Act for the fiscal year ending August 31, 1941, bears to the entire fiscal year, and there shall be transferred to such fund Two Million, Five Hundred Thousand Dollars ($2,500,000) for each fiscal year thereafter, said amount to be provided on a basis of equal monthly installments.

(6) To the State Old Age Assistance Fund, for the purpose of providing and administering assistance to the aged in the manner prescribed by law, there shall be transferred all amounts remaining in said Clearance Fund at the end of each calendar month after provision has been made for the allocations hereinabove mentioned.

(7) The revenue derived from the levies imposed by this Act are hereby appropriated for the uses and purposes as provided hereinabove from the effective date of the Act until August 31, 1941, for the biennium beginning September 1, 1941, and ending August 31, 1943, and for each ensuing biennium, the revenue derived from the levies imposed by this Act shall be expended in the manner and for the purposes as provided in the General Appropriation Bill.

MORRIS,
BELL.

The amendments were severally adopted.

Mr. Smith of Atascosa offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to House Bill No. 8 by inserting in line 21, page 13, between the words "terminal companies" and the words "not organized for profit" the following words:

"or corporations organized under the Electric Cooperative Corporation Act."

SMITH of Atascosa,
BELL.

The amendment to the committee amendment was adopted.

Mr. Taylor asked unanimous consent of the House that the committee amendment be considered Article by Article.

There was no objection offered and it was so ordered.

(Mr. Kersey in the Chair.)

Mr. Harris of Hill offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to House Bill No. 8, line 18, page 1, by striking out all Article 1 and its subsections and inserting in lieu thereof the following:

Section 1. (There is hereby levied an additional occupation tax on the production of oil within this State of one-fourth cent per gallon on the gasoline potential content of such oil.) Said tax shall be computed upon the total oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing One Hundred per cent of

production and exact measurements of contents; provided that said tax shall be further computed according to the gravity yield of gasoline as shown in the accompanying table, the technical terms and computations of which shall conform to the formulas prescribed by the National Bureau of Standards of the United States Department of Commerce.

Table Showing Gravities of Crude Oil in Texas and the Corresponding Average 400° End Point Gasoline Yield in Intervals of 50° A. P. I.

Gravity ° A.P.I.	Average Yield % of 400° End of Gasoline	Remarks
17	0.7	
19	1.2	
20	2.0	
25	9.0	
30	24.0	
35	31.0	
40	38.0	
45	44.0	
50	66.0	Distillate
55	76.0	Distillate

Note: In case of any variation in gravity from the above A.P.I. table, tax shall be computed on the tabular figure shown which is nearest to the actual gravity; provided that if the actual gravity is at the half-way point between two figures on the table, it shall be computed as of the next highest percentage in the table.

Sec. 2. The tax hereby levied shall be a liability on the producer of oil and it shall be the duty of such producer to keep accurate records for all oil produced, making monthly reports under oath, as hereinafter provided.

Sec. 3. The purchaser of oil shall pay the tax on oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer.

Provided, that if oil produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the same manner as if said oil were sold; and provided that all taxes shall be computed according to the above gravity yield table.

Sec. 4. The tax herein levied shall be paid monthly on the 25th day of each month on the potential gasoline content of all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event, shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

Sec. 5. Provided that unless such payment of tax on oil produced during any month or fractional part thereof shall be made on or before the 25th day of the month immediately following, such payment shall become delinquent and a penalty of ten per cent of the amount of tax shall be added; such tax and penalty shall bear interest at the rate of six per cent per annum from date due until date paid.

Sec. 6. The tax herein levied shall be borne ratably by all interested parties, including royalty interests; and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties the proportionate tax due.

Sec. 7. The taxes herein provided for, when paid, shall be and hereby are, allocated as follows, to-wit:

One-fourth (¼) of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the available public school fund, and,

Three-fourths (¾) of such taxes when and as received by the Comptroller shall be paid to the State

Treasurer to be placed as a special fund to be known as the Social Security Fund, to be disbursed as the Legislature may direct, for social security needs in the State.

Sec. 8. The administration of the provisions of this Act with respect to records and reports, purchasers deducting amount of tax, reports to Comptroller and payment of tax, prior lien of State for taxes and penalties and interest, collection of delinquent taxes and venue, and duties of Comptroller shall be pursuant to the provisions set forth in Chapter 12, Acts of the 43rd Legislature, 1st Called Session, as amended in Chapter 333, Acts of the 44th Legislature, Regular Session; and as amended in Chapter 495, Acts of the Third Called Session, 44th Legislature, Article IV, Section 4; provided, however, that the appropriation for the administration and enforcement of the provisions of this Act shall be one-fourth of one per cent of the gross amount of said tax, which shall be set aside in the Treasury, subject to the use of the Comptroller in the administration and enforcement of this Act.

Sec. 9. In the event any section, subsection, subdivision, paragraph, or sentence of this Act shall be declared unconstitutional or void, the validity of the remainder of this Act shall not be affected thereby; and it is hereby declared to be the policy and intent of the Legislature to enact the valid portions of this Act notwithstanding the invalid portions, if any.

HARRIS of Hill,
HARRIS of Dallas,
HUFFMAN,
HUDDLESTON,
COKER,
ROARK,
MORGAN,
BRAWNER,
CARRINGTON,
DEEN,
HOWINGTON,
MANNING,
KERSEY.

(Speaker in the Chair.)

Mr. Bell moved to table the amendment by Mr. Harris of Hill.

The motion to table prevailed.

Mr. Sharpe offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to H. B. No. 8, page 1, line 27, after the word of to read as follows: "Five Cents," instead of three and one-half cents. Also line 28 to change figures to read 5¢ instead of 3½ cents. Also on lines 34 and 35 to read five per cent instead of three and one-half per cent.

Mr. Bundy moved to table the amendment.

The motion to table was lost.

Mr. Isaacks offered the following substitute for the amendment by Mr. Sharpe:

Amend H. B. No. 8, Art. I, by striking out the words "three and one-half" in line 27 of Section 2, and the figures "3½" in line 28 of Section 2, and inserting in lieu thereof the word "four" in line 27, and the figure "4" in line 28, and by striking out the words "three and one-half" in line 34, Section 2 and the figures "3½" and inserting in lieu thereof the word "four" and the figure "4."

Mr. Sharpe moved to table the substitute amendment by Mr. Isaacks.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—75

Allen	Davis
Allison	Deen
Avant	Dickson of Bexar
Bailey	Dove
Baker	Duckett
Bean	Ellis
Benton	Evans
Boone	Files
Brawner	Fuchs
Brown	Gandy
Bruhl	Garland
Bullock	Goodman
Burnaman	Hanna
Carlton	Hargis
Carrington	Harris of Hill
Cato	Helpinstill
Coker	Hileman
Connelly	Hobbs
Crosthwait	Howington
Daniel	Huddleston

Huffman
Hughes
Hutchinson
Jones
Knight
Lansberry
Lehman
Love
Lucas
McLellan
Manford
Manning
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Roark
Sallas
Senterfitt
Sharpe
Simpson
Smith of Bastrop
Spacek
Stinson
Stubbs
Turner
Wattner
Weatherford
Whitesides

Nays—67

Alsup
Anderson
Bell
Blankenship
Bray
Bridgers
Bundy
Burkett
Celaya
Chambers
Clark
Colson, Mrs.
Craig
Crossley
Dwyer
Eubank
Favors
Ferguson
Fitzgerald
Gilmer
Halsey
Harris of Dallas
Hartzog
Heflin
Henderson
Hoyo
Humphrey
Isaacks
Kennedy
Kersey
Kinard
King
Klingeman
Leyendecker
Little
Lock
Lowry
Lyle
McAlister
McDonald
McGlasson
McMurry
McNamara
Markle
Martin
Matthews
Montgomery
Morris
Morse
Nicholson
Phillips
Reed of Dallas
Ridgeway
Roberts
Rhodes
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
White
Winfree

Absent

Dickson of Nolan
Kelly

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

Mr. Morgan offered the following substitute for the amendment by Mr. Sharpe:

Amend Committee Amendment to H. B. No. 8, Article 1, Section 2, lines 28 and 35, by striking out the words and figures "three and one-half cents (3½¢)," and inserting in lieu thereof the words and figures "four and one-half cents (4½¢)."

MORGAN,
HARRIS of Hill.

Mr. Sharpe moved to table the substitute amendment by Mr. Morgan.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table was lost by the following vote:

Yeas—60

Allen
Allison
Bailey
Baker
Bean
Benton
Boone
Brawner
Bruhl
Burnaman
Carrington
Cato
Connelly
Craig
Crosthwait
Deen
Dickson of Bexar
Ellis
Evans
Files
Fuchs
Gandy
Garland
Goodman
Hanna
Hargis
Helpinstill
Hileman
Hobbs
Howington
Huddleston
Huffman
Hughes
Jones
Kelly
Knight
Love
Lucas
McLellan
Manford
Manning
Mills
Moore
Murray
Pace
Parker
Pevehouse
Rampy
Reed of Bowie
Roark
Senterfitt
Sharpe
Simpson
Spacek
Stinson
Stubbs
Turner
Wattner
Weatherford
Whitesides

Nays—82

Alsup
Anderson
Avant
Bell
Bray
Bridgers
Brown
Bullock
Bundy
Burkett
Carlton
Celaya

Chambers
Clark
Coker
Colson, Mrs.
Crossley
Daniel
Davis
Dickson of Nolan
Dove
Duckett
Dwyer
Eubank
Favors
Ferguson
Fitzgerald
Gilmer
Halsey
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Henderson
Hoyo
Humphrey
Hutchinson
Isaacks
Kennedy
Kersey
Kinard
King
Klingeman
Lansberry
Lehman
Leyendecker
Little
Lock
Lowry
Lyle
McAlister
McDonald
McGlasson
McMurry
McNamara
Markle
Martin
Matthews
Montgomery
Morgan
Morris
Morse
Nicholson
Phillips
Price
Reed of Dallas
Ridgeway
Roberts
Rhodes
Sallas
Shell
Skiles
Smith of Bastrop
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
White
Winfree

Absent

Blankenship

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

Question then recurring on the substitute amendment by Mr. Morgan yeas and nays were demanded.

The substitute amendment was adopted by the following vote:

Yeas—137

Allen
Allison
Alsup
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bray
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fitzgerald
Fuchs
Gandy
Gilmer
Goodman
Halsey
Hanna
Hargis
Harris of Dallas
Harris of Hill
Heflin
Helpinstill
Henderson
Hileman
Howington
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kennedy
Kersey
Kinard
King
Klingeman
Knight
Lansberry
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lucas
Lyle
McAlister
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Markle
Martin
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Pace
Pevehouse
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Sallas
Senterfitt
Sharpe
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Stanford
Stinson
Stubbs
Taylor
Thornton
Turner
Vale
Voigt
Walters
Wattner
Weatherford
White
Winfree

Nays—7

Garland
Hartzog

Hobbs
Parker
Shell
Spangler
Whitesides

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

Question then recurring on the amendment as substituted by the amendment by Mr. Morgan.

The amendment, as substituted, was adopted by the following vote:

Yeas—119

Allen
Allison
Alsup
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bridgers
Brown
Bruhl
Bullock
Burnaman
Carlton
Carrington
Cato
Chambers
Coker
Colson, Mrs.
Connelly
Craig
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Ferguson
Files
Fitzgerald
Fuchs
Gandy
Garland
Gilmer
Goodman
Halsey
Hanna
Hargis
Harris of Dallas
Harris of Hill
Helpinstill
Henderson
Hileman
Hobbs
Howington
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
King
Klingeman
Knight
Lansberry
Lehman
Leyendecker
Little
Love
Lowry
Lucas
Lyle
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Markle
Matthews
Mills
Moore
Morgan
Morris
Murray
Pace
Pevehouse
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Sallas
Senterfitt
Sharpe
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Stubbs
Taylor
Thornton
Turner
Voigt
Walters
Wattner
Weatherford
Whitesides

Nays—24

Bray
Bundy
Burkett
Celaya
Clark
Crossley
Hartzog
Heflin
Kennedy
Kersey
Kinard
Lock
McAlister
Martin
Montgomery
Morse
Nicholson
Parker
Roberts
Rhodes
Shell
Vale
White
Winfree

Absent

Favors

Absent—Excused

Cleveland
Donald
Hardeman
Howard
McCann

Mr. Hughes moved to reconsider the vote by which the amendment, as substituted, was adopted and to table the motion to reconsider.

The motion to table prevailed.

On motion of Mr. Morris, Article I of the committee amendment, as amended, was adopted.

Mr. Morris moved to reconsider the vote by which Article I of the Committee Amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Baker offered the following amendment to the committee amendment:

Amend H. B. No. 8, page 3, Article 2, Section 1, line 27, by omitting the words and figures "(1)

Storage Thereof," and renumbering properly the exemptions thereafter.

On motion of Mr. Morris, the amendment by Mr. Baker was tabled.

Mr. Isaacks offered the following amendment to the committee amendment:

Amend H. B. No. 8, Article 2, by striking out the words "one-fifth" and figures "1/5" in line 19, Section 2, page 3, and inserting in lieu thereof the words "one-fourth" and the figures "1/4."

Mr. Ellis offered the following substitute for the amendment by Mr. Isaacks:

Amend Section 1, page 3, by striking out line 17 to 23 inclusive and substituting the following:

"Section 1. (1) There is hereby levied an occupation tax on all gas produced within this State, computed as follows: (a) On sweet gas two-fifths (2/5) of one cent per thousand cubic feet: (2) On sour gas two-tenths (2/10) of one cent per thousand cubic feet, and: (c) On casing-head gas two-tenths (2/10) of one cent per thousand cubic feet specified in Section 2."

(Mr. Gilmer in the Chair.)

Mr. Anderson moved that the House adjourn until 10:00 o'clock a. m. tomorrow.

Question recurring on the motion to adjourn yeas and nays were demanded.

The motion to adjourn was lost by the following vote:

Yeas—19

Anderson
Bray
Burnaman
Crossley
Deen
Dwyer
Henderson
Hobbs
Hoyo
Hughes
Kersey
King
Lansberry
Martin
Murray
Parker
Smith of Bastrop
Stinson
White

Nays—118

Allen
Allison
Alsup
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bridgers
Brown
Bruhl
Bullock
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crosthwait
Daniel
Davis
Dickson of Bexar
Dickson of Nolan
Dove
Duckett
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fitzgerald
Fuchs
Gandy
Garland
Goodman
Halsey
Hanna
Hargis
Harris of Dallas
Heflin
Helpinstill
Hileman
Howington
Huddleston
Huffman
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kennedy
Kinard
Klingeman
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lucas
Lyle
McAlister
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Markle
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Morse
Pace
Pevehouse
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Senterfitt
Sharpe
Shell
Simpson
Skiles
Smith of Atascosa
Spacek
Spangler
Stanford
Stubbs
Taylor
Thornton
Turner
Vale
Voigt
Walters
Wattner
Weatherford
Whitesides
Winfree

Absent

Bundy
Gilmer
Harris of Hill
Hartzog
Knight
Nicholson
Sallas

Absent—Excused

Cleveland	Howard
Donald	McCann
Hardeman	

(Speaker in the Chair.)

On motion of Mr. Bell the substitute amendment by Mr. Ellis was tabled.

Mr. Bell moved to table the amendment by Mr. Isaacks.

The motion to table was lost.

Mr. Little offered the following substitute for the amendment by Mr. Isaacks:

Substitute for the amendment to Committee Amendment No. 1, Article 2, Section 1 to House Bill No. 8, so as to hereafter read as follows:

Section 1. (1) There is hereby levied an occupation tax on all gas produced within this State, computed as follows:

(a) On sweet gas, four per cent (4%) of the value thereof per thousand cubic feet; (b) on sour gas, four per cent (4%) of the value thereof per thousand cubic feet; and (c) on casinghead gas, four per cent (4%) of the value thereof per thousand cubic feet.

(Mr. Reed of Dallas in the Chair.)

On motion of Mr. Morris, the substitute amendment by Mr. Little was tabled.

Mr. Lucas moved the previous question on the Article II of the committee amendment and the amendment by Mr. Isaacks and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

Mr. Morris moved to table the amendment by Mr. Isaacks.

The motion to table was lost.

Question then recurring on the amendment by Mr. Isaacks, it was adopted.

Article II of the committee amendment, as amended, was then adopted.

Mr. Morris moved to reconsider the vote by which Article II of the committee amendment, as amended, was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Sharpe offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1, H. B. No. 8, on page 11, line 8, to read: Two dollars and fifty cents instead of one dollar and fifteen cents.

Mr. Morgan offered the following substitute for the amendment by Mr. Sharpe:

Amend committee amendment to H. B. No. 8, Article No. 3, Section 40A, by striking out the words and figures "One Dollar and Fifteen Cents ($1.15)," and insert in lieu thereof the words and figures "One Dollar and Thirty-five Cents ($1.35)."

MORGAN,
HARRIS of Hill.

Mr. Sharpe moved to table the substitute amendment by Mr. Morgan.

The motion to table was lost.

(Speaker in the Chair.)

Question recurring on the substitute amendment by Mr. Morgan, it was adopted.

Question then recurring on the amendment by Mr. Sharpe as substituted by the amendment by Mr. Morgan, it was adopted.

Mr. Morris moved to reconsider the vote by which the amendment, as substituted, was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Article III of the committee amendment, as amended, was then adopted.

Mr. Morris moved to reconsider the vote by which Article III of the committee amendment, as amended, was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Question recurring on Article IV of the committee amendment, it was adopted.

Mr. Morris moved to reconsider the vote by which Article IV of the committee amendment was adopted, and to table the motion to reconsider.

The motion to table prevailed.

Mr. Manford offered the following amendment to the committee amendment:

Amend committee substitute for House Bill No. 8 by striking out all of Article V and substituting in lieu thereof the following:

Article V. That Article 7084 of Chapter 3 of Title 122 of the Revised Civil Statutes of 1925 as amended by Acts, 1927, 40th Legislature, page 294, Chapter 208, as amended by Acts 1930, 41st Legislature, 5th Called Session, page 220, Chapter 68, Section 2, as amended by the Acts of 1931, 42nd Legislature, page 441, Chapter 265, Section 1, be and the same is hereby amended so that it shall hereafter read as follows:

"Article 7084. a. Amount of Tax. Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in the State of Texas, and every domestic and foreign corporation doing business in the State of Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus, and undivided profits, plus the amount of outstanding bonds, notes and debentures as further defined in this chapter, and computed on the basis of the ratio obtained by taking the arithmetical average of the following ratios:

(1) The ratio that its property and assets in this State bears to all its property and assets wherever situated.

(2) The ratio that the gross income attributable to its business done in Texas bears to the total gross income of the corporation from its entire business; which tax shall be computed at the rate of one dollar ($1.00) for each one thousand dollars ($1,000.00) of its capital stock, surplus and undivided profits, and the outstanding bonds, notes and debentures as herein defined; provided that such tax shall not be less than Ten Dollars ($10.00) in the case of any corporation, including those without capital stock.

b. Definitions. For the purpose of this chapter "Outstanding Capital Stock" shall include all subscribed par value stock whether issued or unissued and all no par stock taken and considered as being of the value actually received at the time of issuance thereof until such par value stock and no par value stock are reduced as provided by law.

For the purpose of this chapter Surplus and Undivided Profits shall include all amounts which are generally so recognized in accounting practice, whether arising from accumulation of profits, from contributions on the part of the stockholders, or other persons, or from the reappraisal of existing assets; Surplus shall also include surplus reserves, and in the case of every corporation, the capital stock of which is inadequate for its business needs, which is a subsidiary of another corporation, or affiliated therewith by stock ownership, shall include as surplus its indebtedness owed to, endorsed or guaranteed by the parent or affiliated corporation including a co-subsidiary of the same parent corporation.

For the purpose of this chapter Outstanding Bond, Notes and Debentures shall include such instruments which bear a maturity date of one year or more from date of issue, and all such instruments which bear a maturity date of less than one year from date of issue but which represent indebtedness which has remained outstanding for a period of one year or more from date of inception, but which have been renewed, extended or refinanced for the issuance of other evidences of the indebtedness, whether to the same or other parties. It is further provided that this term shall not include instruments which have previously been classified as surplus.

For the purpose of this chapter Gross Income Attributable to Its Business Done in Texas shall include all income from intrastate sales in this State, income from rents and royalties derived from properties located within this State, dividends, interest and other income which is attributable to business carried on

within this State. It shall also include income derived from the sale of agricultural commodities produced within this State and from the sale of products mined, manufactured or processed within this State without regard to the point of delivery upon the sale of such products; such income being determined by deducting from the total income derived from the sale of these products only such necessary charges such as freight, selling and other expenses which are incurred outside of the boundaries of this State in consummating the sale.

For the purpose of this chapter Property and Assets in this State shall include all property, tangible and intangible, real and personal, located within the boundaries of this State.

c. Corporations owning or operating railroads, ferries, bridges, turnpikes, toll roads, terminals and municipal intraurban transportation systems operating within and upon the public streets of any city or town shall be required to pay a franchise tax equal to one-fifth (1/5) of the franchise tax herein imposed on all other corporations under Section A hereof.

d. Except as provided in Section C hereof every public utility corporation which shall include every such corporation engaged solely in the business of a public utility the rates or service of which is regulated or subject to regulation by law shall pay a franchise tax as provided in this Act, except that the same shall be based on that proportion of its issued and outstanding capital stock, surplus and undivided profits which is allocable to its business done in Texas, computed on the basis of the ratio set forth in Section A hereof.

e. Where a foreign corporation secures a permit to do business or otherwise commences operations which subject it to the provisions of this Act and has theretofore done no business in Texas, such tax shall not be payable until the end of one year from the date of such permit or the beginning of such operations, at which time the tax shall be computed according to the first year's business; and, at the same time such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May 1st following. In all other cases, the tax shall be computed from the date contained in the reports required by Articles 7087 and 7089.

f. Corporations which are now to pay a separate franchise tax for each purpose or business authorized by their charters, shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth (¼) of such amount for each additional purpose named in their charters."

MANFORD,
DANIEL,
THORNTON,
MATTHEWS.

Mr. Taylor offered the following substitute for the amendment by Mr. Manford:

Amend Committee Amendment No. 1 by striking out Article V on pages 12, 13 and 14 of the printed bill and substituting in lieu thereof the following:

"Article V.

Section 1. That Article 7084 of the Revised Civil Statutes of 1925, as amended by the Acts of 1930, Forty-first Legislature, Fifth Called Session, page 220, Chapter 68, Section 2, as amended by the Acts of 1931, Forty-second Legislature, page 441, Chapter 265, Section 1, be and is hereby amended; and the following substituted therefor:

Article 7084. Amount of Tax. (a) Except as herein provided, every domestic and foreign corporation heretofore or hereafter chartered or authorized to do business in Texas, shall, on or before May 1st of each year, pay in advance to the Secretary of State a franchise tax for the year following, based upon that proportion of the outstanding capital stock, surplus and undivided profits, plus the amount of outstanding bonds, notes and debentures, other than those maturing in less than a year from date of issue, as the gross receipts from its business done in Texas bears to the total gross receipts of the corporation from its entire business, which tax shall be computed at the following rates for each One Thousand Dol-

lars ($1,000.00) or fractional part thereof One Dollar ($1.00) to One Million ($1,000,000.00) Dollars, One Dollar ($1.00); in excess of One Million Dollars ($1,000,000.00), fifty cents (50¢); provided that such tax shall not be less than Twenty Dollars ($20.00) in the case of any corporation, including those without capital stock, and in no case may the tax be based on an amount less than the assessed value (for State ad valorem purposes) of the corporation's property situated in this State. Where a foreign corporation applying for a permit has theretofore done no business in Texas, such tax shall not be payable until the end of one year from the date of such permit, at which time the tax shall be computed according to the first year's business; and, at the same time, such corporation shall also pay its tax in advance, based upon the first year's business, for the period from the end of the first year to and including May 1st following. In all other cases, the tax shall be computed from the date contained in the reports required by Articles 7087 and 7089. Capital stock as applied to corporations without capital stock shall mean the net assets.

(b) Corporations which are now required by law to pay annually a tax upon intangible assets, corporations owning or operating street railways in or upon the public streets of any town or city, and corporations organized to maintain or owning or operating electric interurban railways, shall be required to hereafter pay a franchise tax equal to one-fifth (1/5) of the franchise tax imposed against all other corporations under Section (a) herein.

(c) Provided, however, that this Act shall not apply to corporations organized as terminal companies not organized for profit, and having no income from the business done by them.

(d) Except as provided in preceding clauses (b) and (c), all public utility corporations, which shall include every such corporation engaged solely in the business of a public utility whose rates or service is regulated or subject to regulation in whole or in part, by law, shall pay a franchise tax as provided in this Act, except the same shall be based on that proportion of the issued and outstanding capital stock, surplus and undivided profits, which the gross receipts of the business of said corporation done in this State bears to the total gross receipts, instead of the gross assets; and in lieu of the rate hereinbefore prescribed said tax shall be computed as follows: One Dollar ($1.00) to One Million Dollars ($1,000,000.00), One Dollar ($1.00) for each One Thousand ($1,000.00) Dollars or fractional part thereof:

Sixty-seven cents (67¢) for each One Thousand Dollars ($1,000.00) or fractional part thereof in excess of One Million Dollars ($1,000,000.00) and not exceeding Ten Million Dollars ($10,000,000.00);

Fifty-two cents (52¢) for each One Thousand Dollars ($1,000.00) or fractional part thereof in excess of Ten Million Dollars ($10,000,000.00).

For the purpose of computing the tax of corporations issuing no par stock, such stock shall be taken and considered as being of the value actually received at the time of the issuance thereof; and foreign corporations issuing such stock shall furnish the Secretary of State with the same information now required of domestic corporations issuing such stock

(e) Corporations engaged partly in the business of a public utility as defined in clause (d) and partly in businesses embraced in clause (a) shall pay the franchise tax in the following manner: as to those businesses which come under clause (a) the tax shall be computed as provided in clause (a) on that proportion of the entire taxable capital under said clause (a) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation; and to those businesses which come under clause (d) the tax shall be computed as provided in clause (d) on that proportion of the entire taxable capital under said clause (d) as the Texas gross receipts from such business or businesses bear to the entire Texas gross receipts of such corporation. The period for which such gross receipts are taken shall be the same period used in comput-

ing the proportion of Texas taxable capital under clauses (a) and (d).

(f) Corporations which are now required to pay a separate franchise tax for each purpose or business authorized by their charters shall hereafter pay only the tax provided hereunder for one purpose, and one-fourth (¼) of such amount for each additional purpose named in their charters.

TAYLOR,
HANNA.

(Mr. Kersey in the Chair.)

Mr. Daniel moved to table the substitute amendment by Mr. Taylor.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—92

Allison
Avant
Bailey
Baker
Bean
Benton
Boone
Brawner
Bridgers
Bruhl
Bullock
Burnaman
Carrington
Cato
Chambers
Coker
Connelly
Craig
Crossley
Daniel
Deen
Dickson of Bexar
Dickson of Nolan
Dove
Duckett
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fitzgerald
Garland
Gilmer
Goodman
Halsey
Hargis
Harris of Hill
Henderson
Hileman
Hobbs
Howington
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
King
Klingeman
Knight
Lansberry
Love
Lowry
Lucas
McLellan
McMurry
Manford
Manning
Matthews
Montgomery
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Phillips
Price
Rampy
Ridgeway
Roark
Sallas
Senterfitt
Sharpe
Simpson
Smith of Bastrop
Smith of Atascosa
Spacek
Stanford
Stinson
Stubbs
Thornton
Turner
Voigt
Walters
Wattner
White
Whitesides

Nays—49

Allen
Alsup
Anderson
Bell
Blankenship
Bray
Brown
Bundy
Burkett
Carlton
Celaya
Clark
Crosthwait
Davis
Dwyer
Fuchs
Hanna
Harris of Dallas
Hartzog
Heflin
Helpinstill
Kennedy
Kinard
Lehman
Leyendecker
Little
Lock
Lyle
McAlister
McDonald
McGlasson
McNamara
Markle
Martin
Mills
Morris
Morse
Nicholson
Reed of Bowie
Reed of Dallas
Roberts
Rhodes
Shell
Skiles
Spangler
Taylor
Vale
Weatherford
Winfree

Absent

Colson, Mrs.

Absent—Excused

Cleveland
Donald
Gandy
Hardeman
Howard
McCann

Question then recurring on the amendment by Mr. Manford to the committee amendment, it was adopted.

Mr. Daniel moved to reconsider the vote by which the amendment by Mr. Manford was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Smith of Atascosa asked unanimous consent of the House to amend Section "F" of the Manford amendment by adding at the end thereof the following words:

"Provided however, this Act shall not apply to corporations organized under the Electric Cooperative Corporation Act."

There was no objection offered and it was so ordered.

Question recurring on Article V of the committee amendment, as amended, it was adopted.

Mr. Morris moved to reconsider the vote by which Article V of the committee amendment, as amended, was adopted and to table the motion to reconsider.

The motion to table prevailed.

Article VI of the committee amendment was then adopted.

Mr. Morris moved to reconsider the vote by which Article VI of the committee amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

(Speaker in the Chair.)

Mr. Bullock offered the following amendment to the committee amendment:

Amend H. B. No. 8, Article 7, by striking out the last paragraph of said article.

On motion of Mr. Bell, the amendment by Mr. Bullock was tabled.

Mr. Anderson offered the following amendment to the committee amendment:

Amend committee substitute for House Bill No. 8, Article VII, Section 1, by striking out lines 18 to 40, inclusive, on page 17 and lines 1 to 3, inclusive, on page 18, of the printed bill, and insert in lieu thereof the following:

"No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise shall impose an occupation tax or charge of any sort for the privilege of doing business upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise."

On motion of Mr. Taylor, the amendment by Mr. Anderson was tabled.

Mr. Harris of Hill offered the following amendment to the committee amendment:

Amend committee amendment to H. B. No. 8, Article VII, Section 1, page 17, line 34, by striking out the words "two per cent" and insert in lieu thereof the words "three per cent."

HARRIS of Hill,
MORGAN.

On motion of Mr. Morris, the amendment by Mr. Harris of Hill was tabled.

Mr. Smith of Atascosa offered the following amendment to the committee amendment:

Amend Article 7, page 17, line 34, to read 4% instead of 2%.

Mr. Bell moved the previous question on the amendment by Mr. Smith of Atascosa and Article VII of the committee amendment and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

Mr. Love moved to table the amendment by Mr. Smith of Atascosa.

The motion to table was lost.

Question recurring on the amendment by Mr. Smith of Atascosa, it was lost.

Article VII of the committee amendment was then adopted.

Mr. Morris moved to reconsider the vote by which Article VII of the committee amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Lock offered the following amendment to the committee amendment:

Amend H. B. No. 8, Committee Amendment No. 1, Article VIII, Sec-

tion 1, page 18, by adding after subsection (c) the following:

"(d) Gas used for fuel in manufacturing paper."

The amendment by Mr. Lock was adopted.

Question recurring on Article VIII of the committee amendment, as amended, it was adopted.

Mr. Morris moved to reconsider the vote by which Article VIII of the committee amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Question recurring on Article IX of the committee amendment, it was adopted.

Mr. Morris moved to reconsider the vote by which Article IX of the committee amendment was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Pace offered the following amendment to the committee amendment:

Amend committee amendment to House Bill No. 8, Article X, page 28, between lines 14 and 15 by adding a new section as follows:

Section 12. There shall be levied a tax of one per cent on each dollar of all transactions of every kind and character of One Thousand ($1,000.00) Dollars and over.

On motion of Mr. Morris, the amendment by Mr. Pace was tabled.

Mr. Hughes moved that the House adjourn until 10:00 o'clock a. m. tomorrow.

The motion was lost.

Mr. Turner offered the following amendment to Article X of the committee amendment:

Amend H. B. No. 8, Article X, by striking out all of Section 1, and inserting in lieu thereof the following:

Section 1. All revenue collected under the provisions of this Act, except as herein expressly provided to the contrary, shall be allocated in the following manner:

1. One-fourth to the Available School Fund.

2. Three-fourths to the General Revenue Fund.

There is hereby created in the office of the State Treasury an account to be known as the "Social Security Account."

Section 1-A. From and after the effective date of this Act the Treasurer of the State of Texas, as he receives any and all moneys from all sources of revenue for the use and benefit of and which under present laws would go into the General Fund of the State, shall annually, and before depositing any such moneys to the credit of the General Fund of the State, set apart out of the first moneys thus received the sum of Twenty-six Million Eight Hundred and Twenty Thousand Dollars ($26,820,000) and deposit said sum to the credit of the "Social Security Account."

Section 1-B. Out of the first money paid into the said "Social Security Account," the Treasurer shall transfer annually to the credit of the State Accumulation Fund of the Teacher Retirement System of Texas Three Million Five Hundred thousand Dollars ($3,500,000) until such time as the total amount on deposit to the credit of said fund shall equal the sum of all amounts which have by then been contributed and deposited by the members of said Teacher Retirement System. After such time it shall be the duty of the Treasurer of the State of Texas to transfer annually to the State Accumulation Fund of the Teacher Retirement System only such amount as will be necessary to meet current payments made by members of the said Teacher Retirement System.

Section 1-C. After transferring the moneys necessary to meet the requirements of the Teacher Requirement System as provided in Section 3, it shall be the duty of the State Treasurer on the first day of each month thereafter to transfer to the State Department of Public Welfare Fund all moneys which have accumulated in the "Social Security Account"; and the funds so transferred to the State Department of Public Welfare Fund shall be used by the State Department of Public Welfare as follows: Twenty-one Million Three Hundred Twenty

Thousand Dollars ($21,320,000) annually shall be used to supplement other funds now being collected for the purpose of paying old age assistance; One Million Five Hundred Thousand Dollars ($1,500,000) annually shall be used for the care of destitute children as provided in Section 51-d of Article III of the Constitution of this State; and Five Hundred Thousand Dollars ($500,000) annually shall be used for the care of the needy blind as provided in Section 51-c of Article III of the Constitution of this State.

Mr. Morris raised a point of order on consideration of the amendment at this time, on the ground that Article X of the committee amendment has previously been substituted.

The Speaker sustained the point of order.

Mr. Daniel moved to suspend all Rules in order that Mr. Turner may offer the above substitute amendment to Article X of the committee amendment.

The motion to suspend the Rules was lost by the following vote:

Yeas—63

Anderson
Avant
Bailey
Baker
Brawner
Burnaman
Connelly
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Evans
Ellis
Favors
Ferguson
Fuchs
Garland
Goodman
Halsey
Hargis
Helpinstill
Henderson
Hobbs
Hoyo
Huddleston
Hutchinson
Kersey
Kinard
King
Knight
Lehman
Lucas
McGlasson
McLellan
McMurry
Manford
Manning
Matthews
Mills
Moore
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Reed of Dallas
Roark
Sallas
Sharpe
Simpson
Smith of Bastrop
Spacek
Stubbs
Turner
Wattner
Whitesides

Nays—78

Allen
Allison
Alsup
Bean
Bell
Benton
Blankenship
Boone
Bray
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Craig
Crosthwait
Eubank
Files
Fitzgerald
Gilmer
Hanna
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Hileman
Howington
Huffman
Hughes
Humphrey
Isaacks
Jones
Kelly
Kennedy
Klingeman
Lansberry
Leyendecker
Little
Love
Lowry
Lyle
McAlister
McDonald
McNamara
Markle
Martin
Montgomery
Morgan
Morris
Morse
Murray
Nicholson
Phillips
Ridgeway
Roberts
Rhodes
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Taylor
Thornton
Vale
Voigt
Walters
Weatherford
White

Absent

Lock
Stinson
Winfree

Absent—Excused

Cleveland
Gandy
Hardeman
Howard
McCann

Mr. Chambers moved the previous question on the committee amendment and the engrossment of House Bill No. 8, and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

Mr. Bray offered the following amendment to the committee amendment:

Amend Article 13, House Bill No. 8, as follows:

By striking out, on page 7, lines 35, 36 and 37, the words "and the venue of any such suit for injunction is hereby fixed in Travis County," and substituting the words,

"and the venue of any such suit for injunction is hereby fixed in the county wherein the offense occurs."

Mr. Bell moved to table the amendment.

The motion to table was lost.

Question recurring on the amendment by Mr. Bray, it was adopted.

Mr. Bullock offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to House Bill No. 8 as follows, by adding thereto the following to be known as Article XI:

Section 1. There is hereby levied an occupation tax upon the business of selling liquor on doctor's prescription in this State, of 50¢ on each sale made. Said tax shall be computed upon the total sales of liquor on doctor's prescriptions, and shall be based upon reports showing 100% of such sales.

Sec. 2. The tax hereby levied shall be a liability of the seller of liquor on doctor's prescriptions; and it shall be the duty of said seller to keep accurate records of all liquors sold on doctor's prescription, making monthly reports under oath as hereinafter provided.

Sec. 3. The tax levied herein shall be paid monthly on the 25th day of each month on the total sales of liquor on doctor's prescriptions during the month next preceding, by the seller thereof.

Sec. 4. Provided, that unless such payments of tax on the sale of liquor on doctor's prescriptions in any month or in any fractional part thereof shall be made on or before the 25th day of the month immediately following, such payment shall become delinquent and a penalty of 10% of the amount of the tax shall be added; such tax and penalties shall bear interest at the rate of 6% per annum from date due until paid.

Sec. 5. The taxes herein provided for, when paid shall be, and are hereby, allocated as follows, to-wit: ¼ of said tax shall be placed by the State Treasurer of Texas to the credit of the Available School Fund; ¾ of such tax shall be placed by the State Treasurer of Texas in a special account for Social Security purposes, to be disbursed in accordance with the appropriations of the Legislature.

Sec. 6. A complete record shall be kept by every seller of liquor on doctor's prescriptions in this State, said records to show the exact location, the correct name, the names of the owner or owners, of the business offering liquor for sale on doctor's prescriptions, and the total number of sales so made from such business or location.

Sec. 7. Every seller of liquor on doctor's prescriptions shall file monthly on the 25th day of each month with the Comptroller under oath of the seller, or his duly authorized agent, a report showing the total number of sales of liquor on doctor's prescriptions made during the month preceding the date of the report, the place at which such sales were made, the correct name of the business, and the names of the owners thereof, at which such sales were made, and such other information as the Comptroller may require; said records and reports shall be open to the inspection of the Comptroller or the Attorney General or the duly authorized agents of the Comptroller or the Attorney General.

Sec. 8. It shall be the duty of the Comptroller to promulgate rules and regulations governing administration of the terms and requirements of this Act not otherwise specifically mentioned herein; and to employ auditors and supervisors for the purpose of verifying reports and investigating the affairs of sellers of liquor on doctor's prescriptions to determine whether the tax is properly reported and paid. Before any division or allotment of the occupation tax on the selling of liquor on doctor's prescriptions, collected under the provisions of this Act, is

made, ½ of 1% of the gross amount of said tax shall be set aside in the Treasury subject to the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of the said proceeds of ½ of 1% of the occupation tax on the selling of liquor on doctor's prescriptions, paid monthly, as may be needed in such administration and enforcement shall be expended in the amounts and for the purposes fixed by the Legislature in the general appropriation bill. Any unexpended portion of said fund so specified shall at the end of the fiscal year revert to the respective funds or accounts in proper proportion in which the occupation tax on the selling of liquor on doctor's prescriptions is allocated by this Act; and provided that the Comptroller may appoint not more than four additional supervisors or auditors with no salary to exceed those set out in the general appropriation bill, for places of the same type of service.

BULLOCK,
HARRIS of Hill,
ISAACKS.

Mr. Harris of Dallas offered the following substitute for the amendment by Mr. Bullock:

Amend Bullock amendment by striking out the words and figures (50¢) fifty cents wherever they appear and insert therein the words and figures (75¢) seventy-five cents.

Mr. Harris of Hill moved to table the substitute amendment by Mr. Harris of Dallas.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—71

Alsup
Anderson
Avant
Bailey
Brown
Bullock
Burnaman
Carlton
Celaya
Clark
Craig
Crossley
Daniel
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Eubank
Favors
Fitzgerald
Garland
Gilmer
Goodman
Halsey
Hanna
Hargis
Harris of Hill
Heflin
Helpinstill
Henderson
Hileman
Huddleston
Huffman
Hughes
Isaacks
Kersey
Klingeman
Little
Lock
Lowry
McLellan
McMurry
Manford
Manning
Markle
Matthews
Montgomery
Morgan
Morse
Nicholson
Parker
Phillips
Price
Rampy
Ridgeway
Roark
Roberts
Rhodes
Sallas
Sharpe
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Stinson
Stubbs
Vale
Walters
Winfree

Nays—67

Allen
Allison
Baker
Bean
Bell
Benton
Boone
Brawner
Bray
Bridgers
Bruhl
Burkett
Carrington
Cato
Chambers
Coker
Colson, Mrs.
Connelly
Crosthwait
Davis
Deen
Dickson of Nolan
Donald
Evans
Ferguson
Files
Fuchs
Harris of Dallas
Hobbs
Howington
Hoyo
Humphrey
Hutchinson
Jones
Kelly
Kennedy
Kinard
King
Lansberry
Lehman
Leyendecker
Love
Lucas
Lyle
McDonald
McGlasson
McNamara
Martin
Mills
Moore
Morris
Murray
Pace
Pevehouse
Reed of Bowie
Reed of Dallas
Senterfitt
Shell
Spangler
Taylor
Thornton
Turner

Voigt	White
Wattner	Whitesides
Weatherford	

Absent

Blankenship	Knight
Bundy	McAlister
Hartzog	Stanford

Absent—Excused

Cleveland	Howard
Gandy	McCann
Hardeman	

Mr. Anderson offered the following amendment to the amendment by Mr. Bullock:

Insert the words "intoxicating alcoholic" before the word liquor wherever it occurs in this amendment.

The amendment by Mr. Anderson was adopted.

Question then recurring on the amendment by Mr. Bullock, as amended, it was adopted.

Mr. Morris moved to reconsider the vote by which the amendment by Mr. Bullock, as amended, was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Turner moved to reconsider the vote by which the amendment to Article X of the committee amendment was therefore adopted.

Question: Shall the motion by Mr. Turner prevail?

On motion of Mr. Kersey, by unanimous consent, the House at 8:15 o'clock p. m. stood at ease until 8:45 o'clock p. m. to hear the broadcast of Governor W. Lee O'Daniel.

(While the House was standing at ease Mr. Hanna occupied the Chair temporarily.)

(Mr. Reed of Dallas in the Chair.)

On motion of Mr. Hartzog the remarks of Mr. Morris in addressing the House at this time were ordered printed in the Journal.

(The Speaker in the Chair.)

On motion of Mr. Reed of Bowie the remarks of Mr. Turner in addressing the House at this time were ordered printed in the Journal.

Mr. Bell moved to table the motion by Mr. Turner to reconsider the vote by which Article X of the committee amendment was substituted.

The motion to table prevailed.

Mr. Duckett offered the following amendment to the Committee amendment:

Amend committee amendment No. 1 to H. B. No. 8 after Article IX. New article to read as follows: Art. 9a.

Section 1. There shall be levied on and collected from every person, firm, company, association of persons, or corporation operating a hotel, public inn, tourist court, or other place offering lodging to the public, a five per cent (5%) gross tax upon the income from each room, the charge for which is in excess of $1.50 per night, or is in excess of $30.00 per month for one person, or is in excess of $50.00 per month for two persons.

Sec. 2. Such tax shall be due and payable at the Office of the Comptroller, at Austin, on the 25th day of each succeeding month based on the business done the preceding calendar month, and on or before said date such person, firm, company, association of persons, or corporation shall also make and deliver to the Comptroller a report, sworn to and upon such forms as shall be required, showing all business upon which a tax accrues, and such other information as the Comptroller may require.

Sec. 3. The sums derived from this tax shall be deposited by the Comptroller to the credit of the Texas Old Age Assistance Fund, and shall be used exclusively for old age assistance.

DUCKETT,
MANNING.

On motion of Mr. Anderson the amendment by Mr. Duckett was tabled.

Mr. Dwyer offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to H. B. No. 8 by adding a new article (11) to read as follows:

Section 1. That Chapter 467 Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, as amended by H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, as amended by Senate Bill No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be amended by adding to Article I thereof a new section which shall hereafter read as follows:

"Section 50-A. (a) In addition to all other taxes levied by this Act, there is hereby levied and shall be collected prior to any offer for sale an Occupation Tax of Twenty-five Hundred Dollars ($2500.00) to be paid by each and every dispensary of liquors; and in addition thereto there shall be collected a tax equal to ten per cent (10%) of the Gross Proceeds of all sales of liquor under a Dispenser's Permit as hereinafter defined, such tax to be paid by each holder of such Permit upon the Gross Proceeds derived from the conduct of said business under such permit, and the Occupation Tax herein provided to be paid by each dispenser to the Comptroller of Public Accounts; provided, however, that the Occupation Tax herein provided shall be paid in advance and the Gross Proceeds Tax shall be paid as follows:

"The tax herein levied shall be due and payable in monthly installments on or before the 15th day of the month next succeeding the month in which the tax accrues. The holder of the permit, on or before the 15th of each month, shall make out a return showing the amount of tax for which he is liable for the preceding month and shall mail such return, together with a remittance for the amount of tax due by him in the form and manner as shall be prescribed by rule or regulation of the Board or Administrator and shall remit said tax to the Board. Each return shall be signed by the holder of the permit, or his duly authorized agent, and shall be verified by oath. All revenues derived by the Gross Proceeds Tax herein levied shall be deposited with the State Treasurer in the Social Security Program of Texas. It shall be the duty of the Attorney General to represent the Board and other officers charged with the collection of this tax and all suits for such collection shall be filed in any District Court of Travis County. It shall be the duty of the Board or Administrator, to cancel or suspend any Dispenser's Permit, the holder of which fails or refused to pay the full amount of the tax due the State at the time required by this Act.

"It shall be unlawful for any person to fail or refuse to make any return provided for in this Section, or to make any false or fraudulent return or false statement in any return with intent to defraud the State or to avoid the payment of the tax herein levied or any part thereof. Any person violating any provision of this Section shall be punished as prescribed by Section 3 (d) of this Act.

"(b) The Board or Administrator is authorized to issue a Dispenser's Permit to any area where such permit shall be lawful to any person qualifying as herein provided. A Dispenser's Permit shall authorize the holder thereof to purchase liquor from wholesalers and to dispense for consumption on the premises where sold malt or vinous liquors containing alcohol in excess of fourteen (14) per centum by volume and distilled spirits when such distilled spirits have been diluted in such manner that the beverage dispensed does not contain alcohol in excess of thirty-three (33) per centum by volume.

"Persons holding a Dispenser's Permit shall also be qualified to hold a Wine and Beer Retailer's Permit as provided by Subdivision 16 of Section 15, of Article I and a Retail Dealer's On-Premise license as provided by Section 3 (d) of Article II of the Texas Liquor Control Act upon the payment to the prescribed fees; provided, however, that the gross proceeds tax herein levied shall apply to the sales of all alcoholic beverages made under a Dispenser's Permit. The owners or operators of bona fide hotels shall be entitled to hold a Dispenser's Permit in addition to the other permits or licenses authorized by this Act, but only when segregated under rules and regulations of the Board or Administrator. In all other cases persons shall be limited to the permits provided by this paragraph.

"No Dispenser's Permit shall be issued in any county, justice precinct, or incorporated city or town until and unless the voters thereof shall have by local option election legalized the sale of liquor under a Dispenser's Permit.

"No Dispenser's Permit shall be issued to any person whose principal business for any sixty (60) day period is the sale of diluted distilled spirits for consumption on the premises where sold. No such Permit shall be issued to any person other than a bona fide operator of a place where meals are served and sold. The Board shall prescribe rules and regulations to enforce this provision and the burden of establishing compliance with this provision shall always be on the holder of the Permit. It shall be the duty of the holders of such Permits to make and keep separate records of their business and of their sales of diluted distilled spirits, under such Permit, in accordance with any rules or regulations which may be prescribed by the Board, and such records shall be subject to inspection by the Board or any of its authorized agents or representatives at any time.

"It shall be sufficient cause for the Board or Administrator to refuse to grant any Dispenser's Permit when the Board or Administrator in its judgment has reason to believe that the applicant will conduct the business of selling alcoholic beverages in a manner contrary to law, or in any place or manner conducive to violation of the law, or likely to result in any jeopardy to the peace, morals, health or safety of the general public. In granting or refusing to grant any Dispenser's Permit, the Board or Administrator in forming its conclusions shall give due and proper consideration to any recommendations made by the District or County Attorney, or the Sheriff of the County and the Mayor and Chief of Police of any incorporated city or town wherein the applicant proposes to conduct his business, and to any recommendations made by representatives of the Board.

"The Board or its representatives may at any time make inquiry into the business of the holder of a Dispenser's Permit, and unless it shall be shown by the Permittee that his sales of diluted distilled spirits on the premises covered by his Dispenser's Permit are not, in the course of any sixty (60) day period, exceeding in value the sales of food and other commodities, the Board or Administrator is hereby authorized after notice and hearing to cancel or suspend any such Permit.

"The Board or Administrator shall have the power to suspend for any length of time not exceeding thirty (30) days any Dispenser's Permit upon ascertaining that any act constituting a breach of the peace has occurred upon the premises covered by such Permit or under the control of the holder thereof, and at the expiration of the date to which such permit has been suspended, the Board or Administrator may cancel the Permit unless it shall have been shown to the satisfaction of the Board or Administrator that the act was beyond the control of the person holding the Permit and did not result from improper supervision by the permittee of the conduct of persons permitted by him to be on the licensed premises or premises under his control.

"In addition to the qualifications set forth in this Section, applicants for Dispenser's Permit must possess all of the applicable qualifications set out in Section II, of Article I of this Act.

"The annual fee for such permit shall be double that fixed for a package store permit in the prescribed area.

"(c) Distilled spirits that are diluted in such manner that they do not contain alcohol in excess of thirty-three (33) per centum by volume are hereby declared to be a distinct class and type of alcoholic beverage. For the purpose of giving effect to the Constitutional provision directing that the Laws of this State shall contain provisions for local option elections affording the people an opportunity to determine for themselves whether they wish to legalize or prohibit the sale of alcoholic beverages of various types, classes and alcoholic content, the Commissioners' Court upon its own motion may, or upon petition shall, order local option elections for the purpose of determining whether the sale of diluted distilled spirits under a Dispenser's.

Permit shall be legalized or prohibited.

"In any area where the sale of diluted distilled spirits is prohibited and it is proposed to legalize the same, the following issues shall be submitted:

" 'For legalizing the sale of diluted distilled spirits' and

" 'Against legalizing the sale of diluted distilled spirits.'

"In any area where the sale of diluted distilled spirits is legal and it is proposed to prohibit the same, the following issues shall be submitted:

" 'For prohibiting the sale of diluted distilled spirits' and

" 'Against prohibiting the sale of distilled spirits.'

"Except as otherwise provided in this Section all such elections shall be governed by the provisions of Section 32 to 40-A of Article I of this Act.

"It is specially provided that no election shall be ordered for the purpose of legalizing the sale of diluted distilled spirits in any area, where the sale of all alcoholic beverages shall not have been legalized under this Act.

"(d) The definition of the term 'open saloon' contained in Section 3 (a) of Article I of this Act does not and shall not apply to any person who is the holder of a Dispenser's Permit, and who conducts his business in strict accordance with the provisions of this Section.

"(c) To carry out the purposes of this Act and this Amendment in addition to all other penalties herein provided for and acknowledging the penalty herein to be that it shall be unlawful for any person in this State to purchase and transport any intoxicating liquor in sealed containers who shall, while so transporting said liquors, break said seal and attempt to offer or to offer said liquors for consumption at any other place than in the destination or home of said holder of said liquors except, however, as provided in this Act, and where full compliance of the law has been theretofore made and such sales or opening of the seal of said liquors is at a duly authorized Dispenser, it being understood that this Act shall include all malt, vinous or intoxicating liquors including beer, wine and whiskey as the same are generally used and all alcohols and alcoholic concoctions by whatever name they may be known.

"If any person in this State shall violate any provision of this Amendment as herein set out or shall break the seal on any liquors as herein definde and use the same as herein provided other than as a regular dispenser shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than One Hundred Dollars ($100.00) and by imprisonment in the County Jail of the County where convicted for a period of not less than thirty (30) days or by both such fine and imprisonment."

Sec. 2. The fact that the Social Security Program of Texas is in dire need of additional funds and the fact that it is desirable and would be in the best interest of society to permit under reasonable regulations the sale of intoxicating liquors by the drink in said bona fide hotels and cocktail lounges; and the further fact that the occupation or license tax as herein provided will bring into the treasury many thousands of dollars and will greatly aid in supplying the Social Security Program of Texas and bringing it to a point of respectability; and whereas such an Act would inure to a more respectable use of intoxicating liquors and would inspire and encourage temperance and respectability in the use of intoxicating said liquors and would tend greatly to discourage indiscriminate and irresponsible drinking at times and places where disorderly people have assembled and would rend respectability to a moderate and temperate use of intoxicants as a beverage and would tend to discourage the use and drinking at other than such respectable places and would materially aid and elevate the morals of the youth of our State and would furnish ready and abundant additional funds for the Social Security Program of this State creates an emergency and an imperative public necessity requiring the suspension of the Constitutional Rule requiring bills to be read on three (3) several days in each house and such rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

DWYER,
BEAN.

(Mr. Anderson in the Chair.)

Mr. Hanna and Mr. Blankenship raised a point of order on further consideration of the amendment by Mr. Dwyer, on the ground that the amendment is not germane to the bill.

The Chair sustained the point of order.

Mr. Evans offered the following amendment to the committee amendment:

Amend H. B. No. 8 by adding the lowing as article:

Article 9a.

Section 1. That Section 2, of Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature be, and it is, hereby amended to read as follows:

"Section 2. A tax of Two ($2.00) Dollars per thousand on cigarettes weighing not more than three (3) pounds per thousand, and Three Dollars and Sixty Cents ($3.60) per thousand on those weighing more than three (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State, and shall become due and payable as soon as such cigarettes are subject to a 'first sale' in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person in Texas, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual package or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale. Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to each individual package of cigarettes covering the tax thereon as imposed by this Act; provided that such stamps may be purchased and affixed to such individual package of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required.

"Provided, that the tax imposed shall be in lieu of any other occupation or excise tax imposed by the State or any political subdivision thereof on cigarettes.

"Cigarette stamps shall be sold by the Treasurer in unbroken sheets of one hundred (100) stamps only, and shall be purchased from and sold only by said Treasurer, except as hereinafter provided. When the Comptroller deems it proper to accept the compromise provided for in Section 22, and the offender does not possess sufficient unused stamps to cover his unstamped stock of cigarettes, then, and in that even, the offender may purchase the required stamps from any distributor through a requisition from the Comptroller in order that his unstamped stock of cigarettes may be stamped immediately under the direction of the Comptroller, and the Comptroller shall have the authority to issue such requisition, which shall be made in triplicate on a form prescribed by the Comptroller with the printed words 'Original,' 'duplicate,' and 'Triplicate' on the respective sheets thereof. The original requisition shall be kept by the Comptroller and the duplicate and triplicate shall be delivered to the purchaser and seller of said stamps, respectively, who shall hold such copies of such requisition at all times open to the inspection of the Comptroller and the Attorney General for a period of two (2) years. The Comptroller shall have the power and authority in the enforcement of this Act to recall any stamps which have been sold by said Treasurer and which have not been used, and it shall be the duty of said Treasurer, upon receipt of such recalled stamps, to issue stamps of other serial numbers therefor. The purchaser of any stamps shall be required to surrender any unused stamps for exchange upon demand of said Comptroller. One-fourth of the revenue raised under this Act shall be transferred and allocated to the available school fund, and three-fourths to the State Department of Public Welfare Fund."

(Speaker in the Chair.)

Mr. Gilmer moved the previous question on the amendment by Mr. Evans, the committee amendment and the engrossment of H. B. No. 8, and the motion was duly seconded.

Question recurring on the motion for the main question, it was lost.

On motion of Mr. Morris the amendment by Mr. Evans was tabled.

Mr. Roark offered the following amendment to the committee amendment:

Amend Committee Amendment to H. B. No. 8 by adding a new article to be known as Art. ——— and to read as follows:

"Section 1. That Section 45(a), Article 7047, Vernon's Texas Statutes, 1939, be amended so as to hereafter read as follows:

Sec. 2. (a) There is hereby levied an occupation tax on every person in this State manufacturing or producing carbon black; said tax to be one cent (1¢) per pound on all carbon black produced or manufactured in the State of Texas."

On motion of Mr. Morris the amendment by Mr. Roark was tabled.

Mr. Bray offered the following amendment to the committee amendment:

Amend H. B. No. 8 as follows:

On page 23, line 11 delete the words "Travis County" and insert in lieu thereof the words "the county in which the offense occurred."

The amendment was adopted.

Mr. Bray offered the following amendment to the committee amendment:

Amend H. B. No. 8 as follows:

On page 21, line 23 delete the words "Travis County" and insert in lieu thereof the words "the county in which the offense occurred."

Mr. Alsup moved to table the amendment by Mr. Bray.

The motion to table was lost.

Question then recurring on the amendment by Mr. Bray, it was adopted.

Mr. Bray offered the following amendments to the committee amendment:

Amend H. B. No. 8 as follows:

On page 20, line 34, delete the words "Travis County" and insert in lieu thereof the words "the county in which the offense occurred."

On page 10, line 22, delete the words "Travis County" and insert in lieu thereof the words "the county in which the offense occurred."

The amendments were severally adopted.

Mr. Evans offered the following amendment to the committee amendment:

A new Article to be known as Article No. 12 to read as follows: Article 12.

Article 666-21, paragraph (a) of the Penal Code of the Revised Civil Statutes shall be and is hereby amended so as to read as follows:

Article 666-21. Fees and taxes. There is hereby levied and imposed in addition to other fees and taxes levied by this act the following:

(a) A tax of ($1.92) one dollar and ninety-two cents per gallon on each gallon of spirituous alcoholic liquor, sold or offered for sale in this State, providing the minimum tax on any package of spirituous alcoholic liquor shall be ten cents (10¢).

EVANS,
BOONE.

Mr. Alsup moved to table the amendment by Mr. Evans.

The motion to table was lost.

Mr. Morris offered the following substitute for the amendment by Mr. Evans:

Amend H. B. No. 8 by adding a new Article to be known as Article 12 to read as follows: Article 12.

Art. 666-21, paragraph (a) of the Penal Code of the Revised Civil Statutes shall be and is hereby amended to read as follows:

Art. 666-21. Fees and taxes. There is hereby levied and imposed in addition to the fees and taxes levied by this Act the following:

(a) A tax of $1.44 per gallon on each gallon of spirituous alcoholic liquor, sold or offered for sale in this State.

The substitute amendment by Mr. Morris was adopted.

The amendment, as substituted, was then adopted.

Mr. Dickson of Bexar offered the following amendment to the committee amendment:

Amend Committee Amendment to H. B. No. 8 by adding thereto a new section known as Article 11, as follows:

"Article 11. Section 1. Every person, firm, association of persons, or corporation, owning or operating any place of amusement which charges a price or a fee for admission including exhibits in theatres, motion picture theatres, and athletic events, not prohibited by law, shall file with the State Comptroller of Public Accounts a quarterly report on the twenty-fifth (25th) days of January, April, July and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received for admissions and said person, firm, association of persons, or corporation at the time of making such report shall pay to the Treasurer of this State a tax of one and one-half (1.5) per cent of the total gross receipts; provided that athletic events and entertainments furnished by educational, religious and charitable institutions shall be exempt from the payment of this tax; provided, further, that this tax shall be in addition to and not in lieu of any other taxes now levied by law.

Section 2. When the taxes derived from the proceeds of this section are received by the State Treasurer, he shall credit one-fourth (¼) of said receipts to the Available School Fund and three-fourths (¾) of said receipts to the General Fund of this State."

Mr. Kersey moved to table the amendment by Mr. Dickson of Bexar.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—135

Allen	Hoyo
Allison	Huddleston
Alsup	Huffman
Anderson	Hughes
Avant	Humphrey
Bailey	Hutchinson
Baker	Isaacks
Bean	Jones
Bell	Kelly
Benton	Kennedy
Boone	Kersey
Brawner	Kinard
Bray	Klingeman
Bridgers	Knight
Brown	Lansberry
Bruhl	Lehman
Bullock	Leyendecker
Bundy	Little
Burkett	Lock
Burnaman	Love
Carlton	Lowry
Carrington	Lucas
Cato	Lyle
Chambers	McAlister
Clark	McDonald
Coker	McGlasson
Colson, Mrs.	McLellan
Connelly	McMurry
Craig	McNamara
Crossley	Manford
Crosthwait	Manning
Daniel	Markle
Davis	Matthews
Dickson of Nolan	Mills
Donald	Montgomery
Dove	Moore
Duckett	Morgan
Dwyer	Morris
Ellis	Morse
Eubank	Murray
Evans	Nicholson
Favors	Pace
Ferguson	Parker
Files	Pevehouse
Fitzgerald	Phillips
Fuchs	Price
Garland	Rampy
Gilmer	Reed of Bowie
Goodman	Reed of Dallas
Halsey	Ridgeway
Hanna	Roark
Hardeman	Roberts
Hargis	Rhodes
Harris of Hill	Sallas
Hartzog	Senterfitt
Heflin	Sharpe
Helpinstill	Simpson
Henderson	Skiles
Hileman	Smith of Bastrop
Howington	Smith of Atascosa

Spacek	Vale
Spangler	Voigt
Stanford	Walters
Stinson	Wattner
Stubbs	Weatherford
Taylor	White
Thornton	Winfree
Turner	

Nays—5

Deen	Martin
Dickson of Bexar	Whitesides
Hobbs	

Absent

Blankenship	King
Celaya	Shell
Harris of Dallas	

Absent—Excused

Cleveland	Howard
Gandy	McCann

(Mr. Harris of Dallas in the Chair.)

Mr. Bundy offered the following amendment to the Committee amendment:

Amend H. B. No. 8 by adding a new Article to be properly numbered and placed at the end of Article 9, to read as follows:

Section 1. (a) "Motor Fuel" shall mean and include any volatile or inflammable liquid, by whatever name such liquid may be known or sold, with a flash point of 112 degrees Fahrenheit or below, according to the United States official closed testing cup method of the United States Bureau of Mines, which is used or is capable of being used, either alone or when blended, mixed or compounded, for the purpose of generating power for the propulsion of any internal combustion engines or any motor vehicles. The term "Motor Fuel" however, shall not include the products defined herein as "Liquefied Gases" and "Other Liquid Fuels," upon which products a tax is levied by Section 14 of this Act.

(b) "Liquefied Gases" shall mean and include all combustible gases which liquefy at certain temperatures and pressures but which exist in the gaseous state at sixty (60) degrees Fahrenheit, and at a pressure of 14.7 pounds per square inch absolute.

(c) "Other Liquid Fuels" shall mean any liquid petroleum products, or substitute therefor, having a flash point above 112 degrees Fahrenheit, according to the United States official closed testing cup method of the United States Bureau of Mines, including diesel fuel, kerosene, distillate, condensate or similar products that may be used as fuel to generate power for the propulsion of motor vehicles upon the highways of this State.

(d) "Motor Vehicle" shall mean and include any automobile, truck, tractor, bus, vehicle, engine, machine, mechanical contrivance, or other conveyance which is propelled by an internal combustion engine or motor.

(e) "Vehicle Tanks" shall mean an assembly used for the transportation, hauling, or delivery of liquids, comprising a tank, which may be one compartment or may be subdivided into two or more compartments, mounted upon a wagon, automobile, truck or trailer, together with its accessory piping, valves, meter, etc. The term "compartment" shall be construed to mean the entire tank whenever this is not subdivided; otherwise, it shall mean any one of those subdivided portions of the tank which is designed to hold liquid.

(f) "Distributor" shall mean and include every person in this State who refines, distils, manufactures, produces, blends or compounds motor fuel or blending materials, or in any other manner acquires or possesses motor fuel or blending materials for sale, use or distribution of the same in this State; and it shall also include every person in this State who ships, transports or imports any motor fuel or blending materials into this State and makes the first sale, use or distribution of same in this State; the said term shall also include every person in this State who produces or collects the liquid residuent of natural gas commonly known as drip gasoline, or who is responsible for the production or formation of said drip gasoline, intentionally or otherwise, unless said product is totally destroyed or rendered neutral as motor fuel or as a product capable of use as motor fuel in this State.

(g) The term "User" shall be construed to mean any person who uses

or consumes 'liquefied gases' and 'other liquid fuels' within this State in internal combustion engines for the generation of power to propel motor vehicles upon the public highways of this State.

(h) "Distribution" shall mean and include any transaction other than a sale, in which ownership or title to motor fuel, or any derivative of crude oil or natural gas, passes from one person to another. The said term shall also include any transaction whereby the possession of said products is transferred but the seller retains title as security for the payment of the price or consideration due for such products.

(i) "Person" shall mean and include every individual, firm, assocation, joint stock company, syndicate, co-partnership, corporation (public, private or municipal), trustee, agency or receiver.

(j) "Dealer" shall mean and include every person other than a distributor who engages in the business in this State of distributing or selling motor fuel within this State.

(k) "Public Highway" shall mean and include every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel, and notwithstanding that the same may be temporarily closed for the purpose of construction, maintenance or repair.

(l) "Comptroller" shall mean Comptroller of Public Accounts of the State of Texas.

Sec. 2(a). There shall be and is hereby levied and imposed (except as hereinafter provided) upon the first sale, distribution or use of motor fuel in this State an occupational or excise tax of four (4) cents per gallon or fractional part thereof so sold, distributed or used in this State. Every distributor who makes a first sale or distribution of motor fuel in this State for any purpose whatsoever, shall, at the time of such sale or distribution, collect the said tax from the purchaser or recipient of said motor fuel, in addition to his selling price, and shall report and pay to the State of Texas the tax so collected at the time and in the manner as hereinafter provided. Every such distributor shall also be liable to the State of Texas for the said tax of four (4) cents per gallon on each gallon of motor fuel or fractional part thereof used or consumed by him and shall report and pay said tax as hereinafter provided. In each subsequent sale or distribution of motor fuel upon which the tax of four (4) cents per gallon has been collected, the said tax shall be added to the selling price, so that such tax is paid ultimately by the person using or consuming said motor fuel for the purpose of generating power for the propulsion of any motor vehicle upon the public highways of this State.

It is the intent and purpose of this Act to collect the tax levied herein at the source of said motor fuel in Texas or as soon thereafter as the same may be subject to being taxed. No person, however, shall be required to pay a tax on motor fuel brought into this State in a quantity of thirty (30) gallons or less in a fuel tank, with a capacity of not more than thirty (30) gallons, when said fuel tank is connected with and feeds the carburetor of said motor vehicle and the motor fuel contained therein is used in the operation of said motor vehicle and not otherwise.

(b) Provided further, that the tax on one (1) per cent of the taxable gallonage shall be deducted by the distributor to cover losses and the expense of collecting the tax levied herein and complying with the other provisions of this Act.

(c) The tax herein imposed shall be posted separately from the price of the motor fuel, wherever sold in this State.

(d) No tax shall be imposed upon the sale, use or distribution of any motor fuel, the imposing of which would constitute an unlawful burden on interstate commerce and which is not subject to be taxed under the Constitution of the State of Texas and the United States. In the event this Act is in conflict with the Constitution or any law of the United States with respect to the tax levied upon the first sale, distribution, or use of motor fuel in this State, then it is hereby declared to be the intention of this Act to impose the tax levied herein upon the first subsequent sale, distribution, or use of said motor fuel which may be subject to being taxed.

(e) Provided, that the tax imposed

herein shall be in lieu of any other excise or occupational tax imposed by the State or any political subdivision thereof, on the sale, use or distribution of motor fuel.

Sec. 3. (a) Every distributor who shall be required to collect the tax levied by this Act upon the first sale or distribution of motor fuel in this State, or who shall be required to pay the tax levied herein upon motor fuel used by said distributor, shall upon the 20th day of each calendar month remit or pay over to the State of Texas at the office of the Comptroller at Austin, Travis County, Texas, the amount of such tax required to be collected during the calendar month next preceding and the amount of such tax required to be paid upon motor fuel used by said distributor during said preceding calendar month, and at the same time, such distributor shall make and deliver to the Comptroller at his office in Austin, Travis County, Texas, a report properly sworn to and executed by such distributor, or his representative in charge, which shall show the date said report was executed, the name and address of said distributor and the month which the report covers, and which report shall show separately by gallons the motor fuel on hand at the beginning and at the end of the month, and complete information of all motor fuel handled during the month, including motor fuel purchased or received in interstate commerce, motor fuel purchased or received in intrastate commerce, reflecting separately the quantity received with the tax paid and the quantity received without the tax having been paid, motor fuel refined, motor fuel acquired by blending, motor fuel sold in interstate commerce, motor fuel sold in intrastate commerce, motor fuel sold and exported, motor fuel sold to the United States Government, motor fuel sold to a distributor for further refining, processing, blending or for exportation upon which no tax was collected, motor fuel lost by fire or other accident, motor fuel lost by refinery shrinkage, evaporation or other losses, and motor fuel used and consumed by the distributor and his representatives. The said report shall also show complete information by gallons of all blending materials purchased, acquired, sold, used and lost by fire or otherwise, during the month the report covers, and the beginning and ending inventories of such blending materials. Said report shall also show a complete record of the number of barrels of crude oil refined and the number of cubic feet of gas processed. Provided that where a qualified ditributor has not sold, used or distributed any motor fuel during any month or part thereof, he shall nevertheless file with the Comptroller the report required herein setting forth such fact or information. Provided further, that the Comptroller may prepare and furnish a form prescribing the order in which the information required herein shall be set up in said monthly report, but the failure of any distributor to obtain such form from said Comptroller shall be no excuse for the failure to file a report containing all the information required to be reported herein. Every distributor, at the time of making said report, shall attach legal tender thereto or make proper form of money order or exchange payable to the State Treasurer in the amount of tax for the period covered by the report.

(b) Provided further, that every person selling motor fuel in export or interstate commerce only, and every person selling motor fuel upon which no tax is required to be paid under the provisions of this Act, shall nevertheless be required to keep the same records and make the same reports to the Comptroller, accounting for the motor fuel so sold, that the provisions of this Act require a distributor to keep and make.

(c) If any distributor shall fail to remit proper taxes collected upon the first sale or distribution of motor fuel, or taxes due upon the use of motor fuel in Texas, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and if such taxes have not been properly remitted and paid to the State of Texas, the distributor shall pay as additional penalty any reasonable expenses included by the Comptroller in such audit. Provided, however, that all funds paid to the auditors of the Comptroller as expenses incurred in making audits shall be placed in a special fund in the State Treasury,

which shall be used until exhausted for making other audits, and said sums are hereby appropriated for that purpose. Provided that nothing herein shall prevent the Comptroller, when said fund is exhausted, from using other funds available for that purpose.

(d) When it shall appear that a distributor or user to whom the provisions of this Act shall apply has erroneously reported and remitted or paid more taxes than were due the said State of Texas upon any motor fuel, liquefied gases or other liquid fuels during any tax paying period, either on account of a mistake of fact or law, it shall be the duty of the Comptroller to credit the total amount of taxes due by such distributor or user for the current period with the total amount of taxes so erroneously paid. Such credit shall be allowed before any penalties and interest shall be applicable.

Sec. 4. (a). All taxes collected hereunder by any distributor or by any director, officer, agent, employee, trustee, receiver of such distributor, or by any person, shall be for the use and benefit of the State of Texas, and shall be paid to the State of Texas as provided in this Act.

(b) If any such distributor or any director, officer, agent, employee, trustee, receiver of such distributor, or any person, shall wilfully fail or refuse to pay to the State of Texas any such tax funds collected under the provisions of this Act, on or before the date such payment is due as provided by this Act, such distributor or such director, officer, agent, employee, trustee, receiver of such distributor, or such person, shall be guilty of a felony and shall be punished by confinement in the State penitentiary for not more than ten (10) years or by confinement in the county jail for not less than one(1) month, nor more than one (1) year, or by a fine of not less than $500.00 nor more than $10,000, or by both such fine and jail imprisonment.

(c) If any director, officer, agent, employee, trustee, receiver of any distributor, or any person, shall fraudulently misapply or convert to his own use any tax fund collected for the State of Texas under the provisions of this Act by such distributor, or any director, officer, agent, employee, trustee, receiver of such distributor, or by such person, which said money has come into the possession of or that is in the care of or under the control of such director, officer, agent, employee, trustee, receiver of such distributor, or of such person, and which said money is required to be paid to the State of Texas under the provisions of this Act, such director, officer, agent, employee, trustee, receiver, or such person shall be guilty of a felony and upon conviction shall be punished by confinement in the State penitentiary for not more than ten (10) years or by confinement in the county jail for not less than one (1) month nor more than one (1) year, or by a fine of not less than $500.00 or more than $10,000.00, or by both such fine and jail imprisonment.

Sec. 5. (a). The Comptroller may authorize and permit any producer of natural gasoline, casinghead gasoline, drip gasoline, or any derivative or condensate of crude oil or natural gas and any licensed distributor of motor fuel to make a first sale or distribution of natural gasoline, casinghead gasoline, drip gasoline, motor fuel or any derivative or condensate of crude oil or natural gas without collecting the tax levied herein, to any distributor holding a permit under the terms of this Act, when such distributor purchasing the same has, in the opinion of the Comptroller, a satisfactory and sufficient bond, and when the commodity is sold and purchased for the purpose of further refining, further processing, blending or compounding with other products to produce motor fuel, or for exporting by railroad tank car, ship or boat, and not otherwise. If the distributor purchasing said commodities or products without paying said tax shall thereafter sell, or distribute said commodities or products, either alone or compounded, in this State, he shall be required to collect and pay over to the State of Texas at the time and in the manner herein provided, the tax at the rate of four (4) cents per gallon upon each gallon or fractional part thereof sold or distributed. Said distributor shall also be liable for and shall be required to pay to the State of Texas said tax at the aforesaid rate upon each gallon

of such motor fuel used by said distributor. Failure or refusal to collect and pay over to the State of Texas, the tax on motor fuel so sold or distributed by said distributor, or to pay the tax on motor fuel used by said distributor, shall subject him to all the liabilities, penalties, forfeitures, interest and costs provided in this Act.

(b) Provided further, that any person whether producer or licensed distributor, who shall make any sale or distribution as provided herein, shall be required to make and keep all the records and manifests involving such sales or distributions as is required of a distributor in Section 9 (b) of this Act. Said person shall also be required to make and file with the Comptroller the return or report required by Section 3 of this Act, showing all the information contained therein. The manifest required to be issued upon such sale or distribution shall bear the notation that said product is being sold or distributed for further refining, further processing, blending, compounding, or for exportation, which ever the case may be. Provided further, that every producer shall qualify as a distributor and obtain a distributor's permit before selling the commodities named herein to any person other than a licensed and qualified distributor. All such sales and distributions shall be made in accordance with rules and regulations promulgated by the Comptroller.

Sec. 6. (a) From and after the effective date of this Act, all distributors of motor fuel in this State now engaged, or who desire to become engaged, in the sale, use or distribution of motor fuel upon which the tax levied herein is required to be paid, shall file a duly acknowledged application for motor fuel distributor's permit with the Comptroller on a form prescribed by him, to be furnished upon written request, the failure to furnish which shall be no excuse for the failure to file the same unless an absolute refusal is shown. Said form shall set forth the name under which such distributor transacts or intends to transact such business as distributor, the principal office, residence or place of business in Texas, and if other than an individual, the principal officers of a corporation or the members of a partnership or association, and their office, street, or post office addresses. The Comptroller may require in said application such other information as he may desire. No distributor shall make a first sale, use or distribution of motor fuel until such application has been filed and a permit has been obtained.

(b) Upon receipt of the application and the bond hereinafter provided for, the Comptroller shall issue to every distributor a non-assignable, consecutively numbered permit authorizing the first sale, use or distribution of motor fuel, or its substitute, in this State from the date of the issuance of said permit, until and including the following December 31st. On or before January 1st of each year, and before any distributor shall make a first sale, use or distribution of motor fuel, or engage in selling motor fuel in this State after December 31st, an application shall be filed and a permit obtained for the calendar year. Said permit shall provide that the same is revocable and shall be cancelled upon violation of any provisions of this Act, or any rule or regulation adopted by the Comptroller. If such permit is cancelled or suspended, said distributor shall not sell, use or distribute motor fuel upon which a tax is required to be paid until a new permit is granted or the original permit is reinstated. Provided, however, that no permit shall be issued or re-instated where it appears from a duly verified audit made as herein provided by an authorized representative of the Comptroller, that the applicant is delinquent in the remittance or payment of any motor fuel tax, penalty or interest under the provisions of this Act.

Sec. 7. (a) Before any permit shall be issued and before engaging in the first sale, use or distribution of motor fuel, upon which a tax is required to be paid, in Texas, every distributor shall execute and file with the Comptroller a good and sufficient surety bond, which shall run concurrently with the permit required of a distributor to be obtained. The said bond shall be signed by said distributor and a good and sufficient surety company or companies author-

ized to do business in this State, to be approved by the Comptroller, and, except as hereinafter provided, in an amount not less than One Thousand ($1,000.00) Dollars nor more than Twenty-five Thousand ($25,000.00) Dollars, payable to the State of Texas, and conditioned upon the full, complete and faithful performance by the distributor of all the conditions and requirements imposed upon him by this Act, or the rules and regulations of the Comptroller promulgated hereunder, on a form to be prescribed by the Comptroller with the approval of the Attorney General, expressly providing for the performance of said obligation, and the remittance and/or payment at Austin, Travis County, Texas, of all taxes collected and required to be collected for the use and benefit of the State, and all other taxes due and accruing upon the use of motor fuel by said distributor, and all costs, penalties and interest provided in this Act; provided, however, that in any event the total of all recoveries under such bond for any and all breaches of its conditions occurring at any time while it remains in force to support a permit, shall not for any calendar year exceed the penal sum named therein; provided further, that any such bond, continuous in form, may be, if sufficient and acceptable to the Comptroller, continued in effect by a renewable certificate, and, if so continued in effect, shall be sufficient to support the issuance of any new permit, and provided further, that the said renewal certificates, as, if and when issued, shall have all the force and effect of an original bond for the calendar year for which said renewal certificate is issued. The amount of any bond required of any distributor shall be fixed by the Comptroller, and subject to the limitations herein provided, additional bond may be required by the Comptroller at any time an existing bonds becomes insufficient, unsatisfactory or unacceptable. However, the distributor may demand a reduction of his bond after six (6) months from the effective date thereof to a sum to be not more than three times the highest tax said distributor has collected and paid to the State for any month during the preceding six (6) months, but which shall never be less than the minimum nor more than the maximum aforesaid.

Provided, that when a distributor or other person produces, manufactures, refines or acquires in any other manner any product of petroleum or natural gas for his own use and consumption as motor fuel and not to be sold or distributed, the Comptroller may accept a minimum in an amount of not less than One Hundred ($100.00) Dollars; said bond to be in the form and substance and conditioned as hereinabove provided.

(b) The Comptroller shall have the right, if, in his opinion, the amount of any existing bond shall become insufficient, or any surety on a bond shall become unsatisfactory or unacceptable, to require the filing of a new or an additional bond. When said new bond has been furnished, the Comptroller shall cancel the bond for which said new bond is substituted. No recoveries on any bond or execution of any new bond or renewal of a permit shall invalidate any bond. A new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect the validity of any bond. Provided further, that the Comptroller shall have the authority to require any distributor to make reports and remit to the State for taxes collected by him, or taxes accruing on motor fuel used by him, at shorter intervals than One (1) month at any time any maximum bond shall, in the opinion of said Comptroller, become insufficient. Should any distributor fail or refuse to supply a new or additional bond within ten (10) days after demand, or shall fail or refuse to file reports and remit or pay the said tax at the intervals fixed by the Comptroller, said distributor's permit shall be cancelled by the Comptroller as herein provided.

(c) Any surety on any bond furnished by any distributor as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Pro-

vided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said thirty (30) day period. The Comptroller shall promptly on receipt of notice of such request notify the distributor who furnished such bond, and unless such distributor shall within fifteen (15) days from the date of said notice, file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Act provided, the Comptroller shall proceed to cancel the permit of said distributor in the manner herein provided. If such new bond shall be furnished by said distributor as above provided, the Comptroller shall cancel and surrender the bond for which such new bond is substituted.

(d) That in lieu of giving a bond, any distributor may deposit in the Suspense Account of the State Treasury, money in the amount of the bond that may be required, which shall never be released until securities are substituted for the same, or a bond executed in lieu thereof, or until the Comptroller has made a complete and thorough investigation and authorized the same to be released; and provided, in lieu of cash or the bond required by this Act, such distributor may deposit securities with the Comptroller, that shall be acceptable to him. Said securities shall be placed in the Treasury as other securities, but in all events, shall be of the same class as the funds of the University of Texas may be legally invested in. Provided, however, that if, in the opinion of the Comptroller, the cash or securiteis so deposited shall become insufficient for the purpose for which they were deposited, he shall demand additional cash or securities, and upon the failure or refusal of distributor to supply the additional cash or securities within ten (10) days after demand, the Comptroller shall cancel the distributor's permit as herein provided. When default of payment of taxes collected upon the sale or distribution of motor fuel and accruing upon the use of motor fuel by said distributor, is made by any distributor who has money and/or securities deposited with the State Treasurer in lieu of a bond as herein provided, suit shall be instituted by the State, and after the State has established its debt for delinquent taxes by final judgment of court, money on deposit in suspense account shall be withdrawn therefrom and shall be used to pay off and satisfy such judgment; and provided further, if securities are on deposit with the State Treasurer, such securities shall be sold by the Comptroller, and the proceeds of sale shall be used in paying off and satisfying said judgment and accrued court costs and interest. Provided, however, the defaulting distributor may acknowledge in writing the correctness of the State's claim for taxes, costs and penalties, and may authorize the withdrawal of said money or securities to pay on said claim without having suit filed. Provided further, that the cash or securities, or any unpaid portion thereof, deposited by said distributor in lieu of surety bond, shall not be returned or refunded to any person except the distributor, unless the person claiming any right, title and interest in and to said funds or securities, shall have declared said right, title and interest in writing, executed jointly by said distributor and said claimant, under oath, and filed with the Comptroller at the time such deposit was made. Provided further, that suit may be filed against any surety or sureties on any bond furnished by a distributor, without first resorting to or exhausting the assets of said distributor or without making said distributor, as principal obligor in said bond, a party to said suit.

Sec. 8. All taxes, penalties, interest and costs due by any distributor under the provisions of this Act and all taxes collected and required to be paid by said distributor to the State, shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, and regardless of the time such liens originated, upon all the property of any distributor, devoted to or used in his business as a distributor, which property shall include refinery, blending plants, storage tanks, ware-

houses, office buildings and equipment, tank trucks or other motor vehicles, stocks on hand of every kind and character whatsoever used or usable in such business, including crude oil or other materials for the manufacture, refining, blending or compounding of motor fuels and the refined products therefrom, and the proceeds from the sale of such materials and refined products, including cash on hand and in banks, accounts and notes receivable, and any and all other property of every kind and character whatsoever and wherever situated devoted to such use, and each tract of land on which such refinery, blending plant, tanks or other property is located, or which is used in carrying on such business.

Sec. 9. (a) Every distributor shall keep in Texas for a period of two (2) years for the inspection at all times of the Comptroller and the Attorney General or their authorized representatives, a complete and well bound book record of all crude oil and other oil or products from which such distributor may refine or blend any motor fuel or other derivatives of crude petroleum that is sold or used by him, and his record shall show the date of receipt, the name and address of the person from whom purchased, the means of delivery, and the quantity in barrels, of all such crude oil and other oil or products; also it shall show all sales of the same as and when made from stocks on hand, the quantity refined or blended, and inventories on the first of each month. Provided further, a complete record in barrels or gallons shall be kept of all liquid by-products derived or obtained from any refining, absorption or recycling operation. Said record shall also show separately the number of barrels or gallons of such products on hand at the first of each month and the number of barrels or gallons sold, used or otherwise disposed of.

Every distributor shall also keep in Texas for a period of two (2) years, open to said inspection, a complete and well bound book record of all motor fuel, casinghead gasoline, natural or drip gasoline and other derivatives or condensate of crude petroleum or natural gas, or their products, purchased or received by said distributor. Such records shall show the date received, from whom purchased or received, the quantity received, the commodity or kind of product received, and such other information as will provide a complete record of the disposition of said products. Said distributor shall also keep for a period of two (2) years a complete record of inventories on the first of each month of all motor fuel, casinghead gasoline, natural gasoline or drip gasoline or other derivatives or condensates of crude petroleum or natural gas, or their products.

(b) Every distributor shall keep also in Texas for a period of two (2) years, open to said inspection, a complete record of each and every sale, distribution or use of motor fuel, crude oil, kerosene, naphtha, distillate, casinghead gasoline, drip gasoline, absorption and natural gasoline, and other derivatives or condensates of crude oil or natural gas, including fuel oil and other liquid residues, regardless of whether or not a tax is due upon said products under the provisions of this Act; and providing that the record of each such sale, distribution or use of such commodities shall include the date of any such transaction, the name and address of each purchaser or user, and the amount of any such commodity so sold or used. And it is especially provided that any such sale, distribution or use of any of the foregoing commodities shall be recorded upon a form of manifest to be prescribed or approved by the Comptroller, and furnished by the distributor. Said manifest shall be issued in not less than duplicate counterparts and numbered consecutively. Said manifest shall be printed and the counterparts shall be printed on paper of different color, and shall have printed thereon the name of the distributor, his address, the serial number of said manifest, and spaces shall be provided thereon wherein shall be shown the date of such sale, distribution or use, the purchaser or other recipient and his address, the quantity sold, the means of delivery, including the license number and description if delivered into or by a motor vehicle or trailer, the number and initial if delivered by tank car, the name or description if delivered by boat or barge, and

the opening and closing record of meter readings or tank gauges if delivered by pipeline, and the time of delivery into the tank wagon trailer or other conveyance; provided, however, that rail shipments of motor fuel and other derivatives or condensates of crude products or natural gas shall be supported by regular bills of lading. Provided further, that the manifest shall reflect separately the tax involved in the sale of motor fuel apart from the cost thereof, less the tax. The manifest shall be properly made out and signed by both the distributor and the purchaser or recipient of said commodity. Every person receiving from a distributor any motor fuel and reselling or redelivering the same, shall likewise record each such sale or delivery upon similar manifests. Provided, however, that manifests shall not be required upon retail sales in quantities of thirty (30) gallons or less.

(c) It is the intent and object of this Section to require that every person transporting any commodity required to be recorded upon manifests shall carry with said commodity at all times, the manifest covering said cargo, and shall issue a manifest to the purchaser or receiver of all or any part of the commodity so being transported, and to require that such purchaser or receiver shall receipt on said manifest for the quantity so delivered and received, and that one counterpart of the manifest shall be delivered to the purchaser, to be retained by him for the time and in the manner required herein, for inspection by the Comptroller and Attorney General, and that another counterpart shall be retained by the distributor or other seller for like purposes and periods.

Provided, however, that where a distributor markets his products through his own service stations, that as to said service stations, it will be sufficient to keep the records at said service stations, hereinafter required by this Act to be kept by dealers.

Sec. 10. Every dealer shall keep, at each place of business in Texas, for a period of two (2) years, for the inspection at all times of the Comptroller and the Attorney General, or their authorized representatives, the manifest furnished by the seller, as required herein, and in addition thereto a well bound book record which will provide complete information of all motor fuels, naphtha, kerosene, distillate, gas oil, fuel oil and/or casinghead gasolene, natural gasolene, drip gasoline or absorption gasoline, and all other derivatives or condensates of crude oil or natural gas, purchased or received by him at each place of business, and inventories on the first of each month of all such products. Such record shall show the date received, the name and address of the person from whom purchased or received, the number of gallons, the designation by name of the particular kind of motor fuel or other products purchased or received, the point from which shipped or delivered, the point at which received, the number and initials of car if shipped by rail, the name of the boat or barge if shipped by water, and the license number and description if received by motor vehicle or trailer, and in addition, the total daily sales, designating the particular kind of motor fuel, kerosene, naphtha, distillate, gas oil, fuel oil, casinghead gasoline and/or natural gasoline, drip gasoline, absorption gasoline, or other derivatives or condensates of crude oil or natural gas, sold or delivered whether the same be taxable or not under the provisions of this Act. Upon each sale or delivery of any of the commodities named herein at wholesale for the purpose of resale, and upon each retail sale, distribution or use of said commodities in quantities of thirty (30) gallons or more, every dealer shall be required to issue and keep for a period of two (2) years, a manifest made up as required by Sections 9 (b) of this Act, giving full details of such sales, deliveries, distributions or use, as said form manifest provides shall be given. The duplicate of said manifest shall be delivered to the purchaser or carrier and the original kept by said dealer.

Sec. 11. (a) All common and contract carriers in this State shall keep for a period of two (2) years, open to inspection by the Comptroller or his authorized representatives, a complete record of each transportation of motor fuel, showing the date of transportation, the consignor and

consignee, the means of transportation and the quantity and kind of motor fuel transported. Said record shall show such intrastate records separately from interstate records.

(b) All persons operating trucks, pipelines and other conveyances as common or contract carriers in the transportation of motor fuel into and from this State, exclusive of railroads, shall render a sworn report to the Comptroller not later than the 20th of each month, on a form prescribed by said Comptroller, showing a description of the truck or other conveyance in which the same was transported, the date said motor fuel was transported, the consignor and consignee, and the quantity and kind of said motor fuel which was transported by such persons during the preceding month. There shall also be included in said report full data concerning the diversion of shipments enroute as amount to a change from interstate to intrastate and intrastate to interstate commerce. Such report shall show the points or origin and destination, the number of gallons shipped or transported, the date, the consignee and the consignor and the kind of motor fuel. All persons operating railroads as common carriers in the transportation of motor fuel into and from this State, shall, as and when requested by the Comptroller, and in such form as may be prescribed, render, not later than the 20th of the following month, a sworn report for the preceding month, or for such other period or periods as may be requested, showing a description of the tank car or other conveyance in which the same was transported and shall render such other information concerning the diversion of or change of shipments enroute from interstate to intrastate commerce or intrastate to interstate commerce, as may be required by the Comptroller.

Sec. 12. Every person operating a pipeline for the purpose of conveying or moving natural gas through such pipeline shall either collect and conserve for the purpose of sale, distribution or use, the liquid residuent commonly known as "drip gasoline" which is formed and extracted from such pipelines, or if the said product has no practical value to said person, he shall neutralize, burn or otherwise destroy said product in a manner that will prevent its use as motor fuel in this State. If such drip gasoline is sold, distributed or used as motor fuel said person shall obtain the permit, make the reports and keep the records of such sales, distributions or use in compliance with the provisions of this Act.

Sec. 13. The term "refund dealer" wherever used in this Act, shall mean any dealer, distributor or other person, who engages in the selling of motor fuel or who appropriates for his own use and consumption motor fuel on which a refund of the tax paid on such motor fuel is authorized by this Act.

(a) Any person who purchases motor fuel in the State of Texas, and any distributor who appropriates motor fuel for use when such motor fuel purchased by such person or used by such distributor for operating or propelling any stationary gas engine or tractor used for agricultural purposes, motor boats, air craft, or for any purpose other than use in a motor vehicle operated or intended to be operated in whole or in part upon any of the public highways, roads, or streets of the State of Texas, on which motor fuel tax has been paid, either directly or indirectly, shall be refunded the amount of such taxes so paid by the distributor, exclusive of the deduction allowed distributors for collecting the tax and for evaporation and other losses in the manner and subject to the limitations and conditions described herein. Provided, however, that no greater amount shall be refunded than has been paid into the Treasury on any motor fuel. The tax actually paid by any distributor or person shall be refunded as provided herein on motor fuel not subject to the tax.

(b) Any person or distributor desiring to appropriate or sell motor fuel on which a refund of the tax is authorized by this Act, shall, before making such appropriation or sale, make application to the Comptroller of Public Accounts, upon forms to be prescribed by the Comptroller, and containing such information as the Comptroller may require, for a refund dealer's license to sell such motor fuel; and it shall be unlawful for any person to sell

or appropriate any motor fuel upon which a refund of the tax will be made, or is intended to be made, without first having obtained from the Comptroller of the State of Texas such license to sell or appropriate such motor fuel.

A separate application shall be made to the Comptroller by such person or distributor for each place of business from which refund motor fuel is to be sold or distributed by such person or distributor, and the Comptroller shall issue a separate license for each such place of business. The Comptroller shall examine each application for license received by him, and, if found in due form, and if within the discretion of the Comptroller the applicant is entitled to such license, the same shall be issued. When such application is made to the Comptroller, the applicant for license shall be required to file oath with the Comptroller that he will faithfully perform and comply with the statute making provision for the sale, distribution and use of motor fuel subject to a refund of the motor fuel taxes. Each license issued hereunder shall remain in full force and effect until the first day of March following its date of issue, and annually on the first day of March each refund dealer, or other person, desiring to sell or appropriate motor fuel upon which a refund of the tax is authorized must obtain from the Comptroller a license, or a renewal of his existing license, to sell such motor fuel as herein provided. Any refund dealer's license issued hereunder is not transferable unless such transfer is authorized by the Comptroller. Any person who sells motor fuel upon which a refund of the tax may be authorized, or is claimed, under the provisions of this Act, without having obtained a refund dealer's license, as provided for under this Act, shall be guilty of a misdemeanor and upon the conviction shall be liable in any sum not to exceed One Thousand ($1,000.00) Dollars, or by a jail sentence not to exceed six (6) months in jail, or by both such fine and jail sentence.

Every refund dealer shall be required to maintain the records required of a dealer in Section 10 of this Act. Said refund dealer shall also be required to affix his license number to every invoice of exemption he may issue under the provisions of this Act.

The Comptroller shall prescribe the form of license to be used under this Act, and shall have authority, and it shall be his duty, to revoke and cancel any license issued hereunder when the refund dealer violates any section of this Act. And, in the event the Comptroller does revoke a license, then the said license or renewal certificate and all books containing invoices of exemption held by such refund dealer shall be accounted for and surrendered to the Comptroller.

No refund of the tax shall be granted on any motor fuel to any person, claimant, firm, corporation, or otherwise, unless such motor fuel has been purchased from or used by a licensed refund dealer as provided for in this Act; and the Comptroller is hereby prohibited from issuing a warrant in payment of any refund of the tax on any motor fuel not purchased from a licensed refund dealer, except refund on motor fuel exported or lost by accident.

(c) The invoice of exemption shall be demanded by the purchaser or recipient of motor fuel used for refund purposes, and upon each delivery by a refund dealer, or upon each appropriation for use of motor fuel upon which a refund of the tax may be claimed, the invoice of exemption shall be made out at the time of such delivery, or of such appropriation for use, which invoice of exemption shall state: the current number of the license of the refund dealer; the number of gallons of motor fuel thus delivered or appropriated; the purpose for which such motor fuel will be used, or is intended to be used; the date of purchase, and the date and place of delivery, or appropriation; the name of the purchaser or user; the name of the agent or employee actually making the purchase, or appropriation, if any; the seller and place of business of seller; the manner of delivery. And the said invoice of exemption shall show thereon such other information as the Comptroller may require; and no refund shall be allowed unless the refund dealer,

at the time of any such delivery, or appropriation for use, and not thereafter, execute such an invoice of exemption as provided above.

And provided, further, that the person selling such motor fuel, or the refund dealer, in issuing invoices of exemption to the user of such motor fuel, shall make such invoices in duplicate, the duplicate of which shall be delivered to the user of such motor fuel, and the original shall be retained by the refund dealer for a period of two (2) years, at the place of business designated in the refund dealer's license, in the same manner and subject to the same examination as required of other records of motor fuel to be kept.

Each invoice of exemption shall be issued at the time of delivery by the refund dealer, or his employee, and shall also be signed by the user of such motor fuel, or by his duly authorized agent. But, if the user of such motor fuel is not present at the time of delivery, and can not sign the invoice of exemption at the time of delivery, then he shall be required to sign such invoice at his first opportunity thereafter. The refund dealer or employee of said refund dealer shall not sign for the purchaser when issuing the invoice of exemption.

(d) When a claimant purchases or acquires for use motor fuel upon which a refund of the tax may be due, he shall within six (6) months from the date of delivery of the motor fuel upon which a refund is claimed, and not thereafter, file with the Comptroller an affidavit, on such form as may be prescribed by the Comptroller. Said affidavit shall include a statement as to the source or place of purchase or acquisition of such motor fuel used for purposes other than in propelling motor vehicles over the highways of this State; that the information stated in the attached duplicate copy of the invoice of exemption is true and correct, and the manner in which said motor fuel was used, and that no part of said motor fuel was used in propelling motor vehicles over the highways of this State. Said affidavit shall be accompanied by the duplicate copy of the invoice of exemption above referred to, and the Comptroller may require other affidavits in such form and time as he may deem advisable, and if he finds that such claims are just, and that the taxes claimed have actually been paid by claimant, then he shall issue warrant or warrants for the amounts due claimant, but no warrant shall be paid by the State Treasurer unless presented for payment within two (2) years from the close of the fiscal year in which said warrant was issued, but claims for the payment of such warrant may be presented to the Legislature for appropriation to be made from which said warrants may be paid.

No refund shall be made where motor fuel is used later than six (6) months from date of delivery or appropriation, and no refund shall ever be made where it appears from the invoice, or from the affidavits, or other evidence submitted, that the sale or purchase was made more than six (6) months prior to the date of filing of the application for refund. The date of filing shall be the day such claim is actually received in the Comptroller's office. In addition to other penalties prescribed in this Act, it is herein provided that a felony conviction for a violation of any provision of this section of said Act, shall automatically forfeit the right of said convicted person to sell motor fuel for refund purposes, and shall forfeit the right of said convicted person to file a claim and obtain a refund for a period of one (1) year from the date of said conviction.

No refund of the tax shall be allowed on motor fuel used in any registered or licensed motor vehicle or in any motor vehicle operated or intended to be operated in whole or in part upon any of the highways, roads and streets of this State.

If any distributor, or other person, shall export or lose by fire or other accident, any motor fuel in quantities of one hundred (100) gallons or more, so that the same may never be made use of within this State, after the tax has been paid on such motor fuel, claim for refund may be made in the manner herein provided, or as the Comptroller may direct. Provided, however, that showing must be made that said tax was paid or accounted for by a li-

censed and bonded distributor, and the Comptroller shall deduct from such refund made under the provisions of this Act, the one per cent deduction allowed distributors.

(e) When the Comptroller has issued a refund dealer's license to any person desiring to sell or distribute motor fuel upon which a refund of the tax is authorized, or upon which a claim is to be filed for a refund of the tax, the Comptroller shall issue to such refund dealer a book, or books, of blank invoices of exemption, which invoices shall be serially numbered, and an original and a duplicate of each invoice shall be made. The Comptroller shall keep accurate records of the number of books of invoices of exemption issued and furnished to each refund dealer, and the refund dealer shall, at all times, account for all such books of invoices of exemption so received by him. Any invoices of exemption mutilated or unusable must be returned to the Comptroller by the refund dealer for credit to his account, and any unissued invoice of exemption lost or destroyed must be reported to the Comptroller by such refund dealer. The Comptroller shall not issue any additional books of invoices of exemption to any refund dealer until he has made proper accounting for each invoice of exemption theretofore issued him. The books of invoices of exemption issued are not transferable or assignable by such refund dealer unless such transfer or assignment is authorized by the Comptroller, and failure by such refund dealer to make proper accounting for all invoices of exemption issued to him by the Comptroller shall be cause for the cancellation of his license as a refund dealer as herein provided.

If the duplicate invoice of exemption retained by purchaser is lost, or destroyed, by purchaser, such purchaser may make application to the Comptroller for forms to be issued in lieu of lost duplicate.

The invoice of exemption required by this Act shall be furnished, free of cost, by the Comptroller to the refund dealer. And no forms of invoice of exemption shall be used by the dealer or person using refund motor fuel other than those issued and furnished by the Comptroller.

(f) All filing fees shall be paid into the State Treasury, and be paid out on vouchers and warrants in such manner as may be prescribed by law.

(g) All the moneys paid into the Treasury under the provisions of this Act, except the filing fees provided herein, shall be set aside in a special fund to be known as the Highway Motor Fuel Tax Fund and no part of said fund shall be credited to the Available School Fund until a report is made by the Comptroller to the Treasury, showing the total maximum amount of funds that may be required to be paid by the State out of said funds. The Comptroller shall on the 20th day of each month, or as soon thereafter as is possible, compute and ascertain the maximum amount of funds that may be due by the State on sale of motor fuel during the preceding month, upon which a refund may be due, and shall certify to the Treasurer the maximum amount, and the Treasurer shall reserve said amount each month out of which to pay refunds, and shall not distribute that part of said fund until the expiration of the time in which a refund can be made out of said fund, but as soon as said report has been made by the Comptroller, and the maximum amount of refunds determined, he shall deduct said maximum amount from the total taxes paid for such month, and apply the remainder of such as provided by law. If the claimant has lost or loses, or for any reason failed or fails to receive warrant after warrant was or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue claimant duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, of 1925, but in no event shall a duplicate warrant be issued after one (1) year from date of original warrant.

(h) So much of said fund is hereby appropriated and set aside as may be necessary to pay the refunds provided for herein, and if a specific amount be necessary then there is hereby appropriated and set aside for said purpose the sum of Two Hundred Thousand ($200,000.00)

Dollars or so much thereof as may be necessary. In no event shall any refund be made to any person in excess of the actual amount paid by such person, and the amount deducted originally by the distributor shall be deducted in computing the refund. The Comptroller shall deduct One ($1.00) Dollar from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund, which said filing fee shall be set aside for the use and benefit of the Comptroller in the administration and enforcement of this Act, as well as for the payment of expenses in furnishing the form of invoice of exemption and other forms provided for herein, and the same is hereby appropriated for such purpose.

Sec. 14. (a) From and after the effective date of this Act, there shall be and is hereby levied and imposed an excise tax of four (4) cents per gallon, or fractional part thereof, on all users of liquefied gases and other liquid fuels upon the use of such liquefied gases and other liquid fuels by any person within this State only when such liquefied gases and other liquid fuels are used in an internal combustion engine for the generation of power to propel motor vehicles upon the public highways of this State. Said tax shall be computed and paid to the State of Texas through the Comptroller at the time and in the manner hereinafter provided.

The term "use" wherever used in in this Section shall mean and include the consumption of "liquefied gases" and "other liquid fuels," as those terms are defined in Section 1 of this Act, by any person in a motor vehicle for the propulsion thereof upon the public highways of this State.

Each "user" shall be prima facie presumed to have used or consumed for taxable purposes all liquefied gases and other liquid fuels shown by a duly verified audit of the Comptroller to have been purchased or received by him, and not accounted for.

From and after the effective date of this Act, any person using, or who may thereafter desire to use, liquefied gases or other liquid fuels defined herein, for the purpose of the propulsion of motor vehicles upon the public highways of this State, shall file with the Comptroller of Public Accounts, an application for a permit to use said products, as herein provided, in such form as the Comptroller may prescribe, giving correct name and address of the person making application, the make, horse power, motor number, highway license number, and fuel tank capacity of each vehicle intended to be used, including all auxiliary tanks, and a new application shall be filed on or before December 31st of each year for a permit for the subsequent calendar year. The application shall carry an agreement to file information with the Comptroller of any additional equipment acquired, or any changes in equipment being used, during the period for which permit is issued, and such other information as the Comptroller may require. Said permit may be revoked for violation of any provision hereof.

(b) Concurrently with the filing of said application, every user shall file with the Comptroller a bond in the amount of One Hundred ($100.00) Dollars for each vehicle to be used which bond shall be executed by a surety company or surety companies, acceptable to the Comptroller, who is authorized to write surety bonds within this State, or the equivalent in cash, or securities, to be approved by the Comptroller. Said bond shall be posted to guarantee payment of taxes levied herein, together with penalties and interest, and shall be conditioned upon the compliance with all other provisions of this Act affecting said user, and shall be upon a form prepared by the Attorney General of Texas. Cash or securities pledged in lieu of bond shall be held in suspense by the Comptroller until all requirements of this Act applicable to the user have been complied with. Provided, the Comptroller may permit an exchange of bonds, or require new bonds as his discretion may direct.

Surety bonds posted under the requirements of this Section shall expire on December 31st of each year, and may be continued in force for the succeeding twelve (12) months by renewal certificate issued by the surety thereon. Bonds may be increased or reduced by certificate of the surety thereon, effective to De-

cember 31st succeeding, if additional vehicles shall be acquired by the user, or if the number of vehicles are reduced during the period covered by the license and bond.

(c) The application in proper form and bond, cash or securities, having been filed with and accepted by the Comptroller, a non-transferable permit, or certificate of said permit, shall be issued to the person, which shall expire on December 31st subsequent to the issuance thereof, and which shall be serially numbered and signed by the Comptroller, for each vehicle enumerated within the application, and shall have written thereon the highway license number and factory motor number of the vehicle. Said certificate shall be appropriately worded to identify the person or his agent as licensee under the provisions of this act, entitled to use liquefied gases or other liquid fuels described herein, assuming the tax liability incurred by the use thereof, and a certificate of such permit to be furnished by the Comptroller shall be framed and affixed in the cab of said vehicle to accompany said vehicle whenever used in this State.

(d) Every "user" of liquefied gases or other liquid fuels in this State shall upon the 20th day of each calendar month pay to the State of Texas, at the office of the Comptroller, at Austin, Travis County, Texas, the amount of tax levied herein and due upon all the liquefied gases and other liquid fuels used by him during the calendar month next preceding, and at the same time such user shall make and deliver to the Comptroller at his office in said city, county and State, a report properly sworn to, showing the date said report was executed, the name and address of said user and the month which the report covers, and which report shall show separately the number of gallons of liquefied gases and other liquid fuels on hand at the beginning and end of each month, the number of gallons purchased, received or acquired in any manner in Texas, the number of gallons imported into Texas in the fuel tank of a motor vehicle, or otherwise, and the number of gallons used in each motor vehicle separately, showing the make, horsepower and license number of each said motor vehicle, and the number of gallons sold or otherwise disposed of. Said report shall also show complete information concerning each person from whom said products were purchased, including the name and address of such person, the date of each purchase, the number of gallons purchased from each person, and the kind of product purchased, showing liquefied gases separately from other liquid fuels purchased.

(e) Any surety on any bond furnished by any user as above provided shall be released and discharged from any and all liability to the State of Texas accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the Comptroller written request to be released and discharged. Provided, however, that such request shall not operate to relieve, release or discharge such surety from any liability already accrued, or which shall accrue before the expiration of said thirty (30) day period. The Comptroller shall promptly on receipt of notice of such request notify the user who furnished such bond, and unless such user shall on or before the expiration of such thirty (30) days period, file with the Comptroller a new bond with a surety company duly authorized to do business under the laws of the State, in the amount and form hereinbefore in this Section provided, the Comptroller shall forthwith cancel the permit of said user. If such new bond shall be furnished by said user as above provided, the Comptroller shall cancel the bond for which such new bond is substituted. Provided further, that suit may be filed against any surety or sureties of any bond furnished by a user, without first resorting to or exhausting the assets of said user or without making said user, as principal obligor in said bond, a party to said suit.

(f) All taxes, penalties, interest and costs due by any user to the State shall be secured by a preferred lien, first and prior to any and all other existing liens, contract or statutory, legal or equitable, regardless of the time such liens originated, upon the motor vehicles

or other equipment in which said taxable liquefied gases or other liquid fuels were used.

(g) After this Act becomes effective as a law, it shall be unlawful for any distributor or dealer to make sales and deliveries of liquefied gases or other liquid fuels as defined herein, into the fuel tank of any motor vehicle for the propulsion of motor vehicles, to any person who does not at the time hold and exhibit a valid use tax permit or certificate thereof issued by the Comptroller, authorizing such purchases.

(h) From and after the effective date of this Act, no vehicle shall operate upon the highways of this State with connection from cargo to carburetor for the purpose of withdrawing gas, liquefied gas, or other liquid fuel from said cargo tank; and fuel tanks, including auxiliary fuel tanks, shall be separate and apart from cargo tank, with no connection by pipe, tube, valve or otherwise. It shall be a violation of this Act to sell and deliver liquefied gas, or liquid fuel, from any fuel tank or auxiliary fuel tank.

(i) Users as defined herein shall maintain for the inspection of the Comptroller or his authorized representatives, complete records of purchases or other receipts of such liquefied gases and other liquid fuels for a period of two (2) years, and shall keep a complete record of the quantity of liquefied gases and other liquid fuels consumed separately in each motor vehicle in operation in this State. Such record shall include all the information to be contained in the report required herein to be filed with the Comptroller. Provided further that all persons selling liquefied gases and other liquid fuels in this State shall keep for two (2) years a complete record of each sale of said products made to a user.

Non resident users shall be required to exhibit records in this State upon request of the Comptroller or his authorized agents.

In event the records and reports of a user have not been maintained and filed with the Comptroller, as provided herein, the said Comptroller is hereby authorized to fix or establish the amount of tax, penalties, and interest due as shown by a verified audit of any records available to him or upon a basis of miles traveled by the motor vehicles of such user, and if the tax claim as developed by such procedure, is not paid, the said claim shall be admissible in evidence in any suit or judicial proceedings filed by the Attorney General, and shall be prima facie evidence of the contents thereof; provided, however, that the prima facie presumption of the correctness of said claim may be overcome, upon the trial, by evidence adduced by said user.

(j) In order to enforce the provisions of this Act, the Comptroller or his authorized agents, any Highway Patrolman, officer of the Department of Public Safety, Sheriff, Constable, or their deputies, and all other peace officers, are empowered to stop any motor vehicle which might appear to be using liquefied gas or other products described herein for the propulsion of said vehicle, for investigation.

Sec. 15. For the purpose of enabling the Comptroller or his authorized representatives to determine the amount of tax collected and payable to the State, and the amount of said tax accruing and due for motor fuel used by a distributor, refinery, dealer, user, or other person, dealing in or possessing motor fuel, crude oil, or other derivatives or condensates of crude petroleum or natural gas, or their products or to determine whether a tax liability has been incurred, they shall have the right to inspect any premises where motor fuel, crude petroleum, natural gas, or any other derivatives or condensates of crude petroleum, natural gas, or their products are produced, made, prepared, stored, transported, sold or offered for sale or exchange, examine all of the books and records required herein to be kept, and any and all books and records that may be kept incident to the conduct of the business of said distributor, refinery, or other person, dealing in or possessing motor fuel, crude oil, or other derivatives or condensates of crude petroleum, natural gas or their products. The said authorized officers shall also have the right, as an incident to determining said tax

liability, or whether a tax liability has been incurred to examine and gauge or measure the contents of all storage tanks, containers and other property or equipment, and to take samples of any and all products stored therein. For the foregoing purposes, said authorized officers shall also have the right to remain upon said premises for such length of time as will be necessary to fully determine said tax liability, or whether a tax liability has been incurred.

Sec. 16 (a). The Comptroller or any duly authorized representative of said Comptroller is hereby authorized to cancel, or to refuse the issuance, extension, or reinstatement of any motor fuel distributor's permit, any user's permit or any refund dealer's license, as provided under the terms of this Act, to any person who has violated or has failed to comply with any duly promulgated rule and regulation of the Comptroller, or any of the provisions of this Act including any of the following offenses, which may be applicable to such permittee or licensee: (a) Failure or refusal to remit or pay to the State of Texas any tax levied herein, which said tax is shown to have accrued and to be owing to said State by a duly verified audit made by an authorized representative of the Comptroller, from any report filed with said Comptroller or from any books or records required to be kept or any books and records authorized to be audited by the provisions of this Act; (b) Failure to file any return or report required under the provisions of this Act; (c) The making and filing with the Comptroller any false or incomplete return or report required under the provisions of this Act; (d) Failure to keep any books and records for the period and in the manner required herein to be kept; (e) The falsifying, destroying, mutilating, removing from the State, or secreting any such books and records; (f) Refusal to permit the Comptroller, Attorney General, or their authorized representatives, to inspect, audit and examine any books and records required herein to be kept, or any pertinent records that may be kept, or to inspect any premises said persons are authorized herein to inspect; (g) Refusal to permit the Comptroller, Attorney General, or their authorized representatives, to inspect, examine, measure, gauge and take samples from any truck, tank, pump or container said persons are authorized to inspect, examine, measure, gauge, and take samples from, under the provisions of this Act; (h) The forging or falsifying of any invoice of exemption herein provided, or the making of any false statement in any claim for refund filed with the Comptroller under the provisions of this Act; (i) The engaging in any business requiring a permit or license under the provisions of this Act, without obtaining and possessing a valid permit or license.

Before any permit or license may be cancelled or the issuance, reinstatement or extension thereof refused, the Comptroller shall give the owner of such permit or license, or applicant therefor, not less than five (5) days notice of a hearing at the office of the Comptroller, in Austin, Travis County, Texas, granting said owner or applicant an opportunity to show cause before said Comptroller, or his duly authorized representative, why such action should not be taken. Said notice shall be in writing and may be mailed by United States registered mail to said owner or applicant, at his last known address, or may be delivered by a representative of the Comptroller, to said owner or applicant, and no other notice shall be necessary. The Comptroller may prescribe his own rules of procedure and evidence for such hearings.

If after said hearing or opportunity to be heard, the permit or license is cancelled by the Comptroller, or his duly authorized representative, all taxes which have been collected or which have accrued, although said taxes are not then due and payable to the State, except by the provisions of this Section, shall become due and payable concurrently with the cancellation of such permit or license, and the permittee or licensee shall forthwith make a report covering the period of time not covered by preceding reports filed by said permittee or licensee, and ending with the date of cancellation and shall remit and pay to the State of Texas all taxes, which have been collected and which have accrued from

the sale, use or distribution of motor fuel or the use of liquefied gases or other liquid fuels in this State.

After being given notice of any such order of cancellation, it shall be unlawful for any person to continue to operate his business under any such cancelled permit or license.

An appeal from any order of the Comptroller, or his duly authorized representative, cancelling or refusing the issuance, extension or reinstatement of any permit or license may be taken to the district court of Travis County, Texas, by the aggrieved permittee, licensee or applicant. The trial shall be de novo under the same rules as ordinary civil suits with the following exceptions, which shall be considered literally, viz.: (a) All appeals shall be perfected and filed within thirty (30) days after the effective date of the order, decision or ruling of the Comptroller or his duly authorized representative; (b) Such proceedings shall have precedence over all other causes of a different nature; (c) All such cases shall be tried within ten (10) days from the filing thereof; (d) The order, decision or ruling of the Comptroller or his duly authorized representative may be suspended or modified by the Court pending a trial on the merits.

Sec. 17. (a) If any distributor fails or refuses to collect and remit or to pay to the Comptroller, any tax, penalties or interest within the time and manner provided by this Act, and it becomes necessary to bring suit or to intervene in any manner for the establishment or collection of said claim, in any judicial proceedings, any report filed in the office of the Comptroller by such distributor or his representative, or a certified copy thereof certified to by the Comptroller or his Chief Clerk, showing the amount of motor fuel sold by such distributor or his representative, on which such tax, penalties or interest have not been remitted or paid to the State, or any audit made by the Comptroller or his representative, from any books or other records required to be kept or that may be kept by said distributor, when signed and sworn to by such representative as being made from said books and records of said distributor or from any books or records of any person from whom such distributor has bought, received, delivered, or sold motor fuel, crude oil or the derivatives of crude oil or natural gas or from the books and records of any transportation agency, who has transported any of said products, such report or audit shall be admissible in evidence in such proceedings, and shall be prima facie evidence of the contents thereof; provided, however, that the prima facie presumption of the correctness of said report or audit may be overcome, upon the trial, by evidence adduced by said distributor.

(b) A certificate under the seal of the Comptroller executed by said Comptroller or his Chief Clerk, setting forth the terms of any order, rule, regulation, bond, or other instrument, referred to in this Act, and that the same had been adopted, promulgated and published or executed and filed with the Comptroller, and was in force and effect at any date or during any period specified in such certificate, shall be prima facie evidence of all such facts, and such certificate shall be admitted in evidence in any action, civil or criminal, involving such order, rule and regulation, and the publication thereof, without further proof of such promulgation, adoption, or publication, and without further proof of its contents and the same provision shall apply to any bond or other instrument referred to herein.

Sec. 18. If any person affected by this Act, (a) shall fail to pay to the State of Texas any tax due and owing under the provisions of this Act, or (b) shall fail to keep for the period of time provided herein any records required, or (c) shall make false entry or fail to make entry in the books and records required to be kept, or (d) shall mutilate, destroy, secrete, or remove from this State, any such books or records, or (e) shall refuse to permit the Comptroller, the Attorney General or their authorized representatives to inspect, and examine, any books or records required to be kept, or any other pertinent books or records, incident to the conduct of his business that may be kept, or (f) shall make, deliver to and file with the Comptroller a false or incomplete return or report, or (g) shall refuse to permit

the Comptroller, or his authorized representative, to inspect any premises where motor fuel, crude petroleum, natural gas, or any derivative or condensate thereof, are produced, made, prepared, stored, transported, sold or offered for sale or exchange, or (h) shall refuse permission to said persons to examine, gauge, or measure the contents of any storage tanks, vehicle tanks, pumps or other containers or to take samples therefrom, or (i) shall refuse permission to said persons to examine and audit any books, records and gauge reports kept in connection with or incidental to said equipment, or (j) shall refuse to stop and permit the inspection and examination of any motor vehicle transporting motor fuel or using liquefied gas or liquid fuel, upon demand of any person authorized to inspect the same, or (k) shall fail to make and deliver to the Comptroller such return or report as required to be made and filed, or (l) shall forge or falsify any invoice of exemption herein provided, or (m) shall make any false statement in any claim for refund of motor fuel taxes as to any material fact required to be given, or if any said person (n) shall fail or refuse to comply with any provision of this Act or shall violate the same, or (o) shall fail or refuse to comply with any rule and regulation promulgated hereunder by the Comptroller, or violate the same, he shall forfeit to the State of Texas as a penalty, the sum of not less than Twenty-five ($25.00) Dollars, nor more than Five Hundred ($500.00) Dollars. Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid, shall be recovered in a suit by the Attorney General in a court of competent jurisdiction in Travis County, Texas, or any other court of competent jurisdiction having venue under existing statutes. Provided, however, that in addition to the penalties shown, if any distributor or user does not make remittance for any taxes collected or pay any taxes due the State by said distributor or user, within the time prescribed by law, said distributor or user shall forfeit two (2) percent of the amount due; and if not remitted or paid within twenty (20) days from the due date, he shall forfeit an additional eight (8) percent penalty. All past due taxes and penalties shall draw interest at the rate of ten (10) percent per annum.

The venue of any suit, injunction or other proceeding at law or in equity available for the establishment or collection of any claim for delinquent taxes, penalties or interest accruing hereunder and the enforcement of the terms and provisions of this Act, shall be in a court of competent jurisdiction in Travis County, Texas, or in any other Court having venue under existing Venue Statutes.

Provided, further, that before any restraining order or injunction shall be granted against the Comptroller or his authorized representatives, to restrain or enjoin the collection of any taxes, penalties and interest imposed by this Act, the applicant therefor shall pay into the suspense account of the State Treasurer all such taxes, penalties and interest showing to be due and owing to the State by any audit made by the Comptroller or his duly authorized representative, when said audit has been certified to by the Comptroller or his Chief Clerk, and has been signed under oath by said authorized representative as having been made from the books and records of said applicant whether or not required to be kept under the provisions of this Act or from the books and records of any person from whom such applicant has purchased, received, delivered or sold motor fuel, liquefied gases or other liquid fuels, or from the books and records of any transportation agency, which has transported such products to or from said applicant. Provided, however, that said applicant may, in lieu of paying said taxes, penalties and interest into the suspense account of the State Treasurer, file with said Treasurer, a good and sufficient surety bond in the amount and form, and under the conditions provided in Section 1, Chapter 310, Acts of the Regular Session of the Forty-fifth Legislature, and the provisions of said Section 1, Chapter 310, are hereby made applicable to any suit filed to restrain or enjoin the collection of any such taxes, penalties and interest imposed by this Act. Any proceedings to enjoin the collection of such

taxes, penalties and interest, or the enforcement of any provision of this Act shall be in a court of competent jurisdiction in Travis County, Texas.

Sec. 19. (a) For the purpose of enforcing the collection of the tax levied by this Act, and to enable the Comptroller to ascertain whether or not the tax has been paid or accounted for on all motor fuel and other products which can be used as motor fuel, which may be transported in this State, the said Comptroller and his authorized representatives are hereby vested with the power and authority to measure, calibrate and determine the capacity in gallons of any vehicle tank or other container in which motor fuel, blending materials, liquefied gases and liquid fuels are transported. The Comptroller is hereby given the power and authority to promulgate and enforce rules and regulations in conformity with or similar to the tolerances and specifications recommended by the National Bureau of Standards, for the purpose of regulating and prescribing the proper venting means to permit the escape of air from said tanks and containers, specifications for proper manifolds, delivery valve controls, fill openings and indicators, compartment expansion space, delivery piping and valves, the tolerance to be allowed, and any other rules and regulations necessary to the best enforcement of the provisions of this Section.

All vehicle tanks, and all devices designed to be attached thereto and used in connection therewith, and all other containers in which any of the foregoing products are transported, shall be of such design and construction that they do not facilitate the perpetration of fraud. Each compartment of said vehicle tank or other container shall be conspicuously marked on the dome thereof with a designating figure not less than one and one-half (1½) inches in height and each delivery faucet shall be marked with a corresponding figure to indicate the compartment of which it is the outlet. In addition, the total capacity of all compartments of each vehicle tank shall be conspicuously marked in letters of not less than two (2) inches in height on the rear of each such vehicle. The Comptroller's test or certificate number shall also be printed on the rear of each vehicle tank. When a motor vehicle carrying a vehicle tank is equipped with side tanks or other auxiliary tanks or compartments, such additional tanks and compartments shall comply with all of the specifications applicable to vehicle tanks. No vehicle shall transport motor fuel upon the public highways of this State with connection from any cargo tank or container to the carburetor for the purpose of withdrawing motor fuel from said cargo tank or container, and fuel tanks, including auxiliary fuel tanks, shall be separate and apart from the cargo tank, with no connection by pipe, tube, valve or otherwise. It shall be a violation of this Act to sell and deliver motor fuel from any fuel tank or auxiliary fuel tank. The measurement certificate shall be carried with the vehicle tank for which it is issued and the Comptroller or his authorized representatives shall have the authority to impound and hold any truck, for a period of not to exceed seventy-two (72) hours, until said certificate is produced. The owner of any vehicle tank or other container tested and measured may be required to pay a reasonable fee to any city or person for the water used in the measurement of such tank or container.

If any vehicle tank or other container shall, after having been tested, become damaged, repaired or modified in any way which might affect the accuracy of measurement of its receipts and deliveries, it shall not again be used for the sale or transportation of motor fuel, blending materials, liquefied gases and liquid fuels until inspected by the Comptroller or his authorized representatives, and, if deemed necessary, tested and re-measured by a representative of the Comptroller.

(b) From and after the effective date of this Act, and before using any vehicle tank or other containers in the transportation of motor fuel, blending materials, liquefied gases and liqued fuels in quantities of more than thirty (30) gallons in the fuel tank feeding the carburetor of the motor vehicle, every person shall have such vehicle tank or other containers tested, measured and

calibrated by a representative of the Comptroller and shall obtain a measurement certificate from said Comptroller, showing the capacity of each such vehicle tank and other container. Said measurements, calibration and testing shall conform with or be similar to specifications and tolerances recommended by the National Bureau of Standards. Provided, further, that the Comptroller may, at his discretion, accept any weights and measures certificate issued prior to the enactment of this Act by the Division of Weights and Measures of the Department of Agriculture, State of Texas, without retesting or re-measuring said vehicle tank or containers.

All authorized representatives of the Comptroller shall have the power and authority conferred upon sealers, deputy sealers and inspectors of Weights and Measures by Article 5727, Texas Revised Civil Statutes of 1925, for inspecting, testing, measuring, re-measuring, correcting, condemning and seizing or marking "out of order," vehicle tanks and other containers transporting motor fuel, blending materials, liquefied gases and liquid fuels, or containers from which said products are sold including filling station pumps.

(c) Whoever shall remove, obliterate, or change any measurement certificate, tag, marking, or device made by any authorized representative of the Comptroller, or placed upon any vehicle tank or other container, or shall refuse or neglect to produce for inspection and measurement, at the time and place fixed by the Comptroller not to exceed 100 miles from the point which is the customary base of operation of such truck, any vehicle tank or other container in his possession or under his control, or shall transport motor fuel, blending materials, liquefied gases or liquid fuels, without having obtained from the Comptroller a measurement certificate, or shall transport such products in any vehicle tank or other container which has been condemned or tagged "out-of-order" by any authorized representative of the Comptroller, or whoever shall fail to comply with any provision of this section or any reasonable rule and regulation promulgated under the provisions of said section, or shall violate the same shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than Twenty-five ($25.00) Dollars nor more than Two Hundred ($200.00) Dollars.

Sec. 20. (a) In order to enforce the provisions of this Act, the Comptroller, his authorized representative, or any Highway Patrolman, Sheriff, Constable, and their deputies, and all other peace officers are empowered to stop any motor vehicle which might appear to be transporting motor fuel or other derivatives of crude petroleum or natural gas, or their products, as cargo, for the purpose of examining the manifest required to be carried, for examination of the commodity in transit, to take samples of the cargo, and for such other investigations as could reasonably be made to determine whether the cargo was motor fuel or other derivatives of crude petroleum, natural gas, or their products, and whether the manifest indicates that the State tax was a part of the consideration involved in the sale or distribution of any motor fuel carried. If, upon said examination, it is found that the driver of any such motor vehicle transporting motor fuel does not possess or refuses to exhibit a manifest required herein, or if said manifest carried is false or incomplete, said authorized officers shall impound and take possession of the said motor vehicle and its contents, and unless proof is produced within seventy-two (72) hours from the beginning of such impoundment, that the motor fuel has been sold with the State tax as a part of the consideration therefor, said motor vehicle and its contents shall be delivered to the Comptroller or his authorized representatives for forfeiture and sale as hereinafter provided.

(b) All motor fuel on which taxes are imposed by this Act, which shall be found in the possession, or custody or within the control of any person, for the purpose of being sold, transported, removed, or used by him in fraud of the Motor Fuel Tax Law, and all motor fuel which is removed or is deposited, stored, or concealed in any place with intent to avoid payment of taxes levied

thereon, and any automobile, truck, tank truck, boat, conveyance or other vehicle whatsoever, used in the removal or transportation of such motor fuel for such purposes, and all equipment, paraphernalia, storage tanks, or other tangible personal property incident to and used for such purpose, found in the place, building or vehicle where such motor fuel is found, may be seized by the Comptroller, and the same shall be from the time of such seizure forfeited to the State of Texas, and a proceeding in the nature of a proceeding in rem shall be filed in a court of competent jurisdiction in the county of seizure to maintain such seizure and declare and perfect said forfeiture as hereinafter provided. All such fuel, vehicles and property seized as aforesaid, remaining in the possession or custody of the Comptroller, sheriff or other officer for forfeiture or other disposition as provided by law, shall be deemed to be in the custody of law and irrepleviable for a period of thirty (30) days after which time, if no suit has been filed or summary proceedings begun for forfeiture as hereinafter provided, such property shall be subject to replevy.

The Comptroller, when making the seizure aforesaid, shall immediately make a written report thereof showing the name of the agent or representative making the seizure, the place of person where and from whom such property was seized and an inventory of same and appraisement thereof at the usual and ordinary retail price of the article seized, which report shall be prepared in duplicate, signed by the agent or representative so seizing, the original of which shall be given to the person from whom said property is taken, and a duplicate copy of which shall be filed in the office of the Comptroller and shall be open to public inspection.

The Attorney General, or the district or county attorney of the county of seizure, shall, at the request of the Comptroller, file in the county and court aforesaid forfeiture proceeding in the name of the State of Texas as plaintiff, and against the owner or person in possession as defendant, if known, and if unknown, then against said property seized and sought to be forfeited. Upon the filing of said proceeding, the clerk of said court shall issue notice to the owner or person in possession of such property to appear before such court upon the date named therein, which shall not be less than two (2) days from service of such notice, to show cause why the forfeiture aforesaid should not be declared, which notice shall be served by the sheriff of said county. In the event the defendant in said proceeding is a nonresident of the State or his residence is unknown, or in the event the name of such defendant is unknown, upon affidavit by the Comptroller to this effect, notice or process shall be served or published in the mode and manner provided by existing statutes for service of citation upon nonresidents or unknown defendants, or defendants whose residence is unknown; provided, however, such proceeding may be heard at any time after ten (10) days from completion of the service of such process or the first publication of such notice. And in such cases, the court shall appoint an attorney to represent such defendant, who shall have the rights, duties and compensation as provided by existing statutes in cases of attorneys appointed to represent nonresidents and unknown defendants.

In the event final judgment is rendered in the forfeiture proceeding aforesaid, maintaining the seizure, and declaring and perfecting the forfeiture of said seized property, the Court shall order and decree the sale thereof to the highest bidder by the sheriff at public auction in the county of seizure, after ten (10) days notice by advertisement at least twice in any legal publication of such county, and the proceeds of such sale, less expenses of seizure and court costs, shall be paid into the State Treasury and after crediting the motor fuel tax fund with the tax, penalties and interest due, the balance of said proceeds, if any, shall be allocated as the Motor Fuel Tax is herein allocated. In the event the district or county attorneys file and prosecute such cases, a fee of Fifteen ($15.00) Dollars shall be paid to such officers in addition to all other fees allowed by law, which fee shall be

collected as Court costs out of the proceeds of such sale.

(c) In lieu of the forfeiture proceeding aforesaid, the Comptroller may elect to sell the motor fuel and property seized by him in cases where such property appears by the report or receipt of the officer seizing same to be of the appraised value of Five Hundred ($500.00) Dollars, or less, by the following summary proceedings:

(1) The Comptroller or his authorized representatives shall notify the person from whom such property was seized either in person or by registered mail if said person's address is known and if unknown the Comptroller shall publish a notice in some newspaper of the county where the seizure was made, describing the property seized and stating the time, place and cause of their seizure, and requiring any person claiming such property, or any interest therein or thereto, to appear and make such claim within fifteen (15) days from the date of such publication of such notice.

(2) Any person claiming such property so seized, or any interest therein or thereto, within the time specified in such notice, may file with the said Comptroller his claim, stating his interest in the property seized, and may execute a bond to the State of Texas in the penal sum of Two Hundred and Fifty ($250.00) Dollars, with sureties to be approved by said Comptroller, conditioned that, in case of the establishment of forfeiture of the articles so seized, by final judgment in a court of competent jurisdiction as hereinabove provided the obligors shall pay all the costs and expenses of the proceeding to obtain such forfeiture; and upon the delivery of such bond to the Comptroller, he shall transmit the same with a certified copy of the report or receipt of the property seized, filed in his office, to the Attorney General or the Comptroller or District Attorney of the county of seizure, and forfeiture proceedings shall be instituted and prosecuted thereon in the Court of competent jurisdiction as provided by law.

(3) If no claim is interposed and no bond is given within the time above specified, the Comptroller shall give ten (10) days notice of a sale of the property under seizure by publication two times in a newspaper of the county of seizure, and, at the time and place specified in such notice, shall sell the property so seized at public auction, and after deducting expenses of seizure, appraisement, custody and sale, he shall, after crediting the Motor Fuel Tax Fund with the tax, penalties and interest due, deposit the balance of such proceeds, if any, in the State Treasury, which shall be allocated to the funds to which the Motor Fuel Tax levied hereunder is apportioned.

Sec. 21. The seizure, forfeiture and sale of motor fuel and any other property named hereinabove under the terms and conditions hereinabove set out, and whether with or without court action, shall not be or constitute any defense or justification to the person owning or having control or possession of such property from criminal prosecution for any act or omission made an offense hereunder, or operate to exempt or relieve said person from liability to the State to pay penalties provided by this law, with or without suit therefor.

Sec. 22. Authority is hereby conferred upon the Comptroller to waive any proceedings for the forfeiture of any of the property seized under the provisions of this Act, or any part thereof, provided that the offender shall pay into the State Treasury through the Comptroller a penalty equal to twice the amount of the tax due on the motor fuel plus all other costs in connection with such seizure. A record of all such settlements and waivers of forfeiture shall be kept by the Comptroller and shall be open to public inspection.

If, upon examination of records or other investigation, the Comptroller finds that motor fuel has been sold without the tax levied herein having been paid to the State, or accounted for by a bonded distributor, he shall have the power to require such person to pay into the State Treasury through the Comptroller the taxes due and a penalty equal to the amount of such taxes due. If the person who has made such sale is unable to furnish

sufficient evidence to the Comptroller that said tax has been paid, or accounted for by a bonded distributor, the prima facie presumption shall arise that such motor fuel was sold without said tax having been paid.

Sec. 23. It is hereby made the duty of the Comptroller to collect, supervise and enforce the collection of all taxes, penalties, costs and interest due or that may become due under the provisions of this Act, and to that end the Comptroller is hereby vested with all of the power and authority conferred by this Act. Said Comptroller shall also have the power and authority to promulgate rules and regulations, not inconsistent with this Act or the Constitutions of this State or the United States, for the enforcement of the provisions of this Act and the collection of the revenues levied hereunder.

No rule or regulation for which a penalty is prescribed by the Comptroller, shall be adopted by the Comptroller except after notice and hearing. Notice of such hearing shall be given by publication one time in three (3) newspapers of general circulation in this State. Such notice shall specify the date and place of hearing and the subject matter of the proposed rule or regulation and shall constitute sufficient notice to all parties. The date of hearing shall be not less than ten (10) days from the date of publication of notice. At such hearing any person, either by himself or by attorney, may present relevant facts either in support or opposition thereto. The Comptroller shall upon finding of facts, have the authority and power to adopt, modify, nullify, or alter such rules and regulations.

Upon the final adoption of any rule or regulation, the Comptroller shall cause the same to be published one time in a newspaper of general circulation in this State and the same shall have the force and effect of law as of the date of publication, unless a subsequent date is specified therein. The publication thereof shall be sufficient notice to all parties. Any person who violates any valid rule and regulation or any provision thereof shall be subject to the penalty as prescribed in Section 26 of this Act.

Sec. 24. The Comptroller, or any duly authorized representative under the direction of the Comptroller, shall, for the purpose contemplated by this Act, have power to issue subpoenas, compel the attendance of witnesses, administer oaths, certify to official acts, take depositions within or without the State of Texas, as now provided by law, and compel the production of pertinent books, accounts, records and documents.

If any witness refuses to obey such subpoena or refuses to produce any pertinent books, accounts, records or documents named in such subpoena and in the possession or control of said witness or if any witness in attendance before the Comptroller or one of his authorized representatives, refuses without reasonable cause to be examined or to answer any legal or pertinent question, or to produce any book, record, paper or document when ordered to do so by the Comptroller or his authorized representative, said Comptroller or representative shall certify the facts and the names of the witnesses so failing and refusing to appear and testify, or refusing access to the books, records, papers and documents, to the District Court having jurisdiction of the witness; said court shall thereupon issue proper summons to said witness to appear before the said Comptroller, or his authorized representatives, at a place designated within the jurisdiction of said Court, on a day to be fixed, to be continued as occasion may require, and give evidence, and open for inspection such books, records, papers and documents as may be required for the purpose of enforcing the provisions of this Act. Upon failure to obey such summons the Judge before whom the matter shall come for hearing shall examine under oath such witness or person, and such person shall be given an opportunity to be heard; and if the Judge shall determine that such person has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce a book, record, paper or document,

which he was ordered to bring or produce, he shall forthwith punish the offender as for contempt of Court.

Subpoenas shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which such witness shall be called. Witnesses subpoenaed at the instance of the Comptroller, or his authorized representatives, shall be paid their fees and mileage by the Comptroller out of funds appropriated for court costs to said Comptroller.

The Comptroller may, if necessary to enforce the provisions of this section, require such number of his representatives as he deems necessary to enforce the provisions hereof, to subscribe to the constitutional oath of office, a record of which shall be filed in the office of the Comptroller.

Sec. 25. Before any diversion or allocation of the motor fuel tax collected under the provisions of this Act is made, one per cent of the gross amount of said tax shall be set aside in the State Treasury in a special fund, subject to the use of the Comptroller in the administration and enforcement of the provisions of this Act, and so much of the said proceeds of one per cent of the motor fuel tax paid monthly as may be needed in such administration and enforcement be and is hereby appropriated for said purpose. Any unexpended portion of said fund so specified shall at the end of each biennium revert to the respective funds or accounts in proper proportions to which the motor fuel tax fund is allocated at the end of each biennium.

The Treasurer shall, after making the deductions for refund purposes, as provided in Section 13 hereof, and for the enforcement of the provisions of this Act, allocate and deposit the remainder of the taxes collected under the provisions of this Act, in the proportions as follows: One-fourth (¼) of such tax shall go to, and be placed to the credit of, the Available Free School Fund; One-fourth (¼) of same shall go to, and be placed to the credit of, the fund known as the "County and Road District Highway Fund"; and the remaining one-half (½) of such tax shall go to, and be placed to the credit of, the State Highway Fund, for the construction and maintenance of public roads of this State, constituting and comprising the system of the State Highways of Texas, as designated by the State Highway Commission of Texas.

Sec. 26. If any dealer (a) shall fail to keep for a period of two (2) years in Texas any books and records required to be kept by a dealer, or (b) if any dealer or agent, employee or representative of a dealer shall destroy, mutilate or secrete any books and records required to be kept, or (c) shall refuse to permit the Comptroller, the Attorney General, or their authorized representatives, to inspect, examine and audit any books and records required to be kept, or any other books or records, incident to the conduct of the business of said dealer that may be kept, or (d) shall refuse to present such books and records for inspection, examination and audit, upon demand of the Comptroller, Attorney General, or their authorized representatives, or (e) shall knowingly make any false entry or fail to make entries in the books and records required to be kept by a dealer, or (f) shall fail to issue and deliver to the purchaser or recipient, a manifest containing all the information required thereon, upon each sale, distribution or delivery of motor fuel, or other derivatives of crude oil or natural gas, or (g) if any refund dealer shall refuse to surrender his refund dealer's license to the Comptroller upon suspension or cancellation of said license, or (h) shall refuse to surrender all invoice of exemption forms upon the suspension or cancellation of said license, or (i) shall knowingly fail to notify the Comptroller within three (3) days after any invoice of exemption form has been lost or destroyed, or if any dealer or other person (j) shall refuse to permit the Comptroller, Attorney General, or their authorized representatives, to inspect, examine and take samples from pumps, containers or other equipment in which motor fuel or other derivatives of crude petroleum or natural gas are stored, or from which said products are sold, distributed or used, or (k) shall refuse

to permit the inspection of any equipment or any premises upon which said products are stored, sold or distributed, or (l) shall conceal any derivatives or condensates of crude petroleum or natural gas for the purpose of violating any provisions of this Act, or (m) shall transport motor fuel, liquefied gas or other liquid fuels in a motor vehicle with pipe or tube connection from the cargo tank or container to the carburetor of said motor vehicle, or (n) shall sell or distribute motor fuel from a fuel tank or auxiliary fuel tank with a direct or indirect connection to the carburetor of a motor vehicle, or (o) shall sell and deliver liquefied gases or other liquid fuels into the fuel tank of any motor vehicle to any person who refuses or fails to exhibit a user's permit certificate authorizing the use of such products to propel a motor vehicle upon the public highways, or (p) shall use liquefied gas or other fuel for the propulsion of a motor vehicle upon the public highway without a valid user's permit certificate being posted in the cab of said motor vehicle, he shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five ($25.00) Dollars nor more than Two Hundred ($200.00) Dollars.

Sec. 27. (a) Whoever shall knowingly transport in any manner any motor fuel, casinghead gasoline, drip gasoline, natural gasoline or absorption gasoline under a false manifest, or (b) whoever shall knowingly transport any of the foregoing named commodities in any tank, barrel, cask, receptacle or container of any kind, other than thirty (30) gallons of motor fuel in the fuel tank feeding the carburetor of the motor vehicle, without then and there possessing or exhibiting upon demand by an authorized officer, a manifest, or (c) while transporting any of the foregoing named commodities, shall wilfully refuse to stop the motor vehicle he is operating when called upon to do so by a person authorized hereunder to stop said motor vehicle, or (d) shall refuse to permit the examination of his records and cargo by said authorized person, or (e) shall refuse to surrender his motor vehicle and cargo for impoundment when ordered to do so by a person authorized hereunder to impound said motor vehicle and cargo, or (f) shall refuse to permit said authorized person to inspect any plant or premises where motor fuel is refined, processed, made or produced, or (g) shall refuse to permit said authorized person to inspect any plant or premises from which a first sale or distribution of motor fuel is made, or (h) shall refuse to permit said authorized persons to examine and gauge or measure the contents of all storage tanks and containers on said premises or to take samples therefrom, or (i) shall refuse to permit said authorized persons to inspect all equipment on said premises, or (j) whoever shall knowingly purchase or receive from a distributor motor fuel upon which a tax is required to be paid, without said tax being a part of the consideration involved in such transaction, or (k) whoever shall wilfully forge or falsify any invoice of exemption prescribed herein, or (l) whoever shall wilfully and knowingly make any false statement in any claim for refund delivered to or filed with the Comptroller, or (m) whoever as distributor shall make a first sale, distribution or use of any motor fuel upon which a tax is required to be paid, without having at the time of said sale, distribution or use, a valid permit as required, or (n) whoever as agent, employee or representative of a distributor, shall make a first sale, distribution or use of motor fuel knowing that such distributor does not have a valid permit, or (o) whoever as distributor or as the agent, employee or representative of a distributor, shall knowingly make, deliver to and file with the Comptroller, a false return or report or an incomplete return or report, or (p) whoever, as distributor, shall fail to make and deliver to the Comptroller a return or report as required to be made and delivered to said Comptroller, or (q) shall fail to keep for a period of two (2) years in Texas any books and records required to be kept by a distributor, or (r) whoever as distributor, or the agent, employee or representative of a distributor, shall destroy, mutilate, secrete, or remove

from the State any of the books and records required to be kept, or (s) shall refuse to permit the Comptroller, the Attorney General or their authorized representatives, to inspect, examine and audit any books and records required to be kept, or any other pertinent books or records incident to the conduct of the business that may be kept, or (t) shall knowingly make any false entry or fail to make entries in the books and records required to be kept by a distributor, or (u) shall wilfully and knowingly fail or refuse to deliver a manifest upon the first sale or distribution of motor fuel to the purchaser or recipient of said motor fuel, or (v) whoever as user of liquefied gases or other liquid fuels, shall fail to make and deliver to the Comptroller a report as required to be made and delivered to said Comptroller, or (w) whoever as user or as agent, employee or representative of a user of liquefied gases or other liquid fuels shall knowingly make and deliver to the Comptroller a false report or an incomplete report, shall be guilty of a felony, and upon conviction shall be punished by confinement in the State Penitentiary for not more than five (5) years or by confinement in the county jail for not less than one (1) month nor more than six (6) months, or by a fine of not less than One Hundred ($100.00) Dollars, nor more than Five Thousand ($5,000.00) Dollars, or by both such fine and jail imprisonment.

In addition to the foregoing penalties, it is herein provided that a felony conviction for any of the above named offenses shall automatically forfeit the right of said convicted person to obtain a permit as distributor of motor fuel or user of liquefied gases or other liquid fuels, or a license as a refund dealer, for a period of two (2) years.

Provided that if any penalties prescribed in Section 26, overlap as to offenses, which are also punishable under Section 27, of this Act, then the penalties prescribed in the said Section 27 shall apply and control over all such penalties.

Venue of prosecution under Section 27 shall be in Travis County, Texas, or in the county in which the offense occurred.

Sec. 28. Chapter 44, Acts of the Regular Session of the Forty-third Legislature, Chapter 240, Acts of the Regular Session of the Forty-fourth Legislature, Chapter 3, Acts of the Regular Session of the Forty-sixth Legislature, Chapter 3, Acts of the Regular Session of the Forty-sixth Legislature, are hereby repealed, and this Act shall prevail over all other laws or parts of laws that conflict herewith. Provided, however, that all taxes, penalties and interest accruing to the State of Texas by virtue of the repealed Acts, before the effective date of this Act, shall be and remain valid and binding obligations due the State of all taxes accruing under the provisions of prior or existing gasoline or motor fuel tax laws, and all such taxes now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State and the liens and other obligations created and bonds executed to secure their payment are hereby declared to be and shall remain in full force and effect. And further provided, that no offense committed and no fine, forfeiture or penalty incurred under such above repealed Acts before the effective date of this Act, shall be affected by the repeal herein of any such laws, but the punishment of such offense and the recovery of such fines and forfeitures shall take place as if the law repealed had remained in force.

Sec. 29. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

BUNDY,
CELAYA,
HARTZOG.

The amendment by Mr. Bundy was adopted.

Mr. Montgomery offered the following amendment to the committee amendment:

Amend Committee Amendment No. 1 to House Bill No. 8 by adding a new article to read as follows:

"Sec. 9-A. There is hereby levied a tax of Five (5¢) cents per share, on the sale of all corporate common and preferred stock, where said sale takes place, or is consummated, within this State. Said tax shall apply to the stock of both domestic and foreign corporations."

The amendment by Mr. Montgomery was adopted.

Mr. Simpson offered the following amendment to the committee amendment:

Amend Article X, Subsection 2, by striking out entirely this subsection.

Amend Subsection 6 of Article X to read as follows:

"To the State Old Age Assistance Fund one-half (½) of the net revenue collected under Article I of this Act; all of the net revenue collected under Article V of this Act; and one-half (½) of the net revenue collected under Article VIII of this Act, for the purpose of providing and administering assistance to the aged in the manner prescribed by law, there shall be transferred all amounts remaining in said Clearance Fund at the end of each calendar month after provision has been made for the allocations hereinabove mentioned."

Mr. Alsup raised a point of order on further consideration of the amendment by Mr. Simpson, on the ground that that section of the committee amendment has previously been amended and the vote reconsidered and tabled.

The Chair sustained the point of order.

Mr. Simpson moved to suspend the necessary Rules for the purpose of addressing the House at this time.

The motion to suspend the Rules was lost.

(Speaker in the Chair.)

Mr. Harris of Dallas offered the following amendment to the committee amendment:

Amend H. B. No. 8 by striking out all below the enacting clause down to Article 10 and inserting in lieu thereof the following:

Article I

"Section 1. That Section 2 of Chapter 162, Acts of the Forty-third Legislature, Regular Session, as amended by Section 1, Chapter 12, Acts of the First Called Session of the Forty-third Legislature, as amended by House Bill No. 8, Chapter 495, Article IV, Section 4, Acts of the Third Called Session of the Forty-fourth Legislature, shall be amended so as to hereafter read as follows:

"Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of three and three-quarters cents (3¾¢) per barrel of Forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be three and three-quarters per cent (3¾%) of the market value of said oil whenever the market value thereof is in excess of One Dollar ($1) per barrel of forty-two (42) standard gallons. The market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such oil will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

"(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

"(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which produced, then said producer shall

pay the tax at the same rate and in the manner as if said oil were sold.

"(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payment and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

"(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

"(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interest parties, the proportionate tax due.

Article II

"Section 1. There is hereby levied a severance tax of one-half cent (½¢) upon each one thousand (1000) cubic feet of gas produced within this State. The tax shall be paid by each producer on the amount of gas produced and said tax shall be a liability of the producer of gas. Such producer shall keep an accurate record of all gas produced, making monthly reports under oath, as may be required by the Comptroller of Public Accounts.

'The purchaser of gas shall pay the tax on all gas purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

"Provided, that if gas produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said gas were sold.

"The tax herein levied shall be paid monthly on the twenty-fifth day of each month on all gas produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and, provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

Article III

"Section 1. That Section 40A of Article 7047, Revised Civil Statutes, 1925, as amended by Acts of the Forty-second Legislature, 1931, Regular Session, page 355, Chapter 212, Section 1, as amended by House Bill No. 8, Chapter 495, Article IV, Section 6, Acts of the Third Called Session of the Forty-fourth Legislature, shall be amended so as to hereafter read as follows:

"40A. Sulphur Producers. Each person who owns, controls, manages, leases, or operates, any sulphur mine, or mines, wells or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an indi-

vidual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State as occupation tax for the quarter ending on said date an amount equal to One Dollar and Twenty-three Cents ($1.23) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax herein levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the quarter in which the business was begun shall be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person or concern was engaged in the business during said preceding quarter and multiplying the quotient by ninety, and multiplying the product by One Dollar and Twenty-three Cents ($1.23). Said tax shall be in lieu of the tax imposed by House Bill No. 251, Chapter 212, Acts of the Regular Session, of the Forty-second Legislature, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act.

Article IV

"Section 1. That Article 7060, Revised Civil Statutes of 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be, and the same is hereby amended so as to read as follows:

"Article 7060. Each individual, company, corporation or association, owning, operating, managing, or controlling any gas, electric light, electric power or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from such business done in each incorporated city or town within this State in the payment of charged for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation or association, at the time of making said report for any such incorporated town or city of two thousand five hundred (2,500) inhabitants, and less than ten thousand (10,000) inhabitants, according to the last Federal census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to nine hundred forty-five thousandths (.945) of one per cent of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal census next preceding the filing of said report, the said individual, company, corporation or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and eighty-five hundredths (1.85) of one per cent of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power, or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association, and distributed by another, the tax shall be paid by the distributor alone.

"No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise, shall impose an occupation tax,

rental or charge of any sort for the privilege of doing business or for any other purpose, upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax imposed by franchise, and provided further that this Article shall not affect any contract now in existence or hereafter made between a city and the holder of a franchise."

Article V

"Section 1. Every person, firm, association of persons, or corporation, owning or operating any place of amusement which charges a price or a fee for admission including exhibits in theaters, motion picture theatres, and athletic events, not prohibited by law, shall file with the State Comptroller of Public Accounts a quarterly report on the twenty-fifth (25th) days of January, April, July and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received for admissions and said person, firm, association of persons, or corporation at the time of making such report shall pay to the Treasurer of this State a tax of one and one-half (1.5) per cent of the total gross receipts; provided that athletic events and entertainments furnished by educational, religious and charitable institutions shall be exempt from the payment of this tax, provided, further, that this tax shall be in addition to and not in lieu of any other taxes not levied by law.

Article VI

"Section 1. That Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Third Called Session of the Forty-fourth Legislature, 1936, Article IV, Section 1, House Bill No. 8, be, and the same is, hereby amended so as to read as follows:

"Article 7070. (a) Each individual, company, corporation or association owning, operating, managing or controlling any telephone line or lines or any telephone within this State, and charging for the use of the same, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and association, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and six-tenths (1.6) per cent of the gross receipts as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand five hundred (2,500) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to one and nine-tenths (1.9) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to two and two-tenths (2.2) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants according to the last preceding Federal census.

"(b) No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise shall impose an occupation tax, rental or charge of any sort for the privilege of doing business or for any other purpose upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to

prohibit the collection of any tax now imposed by a franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise.

Article VII

"Section 1. If any person shall fail to pay the taxes due under the provisions of this Act when they are due, he shall be required to pay a penalty of ten per cent (10%) of the amount of tax due and if the tax is not paid by the tenth day of the month following the month in which said taxes were due, an additional penalty of ten per cent (10%) of the tax due shall be added by the Comptroller and collected, and for each additional thirty days such taxes shall remain unpaid an additional penalty of ten per cent (10%) shall be assessed and collected.

"Prior to January 1, 1942, the Comptroller may waive this penalty if in his judgment failure to pay the taxes was due to some unusual circumstances and was in no sense an attempt on the part of the taxpayer to evade prompt payment, but after January 1, 1942, the Comptroller shall have no power to waive this penalty.

Article VIII

Section 1. Each article, section, subsection, sentence, clause, and phrase of this Act is hereby declared to be independently operative and if any article, section, subsection, sentence, clause or phrase of this Act shall be declared invalid by any court of competent jurisdiction, it shall not affect or invalidate the remainder of this Act.

"Sec. 2. Any person who shall willfully defraud or attempt to defraud the State out of any revenue derived from taxes herein authorized, and any person who shall fraudulently use or misappropriate any of the revenue derived from the taxes herein levied shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years.

"Sec. 3. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict."

Mr. Kersey offered the following substitute for the amendment by Mr. Harris of Dallas:

Amend H. B. No. 8 by striking out all below the enacting clause and inserting in lieu thereof the following:

Section 1. Wherever used in this Act:

(a) The word "value" wherever used in this Act shall mean:

(1) As applied to professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature, done or performed, "value" shall mean the amount charged, or contracted to be paid for such services, either in money and/or property, and as to any such property the value thereof shall be determined as provided in part two (2) of subsection (a) of this section.

(2) As applied to tangible or intangible property or any right, title, interest, right of enjoyment or right of possession therein, "value" shall mean the actual fair market value thereof in the locality where any transaction with respect thereto takes place, if such property or right or interest therein has a market value; provided, that if such property or right or interest has no market value in the locality where the transaction with respect thereto takes place, then the intrinsic worth of such property, or any right or interest therein shall be the value thereof; provided, further, that if the parties to any transaction other than transactions involving services, shall have agreed upon the fair price or value of the property, or right or interest therein passing by such transaction, then such agreed price or value shall be the value of the property or right or interest therein so passing by such transaction, provided such agreed price or value shall represent the actual fair value of the property or right or interest therein, and such transaction is wholly bona fide, and the value passing by the transaction has not been so fixed and agreed upon for the

purpose of evading the payment of any transaction tax under the provision of this Act.

(b) The word "person" as used herein shall mean any individual, firm, co-partnership, corporation, association, joint adventure, agent, trustee, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is clearly disclosed by the context.

(c) The word "transaction" as used herein shall mean and constitute any dealing of every kind whatsoever between two or more persons as defined in subsection (b) of this section, wherein or whereby professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature are done or performed, or wherein and whereby any right, title, interest, right of enjoyment or right of possession in or to any tangible or intangible property of any description passes, or is, or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(d) The word "Comptroller" wherever the same occurs in this Act, shall mean the Comptroller of Public Accounts of the State of Texas.

(e) The word "State" wherever the name is used in this Act, shall mean the State of Texas.

(f) Wherever in this Act the word "Taxpayer" is used it means the person as defined in subsection (b) of this Section who is liable for the payment of a transaction tax hereunder.

Sec. 2. There is hereby levied, and shall be collected, as herein provided a tax of one and six-tenths (1.6) per cent on the amount of the actual value passing from one person to another, under or by virtue of, or in connection with each and every transaction as in this Act defined, taking place between two or more persons, and which tax shall be added to the value passing by the transaction and be collected at the time such transaction is consummated; provided that in all cases where the amount of the value which passes by the transaction is fixed by law, the tax of one and six-tenths (1.6) per cent of such value, shall be collected on the last sale transaction only. The enumeration in this Act of transactions which are subject to the tax imposed by this Act, shall not be deemed to exclude other taxable transactions not included in such enumeration. Said tax shall be known as a "Transaction Tax."

Sec. 3. The following transactions shall be exempt from the transaction tax herein levied:

(a) Salaries, wages, and professional fees paid or received by individuals.

(b) The first sale transaction by the producer of all horticultural, agricultural, livestock, poultry and dairy products.

(c) Transactions whereby single passenger fares not exceeding ten (10) cents are collected by street railway companies, or by motor bus carriers from customers for local transportation.

(d) Street sales of newspapers.

(e) Transactions consisting of sales, subscriptions and donations made to bona fide unemployment relief associations, bona fide charitable organizations, and the Salvation Army, operating exclusively for the benefit and welfare of the community where located, and each of which organizations dispenses to charity not less than eighty (80) per cent of its gross revenues.

(f) Bona fide church and religious organizations, bona fide unincorporated cemetery associations operated without profit for the exclusive benefit of its members, bona fide labor organizations, and bona fide business leagues, chambers of commerce and boards of trade operating exclusively for the benefit of the community where located, and each of such organizations and associations shall not be required to pay any tax on transactions under the provisions of this Act, provided such organization or association is not organized for profit and no part of such organization's or association's income inures to the benefit of any private individual.

(g) The mere act of cashing, honoring, or certifying a check or depositing money or funds in a bank authorized by law to transact

a banking business, or depositing money or funds in escrow, when taken alone, or when merely incidental to a transaction as defined in subsection (c) of Section 1 of this Act, shall not be subject to a transaction tax under this Act.

(h) Transactions between the State of Texas and foreign countries and nations.

(i) Transactions between the State of Texas and other States of the United States of America.

(j) Transactions based upon interest and other earnings paid upon bonds secured as issued by the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(k) Transactions based upon pensions and other emoluments received from the United States of America, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(l) Transactions involving receipt of taxes, forfeitures, fines, costs, cost deposits and fees received by any officer or agent of the Government of the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(m) Transactions based upon interstate commerce, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(n) All transactions similar to the exempted transactions set forth in subparagraphs (i), (j), (k), (l), and (m) of this section shall be exempt from said transaction tax, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(o) Transactions where the taxpayer is involved in the transaction as an officer, or agent collecting taxes, fees, forfeitures, fines, and costs for the State of Texas or for any political subdivision of the State of Texas.

(p) The occasional sale of tangible personal property by a person not engaged in such business shall not be subject to the transaction tax herein levied.

Sec. 4. The production of any natural resource of this State shall be subject to this transaction tax based on the value of such production, and such tax shall be fully effective as of the date of production or severance of such natural resource, the same as though a sale thereof had then been made, and such tax shall be paid by the person owning the natural resource produced or severed.

Sec. 5. If for any reason a final judgment shall be entered by any of the Courts of the State of Texas, or of the United States of America, that the transaction tax provided for herein cannot be levied upon the production of an industry engaged in developing the natural resources of this State, then in that event a severance tax of one and six-tenths per cent (1.6) of the value of such production shall be, and hereby is, levied on said production in lieu of said transaction tax.

Sec. 6. All of the funds derived from the transaction tax herein levied shall be transmitted or paid to the Comptroller of Public Accounts of this State and shall be by him delivered to the State Treasurer, and one-fourth (¼) of the net revenue from such tax shall be credited to the Available School Fund and three-fourths (¾) of said funds shall be credited to the "State Department of Public Welfare Fund" and shall be used for the payment of old age assistance, aid to dependent children, aid to the indigent blind, and teacher retirement, together with the cost of administering such services, under such restrictions and limitations as provided by law and as provided in this Act.

Sec. 7. All taxes levied hereunder shall be paid as follows:

(a) On all transactions involving services as herein provided where the transaction tax is not paid by the affixing of transaction tax stamps as herein required, the taxes levied herein shall be added to the value of

such service, and be collected by the person performing such services from the person receiving such services, at the time of the consummation of such transaction, and the person so performing such services shall account for and pay such taxes to the Comptroller of Public Accounts of this State, as in this Act provided.

(b) On all transactions wherein or whereby any tangible or intangible property of any and every description, or any right, title, interest, estate, right of enjoyment, or right of possession therein passes, and the transaction tax levied by this Act is not paid by the affixing of transaction tax stamps as herein provided, the taxes herein levied on each and every transaction, shall, at the time of the consummation of such transaction be added to the value passing by such transaction and be collected by the person selling, delivering, transferring or conveying such property or right or interest therein, and such person so selling, delivering, transferring or conveying such property or right or interest therein shall account for and pay such taxes to the Comptroller of Public Accounts of this State, as in this Act provided.

(c) On all transactions wherein or whereby tangible or intangible property or any right, title, interest, estate, right of enjoyment or right of possession therein, shall be exchanged, and the transaction tax is not paid by the affixing of transaction tax stamps as herein provided, the taxes herein levied shall be accounted for, reported and paid to the Comptroller of Public Accounts of this State as herein required, by each party to such exchange of property, in accordance with and based upon the value of the property or right or interest therein of each such party which by said transaction passes to the other party or parties to said transaction.

(d) Any and every transaction shall be deemed to be consummated within the meaning of this Act at the time;

(1) The services involved in any transaction shall be actually charged against or could be demanded from the recipient of such services, provided that if such services are evidenced by a written contract such transaction shall be deemed consummated upon the execution of said contract.

(2) The tangible or intangible property, or any right, title, interest, estate, right of enjoyment or right of possession therein which is the subject of the transaction is delivered by one party to the transaction, to the other, or upon the execution of any contract or instrument wherein or whereby any such right, title, interest, estate, right of enjoyment or right of possession in and to any tangible or intangible property shall or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(e) Any and all taxes herein levied and which are not required to be paid by the affixing of transaction tax stamps may be paid by the person to such transaction receiving the tangible or intangible property or right or interest therein, to the person so selling, transferring, or conveying or delivering such property with transaction tax tokens herein provided for, or lawful money of the United States of America, or such equivalent thereof as the person so selling, transferring, conveying or delivering such property may accept, provided however, the failure of said person so selling, transferring, conveying or delivering such property to collect any such taxes shall not excuse such person from accounting, reporting and paying all such taxes to the Comptroller of Public Accounts of this State as herein required.

(f) All persons as defined in this Act who are subject to the payment of any transaction tax other than such tax as is required to be paid by the affixing of stamps as herein provided, shall on or before the 15th day of each month pay to the State Comptroller of Public Accounts all taxes due for the month immediately preceding. Any person failing to pay the tax when due shall be required to pay in addition to such tax, a penalty of twenty-five (25) per cent of the amount of such tax, provided such tax and penalty be paid within ten (10) days from the time it became due, and if such tax be paid more than ten (10) days, and less than sixty (60) days, after the same

becomes due in addition to the amount of such tax, a penalty of fifty (50) per cent of the amount of such tax shall be paid, and if such tax be paid sixty (60) or more days after said tax became due, then in addition to the amount of said tax, a penalty of one hundred (100) per cent of such tax shall be paid. In any case where it becomes necessary for the State to file suit for the collection of taxes and/or penalties due under this Act, and unpaid, the State shall be entitled to recover from such taxpayer, double the amount of the tax due from such taxpayer, and in addition, thereto, all court costs and attorney's fees incurred by the State in the prosecution of such suit.

Sec. 8. All suits for the collection of any tax due under the provisions of this Act, and all suits brought by any taxpayer against the Comptroller of Public Accounts of this State to restrain or enjoin such Comptroller from enforcing any of the provisions of this Act or the collection of the transaction tax levied herein, shall be instituted in a court of competent jurisdiction in Travis County, Texas, and venue of all such suits is hereby fixed exclusively in said Travis County, Texas.

Sec. 9. No restraining order or injunction shall be granted by any court against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin such Comptroller from enforcing any provisions of this Act or the collection of any taxes levied by this Act, unless prior to the filing of any such suit the taxpayer or plaintiff shall have paid into the suspense account kept by the State Treasurer of this State, all transaction taxes then due by such taxpayer or plaintiff to the State, and the Court shall not entertain any such suit unless the taxpayer or plaintiff or his attorney or agent, in the petition for restraining order or injunction shall under oath, allege the payment of all such taxes into such suspense account. In the event the injunction is finally dissolved or dismissed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the State Department of Public Welfare Fund. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes, the funds so deposited shall be refunded by the Treasurer to said applicant. No person required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein, except such person, firm, association, or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees, and assessments due by him under the provisions of this Act, and said restraining order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees and penalties involved in any litigation with taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the clause of action, and shall have paid or deposited the taxes as hereinbefore provided.

Sec. 10. The Comptroller of Public Accounts of this State shall have authority to prescribe and publish uniform and equitable rules and regulations for determining the value passing by any transaction which may be used as the basis for the tax levied, and other rules and regulations for the enforcement of this Act and the collection of the taxes herein authorized, not inconsistent with this Act or with the Constitution of the United States or the Constitution of this State, and the taxpayer shall comply with such rules and regulations. And for the purpose of enabling the Comptroller to determine the tax liability of persons, firms, partnerships, companies, corporations, associations and others, the Comptroller is hereby authorized to require the registration of such persons, firms, partnerships, companies, corporations, associations, and others, as in his judgment is nec-

essary for the enforcement of the provisions of this Act. A registration fee of Two Dollars ($2.00) shall be charged and collected by the Comptroller to cover, or partly cover, the cost of registration of persons, firms, associations or corporations required by the Comptroller to register under the provisions of this Act; and the revenue derived from this fee, or so much thereof as may be necessary, is hereby appropriated to the office of the Comptroller of Public Accounts to be used by him for the enforcement of the provisions of Section 10 of this Act. Provided further that in the expenditure of said funds the Comptroller shall be subject to the limitations as to employment of personnel, salaries, and expenses as provided in Section 24 of this Act. Likewise the Comptroller shall have authority to require such reports and to demand and secure such information as may be necessary to secure the enforcement of this Act. The Comptroller shall have the right to examine the books, records, and accounts of any person, firm, partnership, company, corporation, or association in this State, if the Comptroller believes that such person, firm, partnership, company, corporation or association is subject to the tax herein levied. Any information secured by the Comptroller in the enforcement of this Act shall be regarded as confidential information and shall be used only for the purpose of enforcing the payment of taxes herein authorized.

Sec. 11. It shall be unlawful for any person employed by the State in the office of the Comptroller of Public Accounts to divulge or disclose to any person other than such Comptroller any information or facts which may have been disclosed to or obtained by the said Comptroller, or under his authority, through or by reason of any examination of any books, records, accounts, or documents of any taxpayer as provided by Section 10 of this Act, unless required to do so by order of a court or Judge thereof. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined One Hundred ($100) Dollars and be confined in the county jail for thirty (30) days, and shall be summarily discharged as an employee of this State, and shall not thereafter at any time be reemployed in any capacity in any department of the State Government.

Sec. 12. It shall be the duty of the Comptroller, within the limits of the provisions of this Act, to prescribe all forms and to maintain all records necessary for a proper enforcement of this Act, as well as to furnish such forms and information as may be requested by taxpayers when the furnishing of such information is necessary to enable them to comply promptly with the provisions of this Act. Provided, however, that the taxes herein levied shall be effective on the date this Act becomes effective as herein fixed and it is the responsibility of the taxpayer to make prompt payment of taxes as provided for in this Act. The failure of the Comptroller of Public Accounts to furnish forms and information shall be no defense against the failure of the taxpayer to pay taxes herein levied.

Sec. 13. The State Board of Control is hereby authorized to design and have manufactured metal tokens of such size and denominations and in such quantities as may be determined by said State Board of Control provided, however, the unit of token shall be of the value of sixteen one hundredths (.16) of one (1) cent, and the smallest token shall have a value of sixteen one hundredths (.16) of one cent and where the value passing by a transaction is ten (10) cents or less, the tax shall be one (1) token of the denomination of sixteen one hundredths (.16) of one (1) cent and for each additional ten (10) cents of value or fraction thereof, the tax shall be an additional token.

Sec. 14. The State Board of Control is hereby authorized to design and have printed transaction tax stamps of such size and denominations, and in such quantities as may be determined by the said State Board of Control. The stamps shall be so manufactured as to render them easy to be securely attached to documents, provided, that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or any

other method of identification may be adopted as said Board may decide.

Sec. 15. The printing or manufacturing of said transaction tax stamps, and the manufacturing of said transaction tax tokens shall be awarded by competitive bids, and contract in each case shall be by said State Board of Control awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act. Upon the receipt by the State Board of Control of such stamps and tokens, the same shall be by said Board delivered to the State Treasurer of this State, and said State Treasurer shall sell and deliver the same to any and all persons upon payment of the face value thereof, and the State Treasurer shall be responsible for the custody and sale of such stamps and tokens and for the proceeds of all sales thereof under his official bond.

Sec. 16. (a) The State Board of Control is hereby authorized to change the design, size and denomination of all stamps and tokens as said Board of Control may deem necessary to effect the best enforcement of this Act, and the State Treasurer is hereby required to redeem at face value any unused stamps lawfully issued as well as any lawfully issued tokens, prior to any such change in the design or designs, which are in the possession of any bona fide owner thereof, by exchanging at face value stamps and/or tokens of the new design or designs. Whenever any change is made in the design, size or denominations of such stamps and/or tokens, every person holding stamps and/or tokens of the old design shall be required to send them to the State Treasurer for exchange at face value, for stamps and/or tokens of the new design. Any such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and/or tokens, and it shall be unlawful for any person to have in his possession any stamps and/or tokens of an old design after sixty (60) days from the date of issue of any new design, provided, that after sixty (60) days from the date of issue of any new design of stamps and/or tokens, the old design or designs shall be void. It shall be the duty of the State Treasurer upon receipt of any new design or designs of stamps and/or tokens authorized by the State Board of Control to designate the date of issue of such new design or designs by the issuance of a proclamation, and the date of such proclamation shall be the date of issue of the new design or designs of stamps and/or tokens.

(b) Any person who shall have in his possession any transaction tax stamps or any transaction tax tokens of any old design after sixty (60) days from the date of issue of a new design of stamps, or a new design of tokens, and shall willfully pass or attempt to pass the same, shall be guilty of a felony, and upon conviction of a violation of this provision shall be punished by imprisonment in the penitentiary of the State for not less than two (2) years, nor more than five (5) years.

(c) Transaction tax stamps and transaction tax tokens may be exchanged only when proof satisfactory to the State Treasurer is furnished that any such stamps or tokens were properly purchased and paid for by the person offering to exchange the same; provided, further, that stamps or tokens which are effaced or mutilated in any manner may be refused for acceptance in exchange by said State Treasurer.

(d) The State Treasurer shall keep a record of all stamps and tokens sold by him or under his direction, as well as all stamps or tokens exchanged by him and all refunds made on stamps or tokens purchased.

(e) Stamps in unbroken sheets of one hundred (100) stamps may be exchanged with the State Treasurer only, for stamps of a different denomination. The State Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each, to the person who purchased said stamps, provided, proof satisfactory to said State Treasurer is furnished that any stamps upon which a refund is requested, were properly purchased from said State Treasurer and paid for by the person requesting such

refund. Such refund shall be made out of the State Department of Public Welfare Fund.

Sec. 17. All remittances of taxes imposed by this Act, except where such tax is paid by affixing transaction tax stamps to instruments and documents as in this Act provided, shall be made to the Comptroller of Public Accounts of the State of Texas, by money, transaction tax tokens, or exchange, acceptable to said Comptroller, provided, that no remittance other than cash or such tokens shall discharge the liability for the tax or penalty attempted to be paid thereby, unless and until it has been paid in cash to said Comptroller.

Sec. 18. Whenever any transaction which is subject to a transaction tax within the meaning of this Act, shall be evidenced by any written instrument, document or memorandum, the person or persons executing such instrument, document or memorandum shall pay such tax by securely affixing to such instrument, document or memorandum at the time the same is executed a transaction tax stamp or stamps equal to the amount of such transaction tax, and cancelling such stamp or stamps. Any person who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100) nor more than One Thousand Dollars ($1,000).

Sec. 19. No written instrument or document evidencing a transaction which is subject to a transaction tax under the provisions of this Act, shall be received, filed, recorded or registered by any public official of the State of Texas or any public official of any political subdivision of the State of Texas, unless such instrument or document has affixed thereto and cancelled, transaction tax stamps for the amount of such tax as required by this Act.

Sec. 20. When any transaction is evidenced by more than one written instrument, document or memorandum, and one of such written instruments or documents is subject to filing, recordation or registration with any public official of this State or any political subdivision thereof, the transaction tax stamps required to be affixed to any such instrument, shall be so affixed to such instrument or document which is so subject to filing, recordation or registration, and the remaining instruments evidencing such transaction shall have written thereon a statement that transaction tax stamps required by law have been affixed to another instrument, and naming such instrument.

Sec. 21. No written instrument, document or memorandum evidencing a transaction which is subject to a transaction tax under the provisions of this Act, shall be received or admitted in evidence in any suit, proceeding or hearing in any of the Courts of this State or an any proceeding or hearing before any Board, Department or Agency of the State Government of the State of Texas, unless such instrument, document or memorandum shall have affixed thereto and cancelled, transaction tax stamps for the amount of tax as required by this Act, provided, that where any instrument evidencing any transaction subject to tax has affixed thereto transaction tax stamps sufficient to pay the tax on such transaction, this section shall not apply to the remainder of the instruments, documents or memorandums which shall be a part of such transaction.

This section shall not apply to any instrument, document or memorandum executed prior to the effective date of this Act.

Sec. 22. The provisions contained in Sections eighteen (18). nineteen (19), and twenty (20) of this Act shall not apply to instruments taken by or on behalf of the United States of America or any agency or instrumentality of the United States Government in carrying out a governmental purpose as expressed in any Act of the Congress of the United States of America.

Sec. 23 (a) Two Hundred Thousand Dollars ($200,000), or so much thereof as may be necessary, is hereby appropriated out of the General Fund of the State to pay the cost of administering and collecting the taxes levied in this Act during the period beginning on the effective date of this Act and ending August 3, 1941, provided, that out

of the first taxes collected under the provisions of this Act, the State Treasurer shall credit the General Fund of this State with Two Hundred Thousand Dollars ($200,000) as reimbursement to cover this appropriation.

(b) Two Hundred Fifty Thousand Dollars ($250,000), or so much thereof as may be necessary, is hereby appropriated out of the State Department of Public Welfare Fund to cover the cost of administering and collecting the taxes levied under this Act during the period beginning September 1, 1941, and ending August 31, 1942, and a like amount of Two Hundred Fifty Thousand Dollars ($250,000) for the same purpose is appropriated for the fiscal year beginning September 1, 1942, and ending August 31, 1943.

Sec. 24. The Comptroller of Public Accounts of the State is hereby authorized to set up in his office a department to be charged especially with the responsibility and duty of administering all of the tax provisions of this Act and the collection of the taxes herein levied. He is authorized to employ such personnel as may be necessary to perform the duties assigned to him and his office in the administration of this Act. The salaries of persons employed shall not exceed the salaries of other State employees performing similar services, nor shall the traveling expenses of such employees exceed the limit set by law for employees of other departments of the State Government.

Sec. 25. One-fourth (¼) of all the revenue derived from this Act shall be allocated to the Available School Fund and three-fourths (¾) of said revenue shall be allocated to the State Department of Public Welfare Fund. Beginning September 1, 1941, the State Treasurer shall on the first day of each month transfer to the Teacher Retirement Fund Two Hundred and Fifty Thousand ($250,000) Dollars to be used for the purpose of paying the State's portion of teacher retirement as now provided by law and for retiring a portion of the deficit which has already accrued in this fund. Such payments of Two Hundred and Fifty Thousand ($250,000) Dollars shall be continued to be paid on the first day of each month by the State Treasurer until such time as the Teacher Retirement Fund is in balance, and thereafter the amount paid on the first day of each month shall be such amount as may be necessary to meet the State's obligations to this fund as such obligations accrue.

Sec. 26. All of the remaining revenue derived from the taxes herein levied and credited to the State Department of Public Welfare Fund, shall be used to pay the cost of providing aid for dependent children, aid for the indigent blind, and old age assistance, as now authorized or as may hereafter be authorized by law.

Sec. 27. It shall be unlawful for any person to fail or refuse to make any report, tax return or information return provided to be made by this Act, or required by any regulation promulgated by the Comptroller of Public Accounts of this State, or to make any false or fraudulent tax return, or false statement in any tax return or report, with intent to defraud this State or to evade the payment of the tax or any part thereof, imposed by this Act; or for the president, vice president, secretary or treasurer of any corporation, association, or company, to make or permit to be made for any corporation, association or company any false tax returns, or any false statements in any tax or information return, or report required by this Act or the regulations promulgated by the Comptroller of Public Accounts of this State, with the intent to evade the payment of any tax imposed by this Act; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the Comptroller of Public Accounts of this State, or his agent as required by this Act, or by any regulation promulgated by said Comptroller; for any person to use any artful device or deceptive practice to conceal any violation of this Act; or for any person to mislead or deceive the Comptroller of Public Accounts of this State, or his authorized representative in the enforcement of this Act; or for any person to fail or refuse to comply with the provisions of this Act; or for any

person to fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts of this State, or violate the same. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than One Hundred Dollars ($100) nor more than One Thousand Dollars ($1,000), or imprisoned in the county jail not exceeding sixty (60) days, or punished by both said fine and imprisonment, at the discretion of the Court.

In addition to the foregoing penalties and any other penalties fixed by this Act, any person who shall knowingly swear to or verify any false or fraudulent statement with the intent of defrauding the State of Texas or evading the payment of any tax imposed by this Act, shall be guilty of the offense of perjury, and upon conviction thereof, shall be punished in the manner required by law.

Sec. 28. If any section, subsection, subdivision, paragraph, sentence, clause or word of this Act be held invalid or unconstitutional, the remaining portions of the same shall nevertheless be valid; and it is declared that such remaining portions would have been enacted, notwithstanding such unconstitutional portion thereof.

Sec. 29. The transaction tax levied herein is not in lieu of, but is in addition to any and all taxes now levied by law within this State.

Sec. 30. All of the revenue derived from the sale of intoxicating liquor, wine and beer, which is now paid into the State Department of Public Welfare Fund, and all revenue which is now derived from the sale of cigarettes and paid into the State Department of Public Welfare Fund, shall hereafter be paid into the General Fund of this State, and all laws and parts of laws which are in conflict with this Section are hereby repealed, in so far as they conflict with this Section.

Sec. 31. The fact that at this time the funds to pay old age assistance, teacher retirement, care for dependent children, and provide aid for the indigent blind are wholly inadequate to meet these obligations, creates an emergency and an imperative public necessity that the Constitutional Rule, requiring all bills to be read on three several days in each House, be suspended and the same is hereby suspended and this Act shall take effect and be in force at and from the time of its passage.

Mr. Morris moved to table the substitute amendment by Mr. Kersey.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—128

Allen	Fitzgerald
Allison	Fuchs
Alsup	Garland
Anderson	Gilmer
Avant	Goodman
Bailey	Hanna
Baker	Hardeman
Bean	Hargis
Bell	Harris of Dallas
Benton	Harris of Hill
Blankenship	Hartzog
Boone	Heflin
Brawner	Helpinstill
Bray	Henderson
Bridgers	Hileman
Brown	Hobbs
Bruhl	Hoyo
Bullock	Huffman
Bundy	Hughes
Burkett	Humphrey
Burnaman	Hutchinson
Carlton	Isaacks
Carrington	Jones
Cato	Kelly
Celaya	Kennedy
Chambers	Kinard
Clark	King
Coker	Klingeman
Colson, Mrs.	Knight
Connelly	Lansberry
Craig	Lehman
Crossley	Leyendecker
Crosthwait	Little
Daniel	Love
Deen	Lowry
Dickson of Bexar	Lucas
Donald	Lyle
Dove	McAlister
Duckett	McDonald
Ellis	McGlasson
Eubank	McLellan
Evans	McMurry
Ferguson	McNamara
Files	Manford

Manning
Markle
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Pace
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Sallas
Senterfitt
Shell
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Taylor
Thornton
Turner
Vale
Walters
Wattner
Weatherford
Winfree

Nays—14

Davis
Favors
Halsey
Howington
Huddleston
Kersey
Lock
Martin
Parker
Pevehouse
Sharpe
Stubbs
Voigt
White

Present—Not Voting

Whitesides

Absent

Dickson of Nolan
Dwyer

Absent—Excused

Cleveland
Gandy
Howard
McCann

Mr. Hanna moved to table the amendment by Mr. Harris of Dallas.

Question recurring on the motion to table yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—122

Allen
Allison
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bray
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Chambers
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Donald
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Files
Garland
Gilmer
Goodman
Halsey
Hanna
Hardeman
Hargis
Harris of Hill
Heflin
Helpinstill
Henderson
Hileman
Hobbs
Howington
Hoyo
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kennedy
Kersey
King
Klingeman
Knight
Lansberry
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lucas
McDonald
McLellan
McMurry
Manford
Manning
Markle
Martin
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Murray
Pace
Price
Rampy
Reed of Dallas
Ridgeway
Roark
Roberts
Sallas
Senterfitt
Sharpe
Shell
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Stubbs
Taylor
Thornton
Turner
Walters
Wattner
Weatherford
White
Whitesides
Winfree

Nays—21

Alsup
Celaya
Clark
Fitzgerald
Fuchs
Harris of Dallas
Hartzog
Huddleston
Kinard
Lyle
McAlister
McGlasson
McNamara
Morse
Parker
Pevehouse

Phillips
Reed of Bowie
Rhodes
Vale
Voigt

Absent

Dickson of Nolan
Nicholson

Absent—Excused

Cleveland
Gandy
Howard
McCann

Question then recurring on the committee amendment, as amended, it was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes and with the body of the bill.

House Bill No. 8 was then passed to engrossment.

HOUSE BILL NO. 8 ON THIRD READING

Mr. Morris moved that the Constitutional Rule requiring bills to be read on three several days be suspended and that House Bill No. 8 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—139

Allen
Allison
Alsup
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Ellis
Fubank
Evans
Favors
Ferguson
Files
Fitzgerald
Fuchs
Garland
Gilmer
Goodman
Halsey
Hanna
Hardeman
Hargis
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Helpinstill
Henderson
Hileman
Hobbs
Howington
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kennedy
Kersey
King
Klingeman
Knight
Lansberry
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lucas
Lyle
McAlister
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Markle
Martin
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Pace
Pevehouse
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Sallas
Senterfitt
Sharpe
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Stubbs
Taylor
Thornton
Turner
Vale
Voigt
Walters
Wattner
Weatherford
White
Whitesides
Winfree

Nays—6

Bray
Clark
Kinard
Nicholson
Parker
Shell

Absent—Excused

Cleveland
Gandy
Howard
McCann

The Speaker then laid House Bill No. 8 before the House on third reading and final passage.

The bill was read third time.

Mr. Hartzog asked unanimous consent that the Engrossing Clerk be instructed to delete the duplicated sections and leave in the one that raises the highest tax.

There was no objection offered and it was so ordered.

Mr. Simpson offered the following amendment to the bill:

Amend Article X, Subsection 2, by striking out entirely this subsection.

Amend Subsection 6 of Article X to read as follows:

To the State Old Age Assistance Fund one-half (½) of the net revenue collected under Article I of this Act; all of the net revenue collected under Article V of this Act; and one-half (½) of the net revenue collected under Article VIII of this Act, for the purpose of providing and administering assistance to the aged in the manner prescribed by law, there shall be transferred all amounts remaining in said Clearance Fund at the end of each calendar month after provision has been made for the allocations hereinabove mentioned.

The amendment by Mr. Simpson was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—73

Avant
Bailey
Baker
Boone
Brawner
Burkett
Clark
Coker
Connelly
Craig
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Ellis
Eubank
Favors
Fuchs
Goodman
Helpinstill
Henderson
Hileman
Hobbs
Hoyo
Huddleston
Huffman
Hutchinson
Jones
Kennedy
Kersey
Kinard
King
Knight
Lehman
Love
Lowry
Lucas
McAlister
McLellan
McMurry
Manning
Martin
Matthews
Mills
Moore
Morgan
Murray
Pace
Parker
Pevehouse
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Rhodes
Sharpe
Simpson
Smith of Bastrop
Spacek
Stubbs
Thornton
Turner
Walters
White
Whitesides

Nays—72

Allen
Allison
Alsup
Anderson
Bean
Bell
Benton
Blankenship
Bray
Bridgers
Brown
Bruhl
Bullock
Bundy
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Colson, Mrs.
Crosthwait
Evans
Ferguson
Files
Fitzgerald
Garland
Gilmer
Halsey
Hanna
Hardeman
Hargis
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Howington
Hughes
Humphrey
Isaacks
Kelly
Klingeman
Lansberry
Leyendecker
Little
Lock
Lyle
McDonald
McGlasson
McNamara
Manford
Markle
Montgomery
Morris
Morse
Nicholson
Phillips
Roberts
Sallas
Senterfitt
Shell
Skiles
Smith of Atascosa
Spangler
Stanford
Stinson
Taylor
Vale
Voigt
Wattner
Weatherford
Winfree

Absent—Excused

Cleveland
Gandy
Howard
McCann

Mr. Smith of Atascosa offered the following amendment to the bill:

Amend H. B. No. 8 by amending Article VII, page 17, line 34, of the printed bill, to read "three per cent" instead of "two per cent."

SMITH of Atascosa.
ANDERSON.

The amendment by Mr. Smith of Atascosa was lost by the following vote:

Yeas—71

Allen
Allison
Anderson
Avant
Bailey
Baker
Bean
Benton
Boone
Brawner
Bray
Brown
Bullock
Burkett
Burnaman
Cato
Coker
Connelly
Crossley
Daniel
Davis
Deen
Dickson of Bexar
Dove
Duckett
Dwyer
Ellis
Favors
Files
Fitzgerald
Gilmer
Halsey
Hargis
Harris of Hill
Henderson
Hobbs
Huddleston
Huffman
Humphrey
Kelly
Kennedy
King
Knight
Love
McAlister
McLellan
Manford
Manning
Matthews
Moore
Morgan
Murray
Pevehouse
Rampy
Reed of Bowie
Roark
Sallas
Senterfitt
Sharpe
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Stubbs
Thornton
Turner
Voigt
Wattner
White
Whitesides

Nays—71

Alsup
Bell
Blankenship
Bridgers
Bruhl
Bundy
Carlton
Carrington
Celaya
Chambers
Clark
Colson, Mrs.
Craig
Crosthwait
Donald
Evans
Ferguson
Fuchs
Garland
Goodman
Hanna
Hardeman
Harris of Dallas
Hartzog
Heflin
Helpinstill
Hileman
Howington
Hoyo
Hughes
Hutchinson
Isaacks
Jones
Kersey
Kinard
Lansberry
Lehman
Leyendecker
Little
Lock
Lowry
Lucas
Lyle
McDonald
McGlasson
McMurry
McNamara
Markle
Martin
Mills
Montgomery
Morris
Morse
Nicholson
Pace
Parker
Phillips
Price
Reed of Dallas
Ridgeway
Roberts
Rhodes
Shell
Spangler
Stanford
Stinson
Taylor
Vale
Walters
Weatherford
Winfree

Absent

Dickson of Nolan
Eubank
Klingeman

Absent—Excused

Cleveland
Gandy
Howard
McCann

House Bill No. 8 was then passed by the following vote:

Yeas—136

Allen
Allison
Alsup
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fuchs
Garland
Gilmer
Goodman
Halsey
Hanna
Hardeman
Hargis
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Helpinstill
Henderson
Hileman
Hobbs

Howington	Moore
Hoyo	Morgan
Huddleston	Morris
Huffman	Morse
Hughes	Murray
Humphrey	Pace
Hutchinson	Pevehouse
Isaacks	Phillips
Jones	Price
Kelly	Rampy
Kennedy	Reed of Bowie
Kersey	Reed of Dallas
Kinard	Ridgeway
King	Roark
Klingeman	Roberts
Knight	Rhodes
Lansberry	Sallas
Lehman	Senterfitt
Leyendecker	Sharpe
Little	Simpson
Lock	Skiles
Love	Smith of Bastrop
Lowry	Smith of Atascosa
Lucas	Spacek
Lyle	Stanford
McDonald	Stinson
McGlasson	Stubbs
McLellan	Thornton
McMurry	Turner
McNamara	Vale
Manford	Voigt
Manning	Walters
Markle	Wattner
Martin	Weatherford
Matthews	White
Mills	Whitesides
Montgomery	Winfree

Nays—8

Bray	Parker
Craig	Spangler
Fitzgerald	Shell
Nicholson	Taylor

Absent

McAlister

Absent—Excused

Cleveland	Howard
Gandy	McCann

Mr. Hughes moved to reconsider the vote by which House Bill No. 8 was passed and to table the motion to reconsider.

The motion to table prevailed.

MESSAGE FROM THE SENATE

Austin, Texas, March 10, 1941.

Hon. Homer Leonard, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has adopted

H. C. R. No. 38, Authorizing William W. Shuff and Mrs. Surrilda W. Shuff to sue the State.

Passed

S. B. No. 154, A bill to be entitled "An Act amending Section 13, Chapter 465, General and Special Laws, 44th Legislature, Second Called Session, and providing the effective date of this Act to be January 1, 1943."

Adopted

S. C. R. No. 28, Granting permission to Arol Kerley and W. E. Pendergrass to sue the State.

S. C. R. No. 26, Authorizing the Texas Highway Department to lend certain guard wire for the purpose of preserving of a prairie dog colony in Mackenzie State Park.

Respectfully,

BOB BARKER,
Secretary of the Senate.

SENATE BILL ON FIRST READING

The following Senate Bill, received from the Senate, was laid before the House, read first time, and referred to the appropriate committee, as follows:

S. B. No. 154, to the Committee on Counties.

HOUSE CONCURRENT RESOLUTION NO. 38 WITH SENATE AMENDMENTS

Mr. Winfree called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. C. R. No. 38, To grant William W. Shuff and Mrs. Surrilda W. Shuff permission to sue the State.

On motion of Mr. Winfree, the House concurred in the Senate amendments by the following vote:

Yeas—131

Allen	Bean
Allison	Bell
Alsup	Benton
Anderson	Blankenship
Avant	Boone
Bailey	Brawner
Baker	Bray

Bridgers
Brown
Bruhl
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fitzgerald
Fuchs
Garland
Gilmer
Goodman
Halsey
Hanna
Hardeman
Hargis
Harris of Dallas
Hartzog
Heflin
Helpinstill
Henderson
Hileman
Hobbs
Howington
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Jones
Kelly
Kennedy
Kersey
Kinard
Klingeman
Knight
Lansberry
Leyendecker
Little
Lock
Love
Lowry
Lucas
Lyle
McGlasson
McNamara
Manford
Markle
Martin
Matthews
Mills
Moore
Morris
Morse
Murray
Nicholson
Pace
Parker
Pevehouse
Phillips
Price
Rampy
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Sallas
Senterfitt
Sharpe
Shell
Simpson
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Stubbs
Taylor
Thornton
Turner
Vale
Voigt
Walters
Wattner
Weatherford
White
Whitesides
Winfree

Absent

Dickson of Bexar
Harris of Hill
Isaacks
King
Lehman
McAlister
McDonald
McLellan
McMurry
Manning
Montgomery
Morgan
Reed of Bowie
Skiles

Absent—Excused

Cleveland
Gandy
Howard
McCann

BILL ORDERED NOT PRINTED

(By unanimous consent)

On motion of Mr. Alsup, House Bill No. 648 was ordered not printed.

ADDITIONAL SIGNER OF HOUSE CONCURRENT RESOLUTION

By unanimous consent of the House, the following member was authorized to sign resolution as co-author of same, as follows:

Mr. Davis: H. C. R. No. 53.

RELATIVE TO HOUSE BILL NO. 654

On motion of Mr. Lowry, and by unanimous consent of the House, the following amendment was adopted to House Bill No. 654:

Amend House Bill No. 654, Section 1, line 2, beginning with the words "as enacted" and striking out through the word "Legislature" in line 7 of the same section.

RELATIVE TO HOUSE BILLS NOS. 412 AND 436

On motion of Mr. Brawner and by unanimous consent of the House, the captions of House Bills Nos. 412 and 436 were ordered amended to conform to all changes and with the bodies of the bills.

RELATIVE TO HOUSE BILL NO. 262

On motion of Mr. Smith of Bastrop, and by unanimous consent of the House, the following amendment was adopted to House Bill No. 262:

Amend House Bill No. 262, line 27 of Section 1 of the printed bill, by adding after the word "county" the words "and/or adjoining counties" and also in line 3 of page 2, by adding after the word "county"

the words "and/or adjoining counties."

RELATIVE TO HOUSE BILL NO. 593

By unanimous consent of the House, the following amendment was adopted to House Bill No. 593:

Amend House Bill No. 593, line 13 of Section 1, by inserting after the words "District Judge" the words "of the Judicial District."

RELATIVE TO HOUSE BILL NO. 650

On motion of Mr. Avant, and by unanimous consent of the House, the following amendment was adopted to House Bill No. 650:

Amend House Bill No. 650, line 6 of Section 1, by inserting after the word "crappie" the words "thirty game fish," and after the word "goggle-eye" the words "and bream."

RELATIVE TO HOUSE BILL NO. 440

By unanimous consent of the House, the following amendment was adopted to House Bill No. 440:

Amend House Bill No. 440, line 8 of Section 1, by striking out the word "knowlingly" and inserting in lieu thereof the words "knowingly committing."

RELATIVE TO HOUSE BILL NO. 409

By unanimous consent of the House, the following amendment was adopted to House Bill No. 409:

Amend House Bill No. 409, line 18, page 2, by inserting after the word "salary" and before the word "from" the following:

"to be computed from the last approved tax rolls; said annual salary"

RELATIVE TO HOUSE BILL NO. 442

On motion of Mr. Spangler, and by unanimous consent of the House, the caption of House Bill No. 442 was ordered amended to conform to all changes and with the body of the bill.

BILLS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bills:

H. B. No. 276, "An Act to prohibit the use in all lakes and streams situated in Nolan County, Texas, all certain devices for catching fish; to limit the size and number of fish to be caught; to prohibit the taking of any fresh-water fish during the months of February, March or April; providing the use of minnow seines of not more than twenty (20) feet in length for the purpose of taking minnows for bait; prohibiting persons other than the owner from entering upon or fishing from rafts, piers or boats; providing a penalty; and declaring an emergency."

S. B. No. 136, "An Act to make continuance of cases wherein a party or attorney is a Member of Legislature, mandatory, etc., and declaring an emergency."

HOUSE BILLS ON FIRST READING

Mr. Nicholson asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 721.

There was no objection.

The Speaker then laid the bill before the House, it was read first time and referred to the appropriate committee, as follows:

By Mr. Nicholson:

H. B. No. 721, A bill to be entitled "An Act fixing limitations on revocations, countermands of payments and stop-payment orders relating to the payment of any check or draft against bank accounts; and declaring an emergency."

Referred to the Committee on Banks and Banking.

Mr. Simpson asked unanimous consent to introduce at this time and have placed on first reading House Bill No. 722.

There was no objection.

The Speaker then laid the bill before the House, it was read first time

and referred to the appropriate committee, as follows:

By Mr. Simpson:

H. B. No. 722, A bill to be entitled "An Act enacting a new article of the Penal Code of Texas to be known as Article 1391a, defining the offense of burglary of a motor vehicle; prescribing the punishment therefor; and declaring an emergency."

Referred to the Committee on Criminal Jurisprudence.

ADJOURNMENT

Mr. McNamara moved that the House adjourn until 2:00 o'clock p. m. Tuesday, March 11.

Mr. Eubank moved that the House adjourn until 10:00 o'clock a. m. next Wednesday, March 12.

The motion of Mr. Eubank prevailed and the House accordingly at 12:45 o'clock a. m. Tuesday, March 11, adjourned until 10:00 o'clock a. m. Wednesday, March 12.

APPENDIX

STANDING COMMITTEE REPORTS

The following committee have filed favorable reports on bills, as follows:

Appropriations: H. B. No. 648.
Revenue and Taxation: H. B. No. 533.

The Committee on Appropriations filed an adverse report with a minority favorable on H. B. No. 322.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 652, A bill to be entitled "An Act empowering the Commissioners Court to fix the salary of county officers in counties having a population of not less than twenty-one thousand, nine hundred and eighty-five (21,985) and not more than twenty-three thousand and fifteen (23,015), according to the last preceding Federal Census; repealing all laws and parts of laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 708, A bill to be entitled "An Act to create Road District Number 4, of Lamb County, Texas; defining its boundaries; providing that said District shall be governed and controlled by the provisions of Chapter 16, General Laws, Thirty-ninth Legislature, First Called Session, 1926, and amendments, except as herein otherwise provided; conferring upon said road district all the rights, powers, privileges and duties conferred and imposed by the General Laws of Texas upon road districts; providing that any territory, included within the bounds of said district, as created by this Act, shall remain chargeable with any and all outstanding bonded indebtedness heretofore voted by such territory, under authority of Section 52, Article 3, of the Constitution; providing that nothing in this Act shall be construed as affecting the organization and establishment of Road District Number 2, of Lamb County, Texas, the indebtedness now outstanding against said Road District Number 2, and/or the levy of taxes in payment thereof, (a portion of the territory in said Road District Number 2 being included in the territory described in Section 1 of this Act); providing that said Road District Number 2 shall continue to operate as a defined road district over the territory included within its limits, described and defined in that certain order of the Commissioners' Court of Lamb County Texas, passed by said Court on April 18, 1921, recorded in Book 2, page 8, et seq., Minutes of said Court, and to which order special reference is made by Chapter 388, Special Laws passed by

the Thirty-ninth Legislature at its First Called Session in 1926, creating said Road District Number 2; providing that nothing herein shall be construed as prohibiting said Road District Number 2 from hereafter issuing road bonds on its faith and credit within the limitations prescribed by Section 52, Article 3, of the Constitution; providing that it shall not be necessary for Road District Number 4, of Lamb County, Texas, hereby created, to vote and issue bonds to compensate Road District Number 2; enacting provisions incident and relating to the subject and purpose of this Act; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 247, A bill to be entitled "An Act to amend Article 6078 of the Revised Civil Statutes of 1925, so as to fix the number and extent of county parks, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 356, A bill to be entitled "An Act authorizing the Commissioners Court in certain counties to allow each County Commissioner certain expenses in connection with the performing of the duties as road commissioner in addition to the duties as County Commissioner; providing for the payment of the same; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 256, A bill to be entitled "An Act to provide that the Commissioners Court of any county in the State may abolish dormant road districts which have paid off and discharged all of the bonds issued and sold by said road district, or when an election in such created road district for issuance of bonds shall have failed, or when the bonds issued by such road district have been assumed and exchanged for county bonds under the compensation bond statutes, Chapter 16, page 23, General Laws, Thirty-ninth Legislature, First Called Session, 1926; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 540, A bill to be entitled "An Act providing for the sale and transfer by the Texas Prison Board of certain land in the City of Huntsville, Walker County, to United Gas Corporation, in exchange for a tract of land in Huntsville, Walker County, to be conveyed by United Gas Corporation to the Texas Prison Board; authorizing and empowering the Texas Prison Board to make the exchange of said properties and authorizing the Chairman or Vice-chairman to execute a deed of conveyance to be attested by the Board's secretary; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 649, A bill to be entitled "An Act amending House Bill No. 804, Forty-fifth Legislature, Regular Session, approved May 1, 1937, making it unlawful to keep, impound, confine, or transport game fish in live boxes or ponds, or to have live boxes or ponds where game fish are kept, or to possess a vehicle in which game fish are being transported, and to possess, keep, or place in storage more than thirty game fish in Harrison and Marion Counties, State. of Texas; defining the terms 'live box,' 'pond,' 'in storage,' and 'game fish,' as used in this Act; providing for the liberation or destruction of fish confined or impounded, or kept in storage, in violation of this Act, and providing penalties for the violation of this Act; all laws and parts of laws conflicting herewith are hereby repealed, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 631, A bill to be entitled "An Act amending Chapter 10, Special Laws, 44th Legislature, Regular Session, as amended in House Bill No. 30, 'Title: Stock Laws,' Chapter 1, Acts of the 46th Legislature, Regular Session, making Clay County eligible to the provisions of this Act; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 610, A bill to be entitled "An Act amending House Bill No. 193, Acts of the Regular Session, Forty-sixth Legislature, 1939, by eliminating from the provisions thereof counties having a population of not less than seven thousand, seven hundred (7,700) and not more than seven thousand, eight hundred (7,800) according to the Federal Census of 1930; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 609, A bill to be entitled "An Act amending Senate Bill No. 367, Acts of the Forty-sixth Legislature, Regular Session, 1939, by eliminating from the provisions thereof all counties having a population of not less than three thousand, three hundred (3,300) and not more than three thousand, four hundred (3,400) according to the Federal Census of 1930; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 608, A bill to be entitled "An Act amending House Bill No. 438, Acts of the Regular Session, Forty-sixth Legislature, 1939, by eliminating from the provisions thereof counties having a population of not less than seven thousand seven hundred (7,700) and not more than seven thousand eight hundred (7,800) according to the Federal Census of 1930; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 577, A bill to be entitled "An Act prescribing additional du-

ties for County Auditors in all counties having not less than forty-one thousand (41,000) inhabitants and not more than forty-two thousand, one hundred (42,100) inhabitants, according to the last preceding Federal Census; fixing the salaries of such County Auditors; providing mode and manner of payment thereof; repealing all laws in conflict therewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 555, A bill to be entitled "An Act to amend Article 1030 of the Revised Civil Statutes of the State of Texas, 1925, as amended by Acts 1931, Forty-second Legislature, Chapter 5, page 262; providing that a City Poll Tax shall not be required to vote in any election in this State except in city elections; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 548, A bill to be entitled "An Act authorizing the Commissioners Court in certain counties to allow each County Commissioner certain expenses in connection with the performing of the duties as road commissioner in addition to the duties as County Commissioner; providing for the payment of the same; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 508, A bill to be entitled "An Act providing for additional traveling expenses for County Superintendents of Public Instruction in counties of Texas having a population of not less than eighteen thousand, nine hundred (18,900) and not more than eighteen thousand, nine hundred thirty (18,930), according to the last preceding Federal Census, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 522, A bill to be entitled "An Act providing that the salary of County Commissioners, in counties having a population of not less than 17,475 nor more than 17,500, according to the last Federal Census, and having a taxable valuation in excess of $6,800,000.00 for the next preceding year, shall be $1,800.00 per year, payable out of the Road and Bridge Fund of said county; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 447, A bill to be entitled "An Act authorizing the County Judge to employ a stenographer or clerk in any county having a population of not more than ten thousand, three hundred and ninety (10,390) and not less than ten thousand, three hundred and eighty (10,380) inhabitants, according to the last preceding Federal Census of 1940; regulating the salary of same; providing for payment of salary; providing for removal; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 494, A bill to be entitled "An Act authorizing the Commissioners' Court of any county having a population of not less than sixty thousand (60,000) and not more than eighty thousand (80,000), according to the last United States Census, to rent or let to any landowner any tractor, grader, machinery or equipment belonging to said county to be used exclusively upon land belonging to such owner situated in said county, in the construction of terraces, dikes and ditches for the purposes of said conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 489, A bill to be entitled "An Act providing that in counties having a population of not less than Thirty-one Thousand, Five Hundred (31,500), and not more than Thirty-two Thousand (32,000), according to the last preceding Federal Census, the provisions of Article 6869, Revised Civil Statutes of Texas, of 1925, as amended, insofar as such limits the number of deputies allowable to sheriffs shall not apply, but the sheriff in any such county shall have the number of deputies allowed him by the Commissioners' Court of such county, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 477, A bill to be entitled "An Act fixing the compensation for County Commissioners in certain counties; providing the manner of payment and prescribing the funds from which it shall be paid; repealing all laws in conflict herewith; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 476, A bill to be entitled "An Act amending Article 1654, Revised Civil Statutes of Texas, 1925, as amended by Chapter 35, Acts of the Fortieth Legislature, First Called Session, as amended by Chapter 28, Acts of the Forty-first Legislature, First Called Session, as amended by Chapter 15, Acts of the Forty-second Legislature, Second Called Session, by adding thereto a new section to be known as Article 1645f providing for county auditors in counties containing a population of not less than twenty-five thousand, four hundred and fifty (25,450) nor more than twenty-five thousand, five hundred (25,500) according to the last preceding Federal Census; providing for their compensation and the fund from which it shall be paid; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 473, A bill to be entitled "An Act to amend Section 6 of Chapter 264, page 440, General Laws, Forty-second Legislature, Regular Session, 1931, as amended by Chapter 425, page 860, General and Special Laws, Forty-fifth Legislature, Regular Session, 1937, so as to exempt Milam County from a closed season in the taking of wild beaver, wild otter or wild fox, or the taking

of the pelts thereof, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 471, A bill to be entitled "An Act repealing House Bill No. 907, Chapter 34, Special Laws, Acts of the 46th Legislature, Regular Session, known as the Road Work Law for Blanco County; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 446, A bill to be entitled "An Act creating a special road law for Brown County, Texas; providing that said county may fund or refund into coupon bonds the scrip and time warrants outstanding against its road and bridge fund as of the 28th day of February, 1941; setting forth the method of said funding or refunding; validating all acts of the Commissioners Court in issuing said scrip and time warrants, validating said scrip and time warrants; providing the General Laws of the State of Texas shall be applicable to Brown County when not in conflict herewith; providing this Act shall be cumulative of all General and Special Laws not in conflict herewith; providing a saving clause; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 441, A bill to be entitled "An Act making an appropriation for the 'Upper Red River Flood Control and Irrigation District'; designating who shall have authority to execute vouchers under the direction and with the consent of directors of said district; limiting the purposes for which the money may be spent; providing money therein appropriated is intended as a loan and is to be repaid to the State's General Revenue Fund from the first revenue received by said District, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 439, A bill to be entitled "An Act providing a closed season on wild deer and wild turkey in Williamson County, Texas; and providing penalties for the violation of this Act."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 417, A bill to be entitled "An Act amending Article 190a, Revised Civil Statutes, by adding Childress County to the list of counties named therein, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 434, A bill to be entitled "An Act relating to marks and brands of livestock in Austin County

only; amending Article 6899 of the Revised Civil Statutes of Texas, by adding thereto a new section to be known as Article 6899f requiring that in said county each owner of any livestock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect, have his mark and brand of such stock recorded at the office of the County Clerk of said County; and providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from taking effect of this Act all records and marks and brands now in existence shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said county; and further providing that the County Clerk of said county shall publish this Act in some newspaper in general circulation in the county for a period of thirty (30) days; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 424, A bill to be entitled "An Act to permit any county containing a population not less than Seven Thousand, One Hundred (7,100) nor more than Seven Thousand, Four Hundred Ninety-seven (7,497) according to the last preceding Federal Census to adopt by a majority vote of qualified voters of such county a county unit system to the extent provided in this Act; making provisions for the formation of a county-wide school district therein; making provision for holding election in each such county on the question of the adoption of the provisions of this Act; making provision for holding election in each such county to determine whether an equalization tax not to exceed twenty (20) cents on the One Hundred Dollars ($100.00) valuation of property shall be levied and collected annually on all taxable property in the county, such tax to be distributed to the school districts of the county as herein provided; making provision for the assessment and collection of said equalization tax, and prescribing the duties of the County Tax Assessor and Collector and County Superintendent; prescribing the duties of the County Board of School Trustees with respect to such tax and the funds derived therefrom; providing that all rights, duties and powers of the several common and independent school districts in any such county shall remain undisturbed and shall not be affected, except as expressly provided in this Act; providing a saving clause; repealing all laws in conflict herewith, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 408, A bill to be entitled "An Act authorizing the Commissioners Court in any county having a population of not less than Ten Thousand, Three Hundred and Eighty (10,380) and not more than Ten Thousand, Three Hundred and Ninety (10,390) inhabitants, according to the last preceding Federal Census, to lease any County Hospital belonging to said county, and providing for the terms of said lease; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 405, A bill to be entitled "An Act amending the 'Lower Colorado River Authority Act,' Chapter

7, Acts of the 4th Called Session, 43rd Legislature, by adding a new section to be known as Section 3-a, to provide that the Directors of the Authority who shall be appointed subsequent to the effective date of this Act shall be residents of counties through which the Colorado River flows or which are adjacent to the Colorado; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 389, A bill to be entitled "An Act amending Article 5954 of the Revised Civil Statutes of 1925 relative to authority of Notaries Public and requiring them to print or stamp their name under their signature when signed in their official capacity, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 378, A bill to be entitled "An Act making appropriations to pay the Presidential Electors of Texas, providing how it shall be made, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 295, A bill to be entitled "An Act amending Section 19, subsection h, of Senate Bill No. 5, Acts of the Forty-fourth Legislature, Second Called Session, also known as subsection h of Section 19 of Article 3912e, and all amendments to such Act, by adding thereto subsection h-3 affecting the appointment and salaries of deputies in the offices of District Clerks in all counties of 290,000 inhabitants and over, and less than 390,000 inhabitants, according to the last preceding Federal census; providing for the method of such appointments and salaries in such counties by the filing of an application with the County Judges of such counties; providing for the order of the Commissioners' Courts of such counties for the payment of said salaries of such deputies out of certain funds of such counties; providing for the oath to be taken by such deputies; providing for the method of discharge or removal of such deputies, and for the increase or decrease of the number of such deputies; providing for the repeal of all laws in conflict herewith; providing for a saving clause and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 262, A bill to be entitled "An Act authorizing the commissioners' court in all counties of this State to provide fire protection and fire fighting equipment for the citizens of the county outside of any city, town or village therein, either by the purchase and maintenance by the county of the necessary equipment, or by entering into contracts with the governing body of cities, towns or villages located within the county for the use of the fire fighting equipment of the city, town or village; providing that the operation of any fire fighting equipment outside the city limits of any city, town or village, pursuant to contracts with the commissioners' court of the county, shall be considered as operations of the county, and all persons engaged in such operations, notwithstanding they may be employees of a city, town or village, shall be considered as agents for

the county in all respects; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 349, A bill to be entitled "An Act authorizing the Board of Regents of the University of Texas and the branches thereof, the Board of Directors of the Agricultural and Mechanical College and its branches, the Board of Directors of Texas Technological College, the Board of Regents of the State Teachers' Colleges, the Board of Directors of the Texas State College for Women, and the Board of Directors of the College of Arts and Industries to charge students building use fees of not to exceed Five ($5.00) Dollars per semester for the construction and equipment of buildings and power plants, the paving of streets, the purchase of land, and for other capital improvements; providing that such acquisition, equipment and construction shall be without cost to the State of Texas; providing for the issuance of negotiable revenue bonds to be secured by a pledge of such building use fees and that such bonds may be additionally secured by a pledge of the revenues from buildings and facilities of such institutions; making it the duty of the governing boards of such institutions to fix adequate fees and charges; requiring approval of such bonds by the Attorney General and prescribing the effect thereof; providing that bonds issued under this Act shall be eligible investments for the Permanent School Fund of Texas; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 201, A bill to be entitled "An Act amending Section 11 of Article 2351 of the Revised Civil Statutes of Texas, 1925, as amended, pertaining to the powers and duties of Commissioners' Courts by adding thereto a provision authorizing the Commissioners' Court to appropriate money not exceeding Seventy-five Thousand Dollars, out of any available funds, to lend to or deposit with any agency of the State of Texas or of the United States, to aid and assist in carrying out the purposes and provisions of an Act of Congress of the United States, pertaining to the distribution of surplus commodities under the direction of the Surplus Marketing Administration in the Department of Agriculture of the United States and all regulations issued thereunder creating the Food Stamp Plan or system, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 263, A bill to be entitled "An Act to amend Article 4742 of Chapter 3, of Title 78, Revised Civil Statutes of Texas, 1925; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 218, A bill to be entitled "An Act to provide a hearing as to the sanity of persons who have previously been judicially declared to be of unsound mind; setting out procedure with reference thereto; and providing for venue of said cause of action; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 110, A bill to be entitled "An Act to create and dedicate a State Park in the County of Cherokee, two (2) miles northeast of the Town of Rusk, to include the homestead of General Joseph L. Hogg, the birthplace of Governor James Stephen Hogg, such as now owned by the descendants of James Stephen Hogg and the Town of Rusk and such adjacent land as may be acquired by the State Parks Board by donation as a part of the park to be established, said park to be known as the Jim Hogg Memorial Park; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 56, Appointing a committee of six (6) Members of the State Legislature to investigate the feasibility and probable cost of fireproofing the State Land Office Building.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 98, A bill to be entitled "An Act authorizing and directing the Board of Regents of the University of Texas to request the War and Navy Departments of the United States to establish and maintain military and naval training at said institution; and authorizing the Board not be required for entrance or graduation; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 139, A bill to be entitled "An Act validating all zoning ordinances and amendments thereto heretofore passed by the legislative bodies of cities and incorporated villages pursuant to Chapter 283, Acts of the 40th Legislature, and declaring such ordinances to be in full force and effect, insofar as the required procedure and public notices for the passage of such ordinances and the publication of such ordinances is concerned, as if passed in strict compliance with all the requirements of Chapter 283, Acts of the 40th Legislature, and other applicable general laws of the State of Texas and charter provisions; providing that this Act shall not apply to any proceedings in which the validity of the procedure for the passage of such ordinances or the regularity of the publication of such ordinances has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 159, A bill to be entitled "An Act relating to marks and brands of live stock in Gonzales County only; amending Article 6899 of the Revised Civil Statutes of Texas, by adding thereto a new section requiring that in said county each owner of any live stock mentioned in Chapter 1 of Title 121 of the Revised Civil Statutes of Texas, of 1925, shall within six (6) months after this Act takes effect, have his mark and brand for such stock re-

corded at the office of the County Clerk of said county; and providing that such owners shall so record such marks and brands whether heretofore recorded or not and that after the expiration of six (6) months from taking effect of this Act all records and marks and brands now in existence shall no longer have any force or effect and that after the expiration of six (6) months only the records made after this Act shall be effective and considered the recorded marks and brands in said county; and further providing that the County Clerk of said county shall publish this Act in some newspaper in general circulation in the county for a period of thirty (30) days; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 157, A bill to be entitled "An Act amending Section 15 of Chapter 16, Acts of the 44th Legislature, Regular Session, by providing for the payment of certain traveling and other necessary expenses, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 145, A bill to be entitled "An Act to amend Article 2687 of the 1925 Revised Civil Statutes of the State of Texas, as amended by the Acts of the Forty-fifth Legislature, by adding thereto a new section to be known as Article 2687-c, prescribing the time and place of meeting of the County Board of School Trustees; providing for their compensation and providing the fund from which same shall be paid; providing this Act shall be cumulative of all existing laws on this subject and shall in nowise repeal any special or local laws in conflict with this Act."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 137, A bill to be entitled "An Act granting to Arol Kerley and W. E. Pendergrass permission and right to sue the State of Texas and the Railroad Commission of the State of Texas, for damages arising from the following claim: That on September 21st, 1940, while said parties were traveling in an automobile on the Wright City-Henderson Highway, another automobile belonging to the Railroad Commission of the State of Texas, or to the State of Texas, and operated or caused to be operated by said Railroad Commission or the State of Texas, was negligently operated into that in which said parties were riding, so as to cause injury and damage to them and to said automobile; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 144, A bill to be entitled "An Act amending Article 3902, Section 1, of the Revised Civil Statutes of 1925, by adding Section 1b, providing for salaries of heads of departments which may be appointed by the Commissioners' Courts of counties having a population of not less than twenty-four thousand and five hundred (24,500), and not more than twenty-four thousand and seven hundred (24,700), according to the last Federal Census; and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 154, A bill to be entitled "An Act to amend Section 24, Chapter 241, H. B. 755, Acts of the Regular Session of the 44th Legislature, by adding a new paragraph to said Section 24, to be known as Subsection (c); directing the Treasurer to promulgate rules and regulations providing for the exchange or replacement of new stamps for any stamps affixed to any package of cigarettes under certain circumstances, and declaring an emergency."

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. C. R. No. 55, Setting March 8th as Texas Farm Day.

Has carefully compared same and finds it correctly engrossed.

BRIDGERS, Chairman.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Austin, Texas, March 6, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 58, Permitting adjournment of both Houses from March 6, 1941, to March 10, 1941.

Has carefully compared same and finds it correctly enrolled.

MORGAN, Acting Chairman.

Austin, Texas, March 5, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 250, "An Act to fix the maximum rate of tax to be levied for school purposes in the Crosbyton Independent School District in Crosby County, Texas, for the purpose of maintenance, payment of bonded indebtedness, and payment of such time warrants as may be legally authorized and issued by said District; providing for election authorizing issuance of bonds; repealing all laws in conflict; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HOWINGTON, Chairman.

Austin, Texas, March 5, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 241, "An Act authorizing the trustees of the Crosbyton Independent School District in Crosby County, Texas, to borrow money in a sum not to exceed Ten Thousand Dollars ($10,000) for the purpose of supplementing money on hand with which to pay outstanding obligations and to refinance and liquidate outstanding and past due indebtedness of said District, and to issue interest-bearing time warrants therefor, without an election; prescribing the terms and conditions for the issuance of said time warrants; providing for the levying of a tax to pay same; prescribing the terms and conditions and the rate of interest of said time warrants; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HOWINGTON, Chairman.

Austin, Texas, March 10, 1941.

Hon. Homer L. Leonard, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 276, "An Act to prohibit the use in all lakes and streams situated in Nolan County, Texas, all certain devices for catching fish; to limit the size and number of fish to be caught; to prohibit the taking of any fresh-water fish during the months of February, March, or April; providing the use of minnow

seines of not more than twenty (20) feet in length for the purpose of taking minnows for bait; prohibiting persons other than the owner from entering upon or fishing from rafts, piers, or boats; providing a penalty; and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

HOWINGTON, Chairman.

SENT TO THE GOVERNOR

March 6, 1941

House Bill No. 241.

House Bill No. 250.

March 10, 1941

House Concurrent Resolution No. 58.

House Bill No. 276.

THIRTY-FIFTH DAY

(Wednesday, March 12, 1941)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Leonard.

The roll of the House was called, and the following Members were present:

Mr. Speaker
Allen
Allison
Alsup
Anderson
Avant
Bailey
Baker
Bean
Bell
Benton
Blankenship
Boone
Brawner
Bridgers
Brown
Bullock
Bundy
Burkett
Burnaman
Carlton
Carrington
Cato
Celaya
Chambers
Clark
Cleveland
Coker
Colson, Mrs.
Connelly
Craig
Crossley
Crosthwait
Daniel
Davis
Deen
Dickson of Bexar
Dickson of Nolan
Donald
Dove
Duckett
Dwyer
Ellis
Eubank
Evans
Favors
Ferguson
Files
Fitzgerald
Fuchs
Garland
Gilmer
Goodman
Halsey
Hanna
Hardeman
Hargis
Harris of Dallas
Harris of Hill
Hartzog
Heflin
Helpinstill
Henderson
Hileman
Hobbs
Hoyo
Huddleston
Huffman
Hughes
Humphrey
Hutchinson
Isaacks
Jones
Kelly
Kennedy
Kersey
Kinard
King
Knight
Lansberry
Lehman
Leyendecker
Little
Lock
Love
Lowry
Lucas
McAlister
McCann
McDonald
McGlasson
McLellan
McMurry
McNamara
Manford
Manning
Markle
Martin
Matthews
Mills
Montgomery
Moore
Morgan
Morris
Morse
Murray
Nicholson
Pace
Parker
Pevehouse
Phillips
Price
Rampy
Reed of Bowie
Reed of Dallas
Ridgeway
Roark
Roberts
Rhodes
Sallas
Senterfitt
Sharpe
Shell
Simpson
Skiles
Smith of Bastrop
Smith of Atascosa
Spacek
Spangler
Stanford
Stinson
Stubbs
Thornton
Turner
Walters
Wattner
Weatherford
White
Whitesides
Winfree

Absent

Bray
Vale

Absent—Excused

Bruhl
Gandy
Howard
Howington
Klingeman
Lyle
Taylor
Voigt

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain, as follows:

"Almighty God, who are we that Thou shouldst be mindful of us, and