

JOURNAL
OF THE
House of Representatives
OF THE
FIRST CALLED SESSION
OF THE
Sixty-first Legislature
OF THE
STATE OF TEXAS
BEGUN AND HELD AT
THE CITY OF AUSTIN
JULY 28, 1969



FIRST CALLED SESSION
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HOUSE JOURNAL

SIXTY-FIRST LEGISLATURE, FIRST CALLED SESSION

AUSTIN, TEXAS, MONDAY, JULY 28, 1969

PROCEEDINGS

FIRST DAY

(Monday, July 28, 1969)

Hall of the House of Representatives

Austin, Texas

In obedience of the Proclamation of His Excellency, Preston Smith, Governor of the State of Texas, convening the Sixty-first Legislature to meet in Special Session at Austin, Texas, the seat of government, on this the twenty-eighth day of July, 1969, the Members of the House of Representatives assembled in the Hall of the House of Representatives and at 11:00 o'clock a.m., the House was called to order by the Honorable G. F. (Gus) Mutscher, Speaker.

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

| | |
|-------------------|-----------------|
| Mr. Speaker | Clayton |
| Abraham | Cobb |
| Adams | Cole |
| Allen of Harris | Cory |
| Allen of Gregg | Craddick |
| Allred | Cruz |
| Angly | Cummings |
| Archer | Daniel |
| Armstrong | Davis of Harris |
| Atwell | Davis of Travis |
| Atwood | Dickson |
| Baker | Doran |
| Bass of Harris | Dramberger |
| Bass of Van Zandt | Earthman |
| Beckham | Evans |
| Bigham | Farenthold |
| Blaine | Finck |
| Blanton | Finnell |
| Braecklein | Finney |
| Braun | Floyd |
| Bray | Garcia |
| Burgess | Golman |
| Burnett | Graves |
| Caldwell | Hale |
| Calhoun | Hannah |
| Carrillo | Harding |
| Cavness | Harris |
| Christian | Hawkins |
| Clark of Harris | Hawn |

| | |
|-----------------|--------------------|
| Haynes | Orr |
| Head | Parker |
| Heatly | of Jefferson |
| Hendricks | Parker of Denton |
| Hinson | Patterson |
| Holland | Pickens |
| Holmes of Hood | Pickett |
| Howard | Poerner |
| Hubenak | Presnal |
| Hull | Price |
| Johnson | Ratcliff |
| Jones of Harris | Ray |
| Jones of Taylor | Reed |
| Jungmichel | Rosson |
| Kilpatrick | Salem |
| Knapp | Salter |
| Kothmann | Sanchez |
| Kubiak | Santiesteban |
| Lee | Schulle |
| Lemmon | Semos |
| Ligarde | Shannon, Joe, Jr., |
| Lombardino | of Tarrant |
| Longoria | Shannon, Tommy, |
| Lovell | of Tarrant |
| McAlister | Sherman |
| McDonald | Slack |
| McKissack | Slider |
| McLaughlin | Smith |
| Moore of Hill | Solomon |
| Moore of Dallas | Stewart |
| Moore | Stroud |
| of McLennan | Swanson |
| Moreno | Tarbox |
| Moyer | Thomas |
| Muniz | Truan |
| Murray | Uher |
| Musgrove | Vale |
| Nabers | Vance |
| Neugent | Ward |
| of Galveston | Wayne |
| Newman | Weldon |
| Nichols | Wieting |
| Niland | Williams |
| Nowlin | Williamson |
| Nugent of Kerr | Willis |
| Ogg | Wright |

Absent-Excused

| | |
|------------------|------------------|
| Clark of Dallas | Jones of Lubbock |
| Holmes of Dallas | Traeger |

A quorum of the House was announced present.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"In God's word we find these admonitions:

'For ever, O Lord, thy word is settled in heaven.

Thy faithfulness is unto all generations: thou hast established the earth, and it abideth.

They continue this day according to thine ordinances: for all are thy servants.' Psalms 119: 89-90-91

Oh God, our Father, we pray for Thy wisdom and Thy guidance for the Members of this Legislative Body as they meet in this First Called Session. The hour is late as regards our State's operations and responsibilities. Help each one to know it is impossible to evade responsibility and that time waits for no man.

Give each one of our State Leaders the highest motives and the courage to do that which will be worthy of Thy blessing. May we not be guilty of playing politics at this late hour, but help us to do what is right for Texas.

In Jesus' Name we pray. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence for today on account of important business:

Mr. Traeger, for today and the remainder of the week, on account of important State business, on motion of Mr. Clayton.

Mr. Holmes of Dallas on motion of Mr. Blanton.

Mr. Jones of Lubbock on motion of Mr. Tommy Shannon of Tarrant.

Mr. Clark of Dallas on motion of Mr. Craddick.

PROCLAMATION BY THE GOVERNOR

The Speaker laid before the House and had read the following Proclamation by the Governor:

PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS

To All To Whom These Presents Shall Come:

June 30, 1969

Under the provisions of Article III, Section 5, of the Constitution of Texas, I, Preston Smith, Governor of the State of Texas, do hereby call a Special Session of the 61st Legislature to be convened in the City of Austin, commencing at 11:00 a. m., Monday, the 28th day of July, 1969, for the following purposes:

1. To enact a two-year general appropriations bill for general state services for the biennium beginning September 1, 1969 and ending August 31, 1971.

2. To provide for sufficient revenue measures to raise adequate revenue to cover the expenditures under said general appropriations bill on a "pay as you go" basis.

3. To consider and act on such other subjects and questions as the Governor may submit from time to time.

The Secretary of State will take notice of this action and will notify the Members of the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of State to be affixed hereto at Austin, this the 30th day of June, A. D. 1969.

(Seal of State)

PRESTON SMITH
GOVERNOR OF TEXAS

Martin Dies
Secretary of State

PROVIDING FOR COMMITTEES TO NOTIFY THE GOVERNOR AND THE SENATE THAT THE HOUSE OF REPRESENTATIVES IS ORGANIZED AND READY TO TRANSACT BUSINESS

Mr. McKissack offered the following resolution:

H. S. R. No. 1

Be It Resolved, by the House of Representatives of the 1st Called Session of the 61st Legislature, That the Speaker of the House appoint two committees of five (5) Members each, one to notify the Governor and one to notify the Senate, that the House of Representatives is now organized and ready to transact business.

The resolution was read and was adopted without objection.

COMMITTEES APPOINTED TO NOTIFY THE GOVERNOR AND THE SENATE THAT THE HOUSE IS ORGANIZED

The Speaker announced the appointment of the following Committee to notify the Governor that the House is now organized and ready for the transaction of business:

Representatives Ward, Chairman; McAlister, Calhoun, Cummings and Moore of Dallas.

The Speaker announced the appointment of the following Committee to notify the Senate that the House is now organized and ready for the transaction of business:

Representatives Hendricks, Chairman; Dramberger, Jones of Taylor, Kothmann and Williams.

PROVIDING FOR SPACES IN THE CAPITOL GROUNDS FOR PARKING CARS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. Cummings offered the following resolution:

H. S. R. No. 2

Whereas, The 1st Called Session of the 61st Legislature of the State of Texas is now in session; and

Whereas, It is necessary that Members of the Legislature have access to assigned parking places to assure prompt attendance at legislative sessions and committee meetings during the called session; now, therefore, be it

Resolved, That the following plan for the parking of automobiles be followed:

1. That each House Member shall have the same parking space as that assigned for the Regular Session of the 61st Legislature. Each Member will be issued a decal for the windshield of his car with the number corresponding to the number marked on the curb.

2. Each Member will refrain from parking in any spot other than the one allotted to him and which carries his number.

3. Any State employee parking in an assigned space whose car does not exhibit the proper decal will be reported to his employer and, in the case of the House, to the Speaker of the House of Representatives for corrective action at the employer's or Speaker's discretion.

4. Members of the Capitol Press Staff will be provided the same parking places assigned for the Regular Session of the 61st Legislature.

5. The Speaker is authorized to assign parking spaces for any additional employees, new Members of the House, or members of the Capitol Press as he deems necessary.

The resolution was read and was adopted without objection.

PROVIDING FOR A JOINT SESSION TO HEAR AN ADDRESS BY GOVERNOR PRESTON SMITH

Mr. Blaine offered the following resolution:

H. C. R. No. 1

Whereas, The Honorable Preston Smith, Governor of Texas, desires to deliver a message in person to the 1st Called Session of the 61st Legislature; now, therefore, be it

Resolved, by the House of Representatives of the State of Texas, the Senate concurring, That the two Houses meet in Joint Session at 11:30 o'clock a.m. in the Hall of the House on Monday, July 28, 1969, to hear the Governor's message.

The resolution was read and was adopted without objection.

SETTING FORTH OPERATIONAL PROCEDURES FOR THE MEMBERS, EMPLOYEES, ETC., OF THE FIRST CALLED SESSION OF THE SIXTY-FIRST LEGISLATURE

Mr. Tommy Shannon of Tarrant offered the following resolution:

H. S. R. No. 3

Be It Resolved, by the House of Representatives of the State of Texas, That the employees for the 1st Called Session of the 61st Legislature shall generally be the same as provided for the Regular Session of the 61st Legislature except that the number of employees in the several categories may be reduced, or eliminated, appropriately to fit the needs of the Called Session as determined by either the Speaker or the Chairman of the Committee on House Administration; provided, however, that each Member shall be allowed a secretarial staff as determined by, and at a salary to be set by, the Committee on House Administration. The Speaker and the Chairman of the Committee on House Administration are hereby empowered to employ personnel necessary for the operation of the House of Representatives and to dispense with the services of any employee for misconduct or whose services are not needed; and, be it further

Resolved, That each Member of the House of Representatives of the 61st Legislature be, and is hereby, allowed a credit in the sum of \$150.00, for the period of the 1st Called Session, for expenditures for stationery, supplies, postage, telephone tolls, telegraph tolls and other expenses as provided in H. S. R. No. 507 passed by the 61st Legislature, Regular Session. The Speaker shall be entitled to a credit for the above purposes in an amount as necessary to cover the expenses of his office; and all departments and committees of the House of Representatives shall each be allowed a credit for expenses as determined by the Committee on House Administration.

The Committee on House Administration shall direct the Contingent Expense Clerk to procure and keep

for the use of the House of Representatives, its Members, departments, and committees, such stationery, stamps, and other supplies as may be needed, and ordered by the Speaker or the Chairman of the Committee on House Administration. The Contingent Expense Clerk shall keep an itemized account of the quantity of every kind of material received, the date it was received, the price paid therefor, and the persons from whom it was received. The Contingent Expense Clerk shall cause to be kept a set of books, an account for each Member, department, and committee authorized by the House of Representatives to expend stationery, supplies, telephone and telegraph tolls, postage, and shall charge to each of the accounts its daily withdrawals. The Contingent Expense Clerk shall furnish the Chairman of House Administration, each Member, committee and department an itemized monthly statement on each of their accounts.

The offices of all departments of the House of Representatives shall be kept open on such days and during such times as the Committee on House Administration shall direct.

The Committee on House Administration shall have jurisdiction over the mailing of the House Journal.

Each Member shall be furnished with four newspapers of his own selection delivered daily in Austin.

All requisitions for paper and supplies necessary for the preparation of bills and resolutions, for the use of the Enrolling and Engrossing Rooms and the Standing Committees of the House, shall be under the direction and care of the Committee on House Administration. This committee is authorized to borrow or rent a sufficient number of typewriters and other business machines and equipment for the use of the House of Representatives and its employees, and to furnish same with proper material; and, be it further

Resolved, That sufficient copies of the House Journal as determined by the Committee on House Administration be printed daily: 100 to be delivered to the Senate, 1 copy to be

placed in each Member's mailbox, 75 copies to be delivered to the State Library, and the remainder to be left with the Committee on House Administration for distribution under the direction of the Speaker; and be it further

Resolved, That no allowance included in this Resolution shall be expended except actual salaries or actual expenses of the House, its Members, officers, committees and employees and for such other expenses as are hereinabove set out or authorized by H. S. R. No. 507 of the 61st Legislature, Regular Session, or the Committee on House Administration. All such funds necessary to be expended in payment of the above shall be paid out of the Contingent Expense Fund of the House of Representatives or any other funds appropriated for the use of the House of Representatives.

The resolution was adopted without objection.

HOUSE NOTIFIED

A Committee from the Senate was announced at the Bar of the House and, being admitted, stated that the Senate was now organized and ready for the transaction of business.

COMMITTEE APPOINTED TO ESCORT GOVERNOR PRESTON SMITH TO THE SPEAKER'S ROSTRUM

The Speaker announced the appointment of the following Committee, on the part of the House, to escort the Governor to the Speaker's Rostrum:

Representatives Atwell, Chairman; Nugent of Kerr, Carrillo, Finnell, Harding, Hale, Tarbox, Santiesteban, Howard, Pickett, Sherman and Swanson.

SENATE NOTIFIED

The Committee appointed to notify the Senate that the House of Representatives is now organized and ready for the transaction of business was announced at the Bar of the House and, being admitted, reported that they had so notified the Senate.

HOUSE AT EASE

At 11:20 o'clock a. m. the Speaker stated that the House would stand at ease until the hour set for the Joint Session.

The Speaker called the House to order at 11:27 o'clock a. m.

MESSAGE FROM THE SENATE

Austin, Texas, July 28, 1969

Honorable Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

S. C. R. No. 2, By Hightower: Calling for a Joint Session of the two Houses at 11:30 o'clock a. m., July 28, 1969.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

GOVERNOR NOTIFIED

The Committee appointed to notify the Governor that the House of Representatives is now organized and ready for the transaction of business was announced at the Bar of the House and, being admitted, reported that they had so notified the Governor.

PROVIDING FOR A JOINT SESSION TO HEAR AN ADDRESS BY GOVERNOR PRESTON SMITH

The Speaker laid before the House the following resolution:

S. C. R. No. 2

Whereas, The Honorable Preston Smith, Governor of Texas, desires to deliver a message in person to the 1st Called Session of the 61st Legislature; now, therefore, be it

Resolved, by the Senate of the State of Texas, the House of Representatives concurring, That the two Houses meet in Joint Session at 11:30 o'clock a. m. in the Hall of the House on Monday, July 28, 1969, to hear the Governor's message.

The resolution was read and was adopted without objection.

ADDRESS BY
GOVERNOR PRESTON SMITH

(The Senate and the House of Representatives in Joint Session)

In accordance with the provisions of H. C. R. No. 1 and S. C. R. No. 2, the Senate and the House of Representatives met in Joint Session at 11:30 o'clock a. m. today, for the purpose of hearing an address by the Honorable Preston Smith, Governor of Texas.

At 11:28 o'clock a. m., Lieutenant Governor Ben Barnes and the Honorable Senators were announced at the Bar of the House and were admitted to the Hall of the House.

Lieutenant Governor Ben Barnes occupied a seat on the Speaker's Rostrum.

The Honorable Senators occupied seats arranged for them.

At 11:30 o'clock a. m., Governor Preston Smith, Mrs. Preston Smith, and Senators Aikin, Berry, Bates, Snelson and Herring, Committee on the part of the Senate; and Representatives Atwell, Nugent of Kerr, Carrillo, Finnell, Harding, Hale, Tarbox, Santiesteban, Howard, Pickett, Sherman and Swanson, Committee on the part of the House were announced at the Bar of the House and, being admitted, occupied seats on the Speaker's Rostrum.

Lieutenant Governor Ben Barnes called the Senate to order.

A quorum of the Senate was announced present.

The Honorable G. F. (Gus) Mutscher, Speaker of the House, called the House of Representatives to order.

Speaker Mutscher directed the Clerk to call the roll of the House.

The roll of the House was called.

A quorum of the House was announced present.

Speaker Mutscher stated that the

two Houses were in Joint Session for the purpose of hearing an address by His Excellency, Preston Smith, Governor of Texas.

Speaker Mutscher then presented Governor Preston Smith to the Joint Session.

Governor Smith then addressed the Joint Session, speaking as follows:

LIEUTENANT GOVERNOR
BARNES . . . SPEAKER MUTS-
CHER . . . MEMBERS OF THE
LEGISLATURE . . . AND GUESTS

It is always an honor to appear before a Joint Session of the Texas Legislature—even if circumstances from time to time make one appearance more pleasant than another.

It has been only 56 days since adjournment of the Regular Session. A great many of the intervening hours have been spent preparing for this Called Session starting today.

I cannot say there has been any significant change in our financial condition these last 56 days to raise our hopes for this Special Session.

During these same days, however, there has been a significant occurrence that raises our spirits and makes us proud of our country and our countrymen.

Eight days ago, Americans took "one great stride for mankind" by setting foot on the moon. What the next great stride will bring within man's range we cannot say for sure.

But we do know that the greatest physical conquest in our experience has been made . . . One of mankind's oldest dreams . . . of exploring outer space—has been realized . . . and men's vision has been increased and their spirits uplifted the world over.

This the first official opportunity for this Legislature to mark the Glorious Flight of Apollo 11—and to pay tribute to Neil Armstrong—Buzz Aldrin—and Michael Collins—and through them to the thousands and thousands of coworkers who helped them accomplish their historic mission.

Although Texas cannot claim them, they are residents of Texas . . .

they were trained here . . . and now they have returned to Texas.

It is most appropriate, I think for Texas to honor these men—Armstrong, Aldrin and Collins—in a formal manner.

Therefore, I propose that you create a special Medal of Valor to be awarded to these three men—in the name of the State of Texas—never to be issued again.

I propose, as an extension of the purpose for which this Special Session was called, that the presiding officers of the House and Senate immediately appoint a special committee to commission the casting of such a Texas Medal of Valor.

It will be a token—small, but significant of our pride and respect—to mark one of the most momentous events in the history of Man.

And now—as I might say—back down to Earth.

Back to the task—the responsibility of setting our state finances in order for the biennium beginning September 1, 1969.

A great many things that could be said today will go unsaid, as far as I am concerned.

The chain of events—the actions and reactions and the absence of actions—that brought us back here today actually needs no elaboration.

All of us know why we are here.

I believe that all of us—now that we are here—will want to leave with the mission accomplished . . . the job well done.

The watchword for this Called Session should be harmony—harmony that will make it possible for us to discharge our duties and responsibilities to the people of Texas.

We—and that includes each Member of the Legislature as well as the Governor—we all share a grave burden during the next 30 days. We must listen to the needs and wants of all our citizenry. And we must act responsibly.

We must put aside past differences, we must do more than simply pass tax and spending bills. Priorities must be assigned to the many worthy demands for increased services from our state government.

It is my responsibility as Governor to recommend—and yours as Legislators to pass, in acceptable form, a biennial budget, a fiscal plan for State spending for the next two years.

And we must provide revenue to cover that spending.

We do not have to start from scratch because a vast amount of work already has been done upon a two-year budget. I commend the Legislative leadership—and you, the Members—for the energy and initiative already shown in this field.

A detailed analysis of the budget recommendations I am making today will be furnished you, with a copy of this message. I shall now touch some of the high spots.

The recommendations today call for a State Budget totaling \$5.8 billion during the two-year period beginning September 1, 1969.

The appropriations I suggest from General Revenue total one billion, 182 million dollars. (\$1 billion, 182 million) for two years.

This amount will exceed by \$307.5 million the estimated revenue available from existing sources after allocations for the public school bills enacted during the Regular Session for the next two years.

The 61st Legislature probably has done more than any previous Legislature for public school education. The very substantial teacher pay raise was but one part of the meaningful legislation enacted during the Regular Session which will vastly improve our school system.

Programs passed—and funded—include: teachers' salaries, teachers' sick leave, teachers' aides, special education, vocational education, summer schools, kindergarten programs and several other important items.

The total cost of this education

package is approximately \$300 million.

I commend you for these actions. I also remind you that these bills have been signed into law, and the moneys necessary to fund them already have been allocated.

In my first message to this Legislature I stated that "education at every level and of every kind demands and deserves our support." I reiterate that statement at this time.

HIGHER EDUCATION

Having said that, I turn now to higher education . . . an area some suggested was "slighted" in our initial budget.

I am recommending a General Revenue Fund increase of \$79 million for the biennium for the 22 operative State-supported colleges and universities.

Of this total, approximately \$55 million is required to meet enrollment increases at present spending levels. That figure was in my original budget.

I shall now make new recommendations which I feel will continue higher education along the path of excellence upon which it already has embarked.

To continue to improve the quality of higher education, I now recommend a faculty salary increase of 3.4 percent per year for a cost of \$13 million. I also recommend an increase in operating funds of \$11 million.

It is false economy to postpone needed maintenance. Therefore, I am recommending that \$5.6 million be budgeted for major repairs and renovation of higher education facilities.

NEW COLLEGES AND UNIVERSITIES

In the Regular Session, we authorized the creation of new institutions of higher learning in San Antonio, in Dallas, and in the Midland-Odessa area.

In accordance with the timetable prepared by the Coordinating Board, I recommend planning and initial

operating funds to be allocated during the next biennium for these schools, amounting to \$2,850,000.

This procedure will assure an orderly and economical pattern of planning and construction. And it will result in the most efficient use of the taxpayers' dollar.

I am also recommending that Texas A&I University receive \$575,000 for the development of a branch campus at Laredo, as authorized during the past legislative session.

JUNIOR COLLEGES

I am recommending that the State support rate for each student attending a Texas junior college be increased from \$475 to \$510 for a total biennial General Revenue increase of \$16.6 million.

This is a substantial, but reasonable, increase that will enable our junior colleges as enrollment grows to continue providing the fine services they now offer.

VOCATIONAL-TECHNICAL EDUCATION

The importance, even the necessity, of expanding our vocational and technical education offerings must be emphasized again. Here lies the key to shorter welfare rolls, more tax-producing citizens, and better lives for all Texans regardless of their race, their national origin or their economic station.

Vocational-technical education of the magnitude that Texas deserves also will relieve our other educational institutions which always seem to be bursting at the seams.

I am recommending a biennial General Revenue increase of \$10.1 million that will provide nearly four times the amount of General Revenue funds available to junior colleges for vocational and technical education in the past biennium.

By applying estimates of federal funds that will be available, this recommendation will permit junior college vocational-technical education programs to increase from a funding level of \$5.5 million in 1969

to \$11.4 million in 1970 and to \$12.7 million in 1971.

None could deny that the growth and the accomplishments of the Texas State Technical Institute (formerly Connally Tech) in the past few years have been rapid and beneficial to our state.

I am recommending that additional funds for expanded enrollment and programs at this school be provided and that \$900,000 be appropriated for the development of branch campuses at Harlingen and Amarillo.

MEDICAL, DENTAL AND NURSING EDUCATION

We have established new medical schools at Houston and Lubbock. I need not recite for you the evidence of our need for expanded medical training facilities.

In order that we may begin to meet our medical needs for the future, I am recommending that \$25.8 million be allocated for planning and initial construction and operation of these schools.

The Legislature passed and I signed into law a bill creating a new dental school at San Antonio. I recommend that \$250,000 be allocated for planning and initial operations for the next biennium so that plans for construction can be carried forward.

To provide for our immediate dental education needs, I recommend that \$100,000 be allocated in the second year of the biennium for temporary facilities and operation of the San Antonio dental school, and that \$600,000 be appropriated for expansion of the existing dental school at Houston in fiscal 1970.

This expansion of the Houston facility will permit an increase in the size of the entering dental class from 100 to 120 and of the entering dental hygiene class from 38 to 48.

I am recommending \$200,000 for The University of Texas System to develop the new nursing schools we have authorized for San Antonio and El Paso.

I propose that these growth funds

for health care training be supplemented by the appropriation of \$600,000 to the Coordinating Board to contract with Baylor College of Medicine in Houston and Baylor College of Dentistry in Dallas, in accordance with approved Legislation.

In recent years the attention of the world has been focused on Texas doctors, Texas medical facilities and Texas medical schools for their achievements in the transplantation of organs from one human body to another.

I recommend that \$154,000 be allotted to The University of Texas Southwestern Medical School at Dallas for equipment to carry on its work in kidney transplants.

Although this is but a small request in the total budget, its worth in human life will be appreciable.

CLOSED CIRCUIT TELEVISION

In all areas of education, meaningful economies should be sought.

The use of closed circuit television in education can effect economy without lessening quality.

To continue the development of regional closed circuit television networks authorized by prior legislatures, I am requesting an appropriation of \$3 million to the Coordinating Board.

I do not feel that we should slight one area of education to the advantage of another. And it is my belief that these requests represent a balanced and reasonable approach to Texas' education future. If we value Texas, we cannot afford to ignore or slight the education of Texans.

TEXAS INDUSTRIAL COMMISSION

With an investment of only 2.8 cents per capita—compared with the national average of nearly 30 cents per capita—the Texas Industrial Commission has been able to carry out a program of industrial development and economic growth for our State with significant results.

In 1967, six states had budgets in excess of \$1 million for industrial development—averaging \$6.9 million

per agency. The Texas Industrial Commission had an appropriation of but \$311,000.

In 1967, there were 666 new plant locations and major expansions announced in Texas, compared with an average of 551 for the other six.

In the last five years, 3,600 new plants or major expansion projects have been announced in Texas, producing more than a quarter of a million new jobs in manufacturing.

In brief, compared to other states and considering the amount of money we have invested at the State level in the industrial development program, our results have been excellent.

But still we fall far short of the potentials that could be tapped. We are faced with economic decline in many areas because of our failure to adjust to the changes in the Texas economic base.

It is evident that we must close the gap between per capita personal income here and in the nation as a whole.

I hardly need mention that industrial development means economic development for whole communities, and more jobs for Texas workers.

Considering these needs, I strongly feel that now is the time to chart a new course for Texas—the time to develop a comprehensive industrial plan to meet these challenges.

Included in the plan will be specific feasibility studies on the location of given types of industry in specific areas of the State.

Much work has been done on this new plan, but much more must be done.

Therefore, I am recommending an increase from \$311,000 to \$433,176 in the first year of the biennium and to \$534,959 in the second year for the Texas Industrial Commission.

TRAFFIC SAFETY

The Texas Traffic Safety Act of 1967 established the authority of the Governor to do "all things necessary

on behalf of the State to conduct a rigorous traffic safety program."

The Act also created a Governor's Traffic Safety Fund.

The appropriation basis established by the 60th Legislature yields an annual total of \$2 million.

Each year \$1.8 million of the Traffic Safety Fund has been assigned to the Texas Education Agency for promotion and improvement of the driver education program.

Increasing school enrollments and the consequent growing demand for driver education courses make it apparent that the entire fund soon will be required in that area alone.

On June 1, 1969, the Office of Traffic Safety Administrator was established in the Executive Department.

A prime function of this office will be the securing of full benefits to the State from the Federal Government under the Federal Highway Safety Act of 1966. With the increased funding needs of driver education, little promise exists for financing the Traffic Safety Office from present allocations and none exists for matching-grant federal funds involving administration of the 15 federal highway safety standards.

I recommend that the Governor's Traffic Safety Fund be increased from \$2 million to \$3 million in the first year and to \$3.6 million in the second year of the biennium.

OTHER RECOMMENDATIONS

I recommend a one step salary increase for State employees for the 1st year of the biennium and an additional step for the second year of the biennium.

I recommend an additional \$2 million for the State Department of Health to be used for the new meat inspection program.

I recommend for the Department of Mental Health and Mental Retardation's community centers program \$5 million in 1970 and \$6 mil-

lion in 1971, an increase of \$4 million over the present biennial level.

My recommendations also assume adoption of the Constitutional Amendment raising the welfare ceiling to be voted on August 5.

There are numerous other recommendations for increases listed in the budget document which you will receive at the close of this talk.

I recommend them to you for study.

You will note that this budget—with exception of higher education—is not inconsistent with my earlier recommendation—when you consider the extra school funds provided in the Regular Session plus the \$30 million requested now contingent upon approval of the Welfare Amendment.

REVENUE RAISING PROPOSALS

It is a challenging and difficult—but generally satisfying—obligation to make appropriations for essential State services.

But it is an awesome and sobering responsibility to propose, or to vote for, the taxes necessary to pay for these services.

I will not dwell upon that, except to recognize that we have a grim obligation to finance State programs adequately and fairly without taxing any individual or segment to the point of confiscation.

We must overcome our reluctance to vote for necessary taxes by reminding ourselves—and our people—of what a historian once said of ancient Athens:

“What the Athenians wanted most was freedom from responsibility, and in the end it was this which caused them to lose all the freedoms they had.”

I propose we meet our responsibility in this instance by passing legislation to provide for:

A one-half of one percent increase in the Limited Sales, Excise and Use Tax from the current rate of 3 per-

cent to 3½ percent, for a biennial total yield of \$159.3 million.

Increasing the tax on sale of motor vehicles from 3 percent to 3½ percent for a yield of \$27 million.

Adding 3 cents to the current 11-cent state tax on cigarettes for a yield of \$53.7 million.

An increased levy of 50 cents per \$1,000 on the Corporate Franchise Tax to automatically end after two years for a yield of \$27.9 million.

Placing alcoholic beverages under the sales tax for a total yield of \$39.6 million.

This package would raise \$307.5 million for the biennium.

There are just five items in this taxation package I have proposed. It is not complicated, and I believe it is a package with which we can all live.

The decision to make these specific proposals was not easy. Such decisions never are.

I made two different tax proposals to this Legislature during the Regular Session. This is the third one.

Different approaches have been considered and explored.

I have said in each instance: “This is one way to raise the money we must have. If you have a better idea, then let’s look at it.”

We must spread spending and taxing over a two-year period in a logical and reasonable fashion, without postponing the major decisions to another year.

This is not the time, however, to argue theories of government and taxation. It is the time to bear down and pass some sort of a tax bill to keep our State Government operating as we enter a new fiscal year.

Aside from the taxes on nonessential items and estimating that business pays up to 35 percent of sales taxes, the bill proposed here is a good division between direct and indirect taxes on the consumer.

We must remember that, if the

profit system works properly, the consumer eventually pays virtually all taxes—either directly as taxes or indirectly in the form of higher prices.

This is another subject which could be argued indefinitely. I fully expect my plan to receive criticism.

So did my other plans. So—I am sure—would any plan.

Taxes are just not popular.

And that leads me to this final word:

I do not know, except in isolated instances, what your views, your attitudes and your motivations are at this moment. What you think of my program is not as important as what you think of your own responsibilities.

What you think of me, personally, does not really matter.

It is only when we allow personalities to cloud issues and personal prejudice to warp judgment, that personal attitudes can do harm to the public interests.

It might be well—in view of some of the things that have been written and said about my relationships with the Speaker of the House and the President of the Senate—to disclaim once and for all any thought or concern that these able, dedicated, young leaders will not do everything in their power to bring this session to a prompt and successful climax.

We are all three in position to make statements and take positions. It would be a miracle if we never differed. But it is wrong to intimate that these differences are based on any personal considerations.

I am confident I will have their cooperation, as they will have mine.

There is no way that a man in a place of leadership can insure himself against criticism—nor should there be. There is no way he can silence the personal privilege speech, or censor the reproachful press release.

There is still such a thing as free speech.

At the same time, I believe we can all be big enough to set aside narrow personal feelings, forgive each other our admittedly numerous errors and work together as best we can, as rationally as we can, as wisely as we can, as expeditious as we can, to get this job done.

It is only in this way that we can prove to a watching public that we deserve to hold these offices with which they have entrusted us.

Even more importantly, for a conscientious man, it is the only way we can prove to ourselves that their trust has not been misplaced.

The Governor's door will be open to you at all times—all day long and into the night. I want to work with you. I want your help. I pledge you mine.

At the conclusion of the address by Governor Smith, Speaker Mutscher introduced Mrs. Ima Smith, wife of Governor Preston Smith, to the Joint Session.

SENATE RETIRES

At 12:06 o'clock p.m., Lieutenant Governor Ben Barnes stated that the business of the Joint Session was accomplished and that the Senate would return to its Chamber.

The Senate then retired from the House Chamber.

HOUSE AT EASE

Speaker Mutscher stated that the House would stand at ease pending the departure of the guests.

(Mr. Cory occupied the Chair temporarily.)

(Speaker in the Chair)

At 12:30 o'clock p.m. the Speaker called the House to order.

CONGRATULATORY RESOLUTION ADOPTED

The following Congratulatory Resolution was adopted unanimously:

H. S. R. No. 5, By Musgrove; Extending greetings to the people of

Legislative District No. 53 who are visiting the House of Representatives today.

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read first time and referred to Committees as follows:

By Heatly:

H. B. No. 1, A bill to be entitled An Act appropriating money for the support of the Judicial, Executive and Legislative Branches of the State Government, for the construction of State buildings, and for State aid to public junior colleges, for the two year period beginning September 1, 1969, and ending August 31, 1971; authorizing and prescribing conditions, limitations, rules and procedures for allocating and expending the appropriated funds; and declaring an emergency.

Referred to Committee on Appropriations.

By Atwell:

H. B. No. 2, A bill to be entitled An Act raising revenue for the support of State Government, amending Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by raising the rate on limited sales, excise, and use tax; amending the collection schedule to conform to the new rate; removing exemptions on alcoholic beverages; making conforming amendments to the Local Sales and Use Tax (Article 1066c, Vernon's Texas Civil Statutes); amending Chapter 6, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by raising the tax rate on the retail sale of motor vehicles; amending Chapter 7, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by levying an additional tax on cigarettes; amending Chapter 12, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, to levy additional corporate franchise taxes for a two year period; providing an effective date; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Atwell:

H. B. No. 3, A bill to be entitled An Act raising revenue for the support of State Government; amending Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, and making conforming amendments to Chapter 36, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 1066c, Vernon's Texas Civil Statutes), to include certain services under the state and local sales and use taxes, and to increase the rate of the State Sales Tax; amending Subsection (2), Article 3.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, to exclude from the natural gas tax, gas used for fuel in field operations in connection with exploring, developing, or producing oil or gas where the gas is produced and used in the field or on the lease where produced by the same operator; amending Article 3.04, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, by adding Subsection (15) to define the term "operator"; repealing Chapter 17 and Chapter 21, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

MESSAGE FROM THE SENATE

Austin, Texas, July 28, 1969

Honorable Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

S. C. R. No. 1, By Brooks: Congratulating the three men of Apollo 11 on their journey to the moon.

S. C. R. No. 3, By Herring: Providing for a Joint Session of the Legislature on August 19, 1969.

H. C. R. No. 1, By Blaine: Providing for a Joint Session at 11:30

o'clock today to hear the Governor's message.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

ADJOURNMENT

Mr. Heatly moved that the House adjourn until 10:30 o'clock a. m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 12:35 o'clock p. m., adjourned until 10:30 o'clock a. m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORT

The Committee on Appropriations filed a favorable report on H. B. No. 1.

SECOND DAY (Tuesday, July 29, 1969)

The House met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the Speaker.

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

| | |
|-------------------|-----------------|
| Mr. Speaker | Caldwell |
| Abraham | Calhoun |
| Adams | Carrillo |
| Allen of Gregg | Cavness |
| Allred | Christian |
| Angly | Clark of Harris |
| Archer | Clayton |
| Armstrong | Cobb |
| Atwell | Cole |
| Atwood | Cory |
| Baker | Craddick |
| Bass of Harris | Cummings |
| Bass of Van Zandt | Daniel |
| Beckham | Davis of Harris |
| Bigham | Davis of Travis |
| Blaine | Dickson |
| Blanton | Doran |
| Braecklein | Dramberger |
| Braun | Earthman |
| Bray | Evans |
| Burgess | Farenthold |
| Burnett | Finck |

| | |
|------------------|--------------------|
| Finnell | Newman |
| Finney | Nichols |
| Floyd | Niland |
| Garcia | Nowlin |
| Golman | Nugent of Kerr |
| Graves | Ogg |
| Hale | Orr |
| Hannah | Parker |
| Harding | of Jefferson |
| Harris | Parker of Denton |
| Hawkins | Patterson |
| Hawn | Pickens |
| Haynes | Pickett |
| Head | Poerner |
| Heatly | Presnal |
| Hendricks | Price |
| Hinson | Ratcliff |
| Holland | Ray |
| Holmes of Hood | Reed |
| Holmes of Dallas | Rosson |
| Howard | Salem |
| Hubenak | Salter |
| Hull | Sanchez |
| Johnson | Santiesteban |
| Jones of Lubbock | Schulle |
| Jones of Harris | Semos |
| Jones of Taylor | Shannon, Joe, Jr., |
| Jungmichel | of Tarrant |
| Kilpatrick | Shannon, Tommy, |
| Knapp | of Tarrant |
| Kothmann | Sherman |
| Kubiak | Slack |
| Lee | Slider |
| Lemmon | Smith |
| Ligarde | Solomon |
| Lombardino | Stewart |
| Longoria | Stroud |
| Lovell | Swanson |
| McDonald | Tarbox |
| McKissack | Thomas |
| McLaughlin | Truan |
| Moore of Hill | Uher |
| Moore of Dallas | Vale |
| Moore | Vance |
| of McLennan | Ward |
| Moreno | Wayne |
| Moyer | Weldon |
| Muniz | Wieting |
| Murray | Williams |
| Musgrove | Williamson |
| Nabers | Willis |
| Neugent | Wright |
| of Galveston | |

Absent

Clark of Dallas

Absent-Excused

| | |
|-----------------|-----------|
| Allen of Harris | McAlister |
| Cruz | Traeger |

A quorum of the House was announced present.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"Heavenly Father, we thank Thee, Lord, that this State is governed by representatives of the people, in this time of testing, passing a tax measure.

Let the democratic process be seen at its best. May everything that is done by this Legislature and the chosen leaders of this State be so clearly right that it needs no justification.

Help us, Lord, not to be swayed by emotion or ambition but by calm conviction.

In Jesus' Name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence for today on account of important business:

Mr. Traeger, on important State business, on motion of Mr. Allen of Gregg.

Mr. Allen of Harris, for today and tomorrow, on motion of Mr. Nichols.

Mr. McAlister on motion of Mr. Tarbox.

Mr. Cruz on motion of Mr. Muniz.

COMMENDING ASTRONAUTS NEIL A. ARMSTRONG, MICHAEL COLLINS AND EDWIN E. "BUZZ" ALDRIN, JR.

Mr. Lemmon offered the following resolution:

H. S. R. No. 4

Whereas, A universe of new worlds, of scientific discovery, has been opened to mankind following the fantastic voyage to the moon which culminated in man's first steps on that stark lunar surface on July 20, 1969; and

Whereas, The 20th Century explorers who ushered in this new age of discovery, America's modern voyagers in space—Neil A. Armstrong, Michael Collins and Edwin E. "Buzz" Aldrin, Jr.,—have gained the plaudits

of peoples throughout the world, the affectionate acclaim of their fellow citizens; and

Whereas, The impact of the epic adventure—from blast-off of Apollo 11 on July 16, 1969, on to the moon, and back to earth and splashdown on July 24, 1969, eight days later—is to give man, once again, the opportunity he had at the time of Creation, to make of his world what he will; the trip of America's Astronauts to the moon, made openly with communications media tuned to let all nations follow the course of the venture and share in the glorious opportunities of the accomplishments, offers a new beginning that has already brought greater harmony among men and nations; and

Whereas, Civilian Commander of Apollo 11, Neil A. Armstrong, is a native of a typical small American town, Wapakoneta, Ohio; as a youngster his major interest was aircraft—model airplanes, magazines and drawings of aircraft, and books on aircraft; he took flying lessons when he was 15, paying the \$9 for each one-hour lesson with his own earnings in a drugstore job, and received his private pilot's license at 16, pedaling home on his bicycle to tell his parents—he hadn't yet learned to drive a car; and

Whereas, He won a Naval Air Cadet Scholarship and entered Purdue University in 1947 to study aeronautical engineering, but was called to active duty at the age of 19 in the Korean War; he flew 78 combat missions, was forced to eject from one crippled plane, and lost a wing tip of a second; he returned to Purdue and was graduated in 1955; one year later, he married Janet Shearon, whom he met at Purdue, and he and Mrs. Armstrong now have two sons, Eric, 12, and Mark, 6; and

Whereas, After graduation he joined the National Advisory Committee for Aeronautics—NASA's predecessor—and flew the X-15 rocket plane as a test pilot in 1962, he applied for astronaut training and was accepted in the second class, along with Frank Borman, James A. McDivitt, the late Edward H. White, and five others; he was commander for the Gemini 8 Mission with David R.

Scott as his copilot and, early in 1966, they made the first attempt to link two craft together in space, but, after docking, the combination began to spin wildly and Armstrong brought the ship under control to make an emergency landing in the Pacific Ocean; his piloting skill was also tested in 1968 when a jet-powered training craft in which he was practicing lunar landing skittered out of control and he ejected and was parachuted to safety; and

Whereas, Air Force Lieutenant Colonel Michael Collins was assigned as command pilot on the mother ship, Command Service Module Columbia, and he orbited the moon to form a homing base for the lunar explorers on their Lunar Module Eagle; his was the lonely vigil of standing by, providing communications with Eagle from the back of the moon, being ever ready to assist Eagle to the limits of his machine and equipment; and

Whereas, The son of the late Army Major General James L. Collins, Mike Collins was born in Rome, Italy, and grew up on army bases throughout the world, so that he particularly cherishes his family life with wife, Patricia, daughters Kathleen, 10, and Ann, 7, and son Michael, 6; a 1952 graduate of West Point, he is a lieutenant colonel in the Air Force and was trained in fighter planes; he finished Air Force Test Pilot School at Edwards Air Force Base in the Mojave Desert and flew the X-15 and other experimental aircraft before turning to space; he has said that he feels space flight is an extension of the test pilot's regimen, but with more thorough, more elaborate training; also a trained engineer, he is able to apply broad knowledge to space piloting; and

Whereas, Air Force Colonel Edwin E. "Buzz" Aldrin, Jr., the second man to set foot on the moon, was also graduated from West Point, third in a class of 475 cadets in 1951; he entered the Air Force and flew 66 combat missions in the Korean War; he earned a doctor of science degree from Massachusetts Institute of Technology as a part of a special USAF program, and his doctoral thesis dealt with orbital rendezvous, a feat he performed during the flight of Gemini 12 in late 1966; he and his wife, Joan, have three children

Michael, 13, Janice, 12, and Andrew, 11; and

Whereas, "Buzz" Aldrin's only previous space flight on Gemini 12 left him the only person dissatisfied with the results: he would have liked to have pressed extravehicular activity (the "space walk") to new limits; and

Whereas, The success of Apollo 11 was viewed by approximately a half-billion people in 49 countries, all of whom were electrified at the words of Neil Armstrong as his spacecraft touched the surface of the moon: "Tranquillity Base here. The Eagle has landed"; and, later, as he exclaimed: "That's one small step for man, a giant leap for mankind"; and

Whereas, With silent streets all over America and in other lands as people stayed before their television screens, viewers watched the walks of the spacemen, saw for themselves the desolate lunar field of rocks, of fine soil showing plainly the imprints of the spacemen's big boots; and

Whereas, From high above in the mother ship came congratulations from team member Mike Collins: "Tranquillity Base, you guys did a fantastic job"; and back from the moon came the reply to their comrade: "Just keep that orbiting base up there for us"; and

Whereas, Minute by minute the people on earth were treated to description of the moon by the two men standing on its virgin soil; entranced, viewers saw the American flag and staff planted on the surface, saw the bouncing, light steps of the Astronauts, as they performed the tasks planned; the television camera was carried to a vantage point so that all might see the Eagle, the soil samples as they were collected, the rocks that were put in the containers for return to the earth; the seismograph and target for the laser from McDonald Observatory in Texas were placed in position, giving promise to great discoveries by earth-bound scientists; and

Whereas, Finally, all chores accomplished, the spacemen returned to the Eagle, awaiting the proper hour for lift-off to rejoin Columbia and Mike Collins; and

Whereas, Again, all systems performed perfectly, and after more than 21 hours on the moon, Eagle ascended without effort, with the docking procedure another great success; the long journey home to earth was begun, and splashdown came in the Pacific about 950 miles southwest of Hawaii, eight days, three hours, and 18 minutes after the odyssey began from Cape Kennedy, Florida; and

Whereas, The President of the United States of America was on the USS Hornet to greet the returning explorers and spoke for his fellow Americans and all people of the world as he said: "This is the greatest week in the history of the world since Creation"; and

Whereas, The ship's Chaplain also spoke for peoples of the world in thanking God for the successful journey, for the safe return to earth of the three American Astronauts; and

Whereas, The House of Representatives of the 61st Legislature, 1st Called Session, wishes to extend congratulations to the Astronauts of Apollo 11 for the people of Texas, who take such great pride in the National Aeronautics and Space Administration Manned Spacecraft Center, and to commend all those who have contributed so greatly to its research and accomplishments; now, therefore, be it

Resolved, That the House of Representatives of the State of Texas express appreciation to Civilian Commander Neil A. Armstrong, Air Force Lieutenant Colonel Michael Collins, and Air Force Colonel Edwin E. Aldrin, Jr., for all that their lunar exploration means to the United States of America and other nations of the world; and, be it further

Resolved, That copies of this Resolution be prepared for the Astronauts and their families as but a small expression of our deep gratitude to them for all that they have risked, all that they have so successfully accomplished.

Signed: Ray Lemmon, Tom Bass of Harris, Arthur Vance, Jim Clark of Harris, Bill Swanson and Jamie Bray.

The resolution was read and was adopted unanimously.

On motion of Mr. Wieting the names of all the Members of the House were added to H. S. R. No. 4 as signers thereof.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

H. C. R. No. 2, By Bray and Ogg: Commending Dr. Robert R. Gilruth, Director of the Manned Spacecraft Center in Houston, Texas.

S. C. R. No. 1, Commending the Crew of Apollo 11, Commander Neil Armstrong, Colonel Edwin E. (Buzz) Aldrin, Jr., and Lieutenant Colonel Michael Collins, on their flight to the moon.

TO PROVIDE FOR A JOINT SESSION TO HEAR AN ADDRESS BY W. ROBERT McLELLAN, DEPUTY ASSISTANT SECRETARY OF COMMERCE

The Speaker laid before the House the following resolution:

S. C. R. No. 3

Whereas, The State of Texas has received the distinction of having been awarded the Presidential "E" Award for Export Development; and

Whereas, This Award is in recognition of the outstanding job performed by the Texas Industrial Commission for its services in the field of Exporting since 1964; now, therefore, be it

Resolved, by the Senate of the State of Texas, the House of Representatives concurring, That W. Robert McLellan, Deputy Assistant Secretary of Commerce, be invited to address a Joint Session of the First Called Session of the 61st Legislature at 11:00 a. m., on Tuesday, August 19, 1969, for the purpose of presenting the Presidential "E" Award.

The resolution was referred to the Committee on House Administration.

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read first time and referred to Committees as follows:

By Hannah and Bass of Van Zandt:

H. B. No. 4, A bill to be entitled An Act imposing a tax on certain disposable containers, providing for administration and enforcement, and allocation of revenue; amending Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by adding a new Chapter 32; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Doran:

H. B. No. 5, A bill to be entitled An Act relating to the time limit on payment of the tax on liquor, other than ale or malt liquor; amending Subsection A, Section 21-1/8, Article I, Texas Liquor Control Act (Article 666-21-1/8, Vernon's Texas Penal Code); and declaring an emergency.

Referred to Committee on Revenue and Taxation.

RESOLUTION SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof and its caption had been read, the following enrolled resolution:

H. C. R. No. 1, Providing for a Joint Session to hear an address by Governor Preston Smith.

GRANTING PERMISSION TO EACH HOUSE FOR ADJOURNMENT FROM THURSDAY, JULY 31, 1969, TO TUESDAY, AUGUST 5, 1969

Mr. Heatly offered the following resolution:

H. C. R. No. 3

Be It Resolved, by the House of Representatives, the Senate concur-

ring, that each House grant the other permission to adjourn from Thursday, July 31, 1969, to Tuesday, August 5, 1969.

The resolution was read and was adopted without objection.

HOUSE BILL NO. 1 ORDERED NOT PRINTED

Mr. Heatly moved that all necessary rules be suspended and that H. B. No. 1 be not printed.

There was no objection offered and it was so ordered.

HOUSE BILL NO. 1 SET FOR SPECIAL ORDER

Mr. Heatly moved that H. B. No. 1 be set for special order at 9:30 o'clock a. m., Thursday, July 31.

There was no objection offered and it was so ordered.

ADJOURNMENT

Mr. Tommy Shannon of Tarrant moved that the House adjourn until 10:30 o'clock a. m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 11:05 o'clock a. m., adjourned until 10:30 o'clock a. m. tomorrow.

APPENDIX

REPORTS OF THE COMMITTEE ON ENROLLED AND ENGROSSED BILLS

Austin, Texas, July 28, 1969

The Honorable G. F. (Gus) Mutscher, Speaker of the House of Representatives

Sir: Your Committee on Enrolled and Engrossed Bills to whom was referred

H. C. R. No. 1,

has carefully compared same and finds it correctly engrossed.

WARD, Chairman

Austin, Texas, July 28, 1969

The Honorable G. F. (Gus) Mutscher, Speaker of the House of Representatives

Sir: Your Committee on Enrolled and Engrossed Bills to whom was referred

H. C. R. No. 1, Providing for a joint session,

has carefully compared same and finds it correctly enrolled.

WARD, Chairman

SENT TO THE GOVERNOR

July 29, 1969

H. C. R. No. 1

THIRD DAY

(Wednesday, July 30, 1969)

The House met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the Speaker.

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

| | |
|-------------------|-----------------|
| Mr. Speaker | Clark of Harris |
| Abraham | Clayton |
| Adams | Cobb |
| Allen of Gregg | Cole |
| Allred | Cory |
| Angly | Craddick |
| Archer | Cummings |
| Armstrong | Daniel |
| Atwell | Davis of Harris |
| Atwood | Davis of Travis |
| Baker | Dickson |
| Bass of Harris | Doran |
| Bass of Van Zandt | Dramberger |
| Beckham | Earthman |
| Bigham | Evans |
| Blaine | Farenthold |
| Blanton | Finck |
| Braecklein | Finnell |
| Braun | Finney |
| Bray | Floyd |
| Burgess | Garcia |
| Burnett | Golman |
| Caldwell | Graves |
| Calhoun | Hale |
| Carrillo | Hannah |
| Cavness | Harding |
| Christian | Harris |

| | |
|------------------|--------------------|
| Hawkins | Orr |
| Hawn | Parker |
| Haynes | of Jefferson |
| Head | Parker of Denton |
| Heatly | Patterson |
| Hendricks | Pickens |
| Hinson | Pickett |
| Holland | Poerner |
| Holmes of Hood | Presnal |
| Holmes of Dallas | Price |
| Howard | Ratcliff |
| Hubenak | Ray |
| Hull | Reed |
| Johnson | Rosson |
| Jones of Lubbock | Salem |
| Jones of Harris | Salter |
| Jones of Taylor | Sanchez |
| Jungmichel | Santiesteban |
| Kilpatrick | Schulle |
| Knapp | Semos |
| Kothmann | Shannon, Joe, Jr., |
| Kubiak | of Tarrant |
| Lee | Shannon, Tommy, |
| Lemmon | of Tarrant |
| Ligarde | Sherman |
| Lombardino | Slack |
| Longoria | Slider |
| Lovell | Smith |
| McAlister | Solomon |
| McDonald | Stewart |
| McKissack | Stroud |
| McLaughlin | Swanson |
| Moore of Hill | Tarbox |
| Moore of Dallas | Thomas |
| Moreno | Traeger |
| Moyer | Truan |
| Muniz | Uher |
| Murray | Vale |
| Musgrove | Vance |
| Nabers | Ward |
| Neugent | Wayne |
| of Galveston | Weldon |
| Newman | Wieting |
| Nichols | Williams |
| Niland | Williamson |
| Nowlin | Willis |
| Nugent of Kerr | Wright |
| Ogg | |

Absent

Clark of Dallas

Absent-Excused

| | |
|-----------------|-------------|
| Allen of Harris | Moore |
| Cruz | of McLennan |

A quorum of the House was announced present.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"Our Heavenly Father, we know Thou wilt still be in this place after

this prayer is said, and we would have it so, for we know down deep in our hearts that without Thy help we can do nothing lasting. Without Thy help, we shall talk and discuss more and more and settle less and less. Lord, Thou knowest the decisions that this Legislative Body must make. Have mercy and send Thy help. In Jesus' Name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence for today and the remainder of the week on account of important business:

Mr. Cruz on motion of Mr. Muniz.

Mr. Moore of McLennan on motion of Mr. Salter.

MESSAGE FROM THE SENATE

Austin, Texas, July 30, 1969

Honorable Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

S. C. R. No. 4, By Cole, Brooks, Schwartz, and all Members of the Senate: Memorial to Lieutenant General Andrew Davis Bruce.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

RESOLUTION SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof and its caption had been read, the following enrolled resolution:

S. C. R. No. 2, Providing for a Joint Session to hear an address by Governor Preston Smith.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

H. S. R. No. 6, By Davis of Harris and Swanson: Paying tribute to Theodore Reed Fehrenbach, Jr., for

the publication of "Lone Star," a history of Texas and the Texans.

H. S. R. No. 8, By Jones of Lubbock: Commending the Texas Youth Conference and the Texas Law Enforcement and Youth Development Foundation for sponsoring the Texas Youth Conference.

H. S. R. No. 10, By Cummings: Commending Ray R. Elliott, outstanding business leader of Houston.

MEMORIAL RESOLUTION ADOPTED

The following Memorial Resolution was adopted unanimously by a rising vote:

S. C. R. No. 4, In memory of Lieutenant General Andrew Davis Bruce of Houston, Texas.

RELATIVE TO THE SALARY OF REPRESENTATIVE JAMES H. CLARK, JR., OF DALLAS

Mr. Doran offered the following resolution:

H. S. R. No. 9

Whereas, James H. Clark, Jr., was elected to the office of State Representative, District 33, Place 12, to represent the citizens of Dallas County; and

Whereas, The 61st Legislature has been called into Special Session by proclamation of the Governor to enact laws affecting the citizens of Dallas County as well as all of the citizens of the State; and

Whereas, Representative James H. Clark, Jr., of Dallas, has announced publicly that he will not seek another term in the Legislature, and in so doing stated that he does not intend to take an active role in the Special Session now in progress; and

Whereas, An incumbent of a public office is under a legal and moral obligation to perform the duties of his office and should be called to account for incomplete performance of office, especially with the state in financial crisis to the extent that

it should get a full day's service for a full day's pay; and

Whereas, The Constitution of the State of Texas has declared that an incumbent's right to compensation could be impaired by his neglect of duty in such a manner as the Legislature might provide; now, therefore, be it

Resolved, by the House of Representatives of the 1st Called Session of the 61st Legislature, That, in accordance with the provisions of Article 16, Section 10, of the Constitution of the State of Texas, the House instruct, and by passage of this resolution does instruct, the Chief Clerk of the House to reduce the salary of Representative James H. Clark, Jr., by a proportionate amount for each day of the Special Session that he is absent and further that he be allowed no per diem for each day he is absent.

The resolution was referred to the Committee on Rules.

CREATING A SPECIAL COMMITTEE TO STUDY THE UNIVERSITY INTERSCHOLASTIC LEAGUE REGULATIONS RELATING TO ATHLETES TRANSFERRING FROM ONE SCHOOL TO ANOTHER

Mr. Swanson offered the following resolution:

H. S. R. No. 7

Whereas, Some years ago, in order to prevent unethical recruiting of athletes, the University Interscholastic League established a rule providing that an athlete, otherwise eligible for athletic competition, would lose his eligibility in transferring from one school district to another because of the change of residence of his parents or guardian; and

Whereas, At the time it was instituted and for many years since that time, the rule served a good purpose, but in recent years the Texas population has become more mobile and transfers of businessmen from one location in the State to another are frequent; and

Whereas, When entire families are

uprooted and moved from the place they call home to another town or city, the children are transferred to new schools and can adapt to the curriculum without too much difficulty; but if they are boys or girls with an interest in and aptitude for athletic competition, they lose an entire year, often their senior year, and there is no opportunity to make up this loss; now, therefore, be it

Resolved, That the House of Representatives of the 61st Legislature, 1st Called Session, hereby create an interim committee to study University Interscholastic League competition and the feasibility of creating a review board or other means of eliminating or providing for exceptions to the rule denying eligibility to athletes transferring from one school to another when their parents, for business or other reasons, move from one town to another; and, be it further

Resolved, That the committee shall be composed of five Members of the House of Representatives, appointed by the Speaker of the House; and, be it further

Resolved, That actual expenses of the members of the Athletic Eligibility Committee and other necessary expenses of operation in connection with committee activities shall be paid from the Contingent Expense Fund of the House of Representatives; the committee shall prepare a budget for its operating expense, which shall be submitted to the House Administration Committee, and no expenditures shall be made until the budget has been approved. Prior approval of nonbudgeted expenses must also be obtained from the House Administration Committee; and, be it further

Resolved, That the staff of the Texas Legislative Council be requested to serve as staff for the committee, and that the Interscholastic League of The University of Texas be requested to cooperate with the committee; and, be it further

Resolved, That the committee shall make its complete report, including findings and recommendations and drafts of any legislation deemed necessary, to the 62nd Legislature when it convenes in January, 1971.

The resolution was referred to the Committee on Interim Activities.

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read first time and referred to Committees as follows:

By Hale:

H. B. No. 6, A bill to be entitled An Act creating new judicial districts and making necessary provisions for terms of court, transfer of cases, exchange of benches, matters of administration, appointment of initial judges, juvenile boards and supplemental compensation, court officers, court reporters, and jurisdiction; creating the office of district attorney for certain judicial districts and making necessary related provisions; amending certain laws and repealing certain laws to conform to this Act; making necessary transitional provisions; providing for severability; repealing laws in conflict; providing an effective date; and declaring an emergency.

Referred to Committee on Judicial Districts.

By Swanson:

H. B. No. 7, A bill to be entitled An Act providing for licensing of environmental air conditioning and ventilating contractors; creating an examining board; providing penalties; and declaring an emergency.

Referred to Committee on Governmental Affairs and Efficiency.

By Swanson:

H. B. No. 8, A bill to be entitled An Act relating to increasing the membership of the Texas State Board of Plumbing Examiners to nine members; amending Chapter 115, Acts of the 50th Legislature, 1947 (Article 6243-101, Vernon's Texas Civil Statutes), by adding a Section 4A; and declaring an emergency.

Referred to Committee on Governmental Affairs and Efficiency.

By Swanson:

H. B. No. 9, A bill to be entitled

An Act relating to the display of certain prohibited weapons by persons engaged in the business of selling, buying, or renting these weapons; providing exceptions; providing a penalty; and declaring an emergency.

Referred to Committee on Criminal Jurisprudence.

By Swanson:

H. B. No. 10, A bill to be entitled An Act creating an institution of higher learning in Harris County, Texas; providing for the organization and control thereof; and declaring an emergency.

Referred to Committee on Higher Education.

By Williamson:

H. B. No. 11, A bill to be entitled An Act amending Section 21, Article I, Texas Liquor Control Act, as amended (Article 666-21, Vernon's Texas Penal Code), to increase the tax on distilled spirits and clarify that tax stamps are not required on malt liquor containers; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Moore of Hill:

H. B. No. 12, A bill to be entitled An Act amending Acts 1925, 39th Legislature, General Laws, Chapter 25, authorizing Water Control and Improvement Districts containing any city to annex territory heretofore or hereafter annexed to such city where the district provides water or sewer services to such city or its inhabitants thereof; providing the procedure for such annexation; and providing for the assumption by such territory of the tax-supported bonds then outstanding and theretofore voted but not sold and the levy of a tax for the payment thereof by an election called and held in the same manner as elections for the issuance of bonds; providing other matters in the premises; and declaring an emergency.

Referred to Committee on Urban Affairs.

By Parker of Jefferson:

H. B. No. 13, A bill to be entitled An Act relating to the imposition and implementation of a corporate income tax; repealing Chapter 12, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Weldon:

H. B. No. 14, A bill to be entitled An Act imposing a tax on the severing of certain natural resources, and providing for administration, enforcement, and allocation of revenue; amending Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by adding a new chapter; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Williamson:

H. B. No. 15, A bill to be entitled An Act increasing the rate of the Limited Sales, Excise and Use Tax to four percent by the levy of an additional tax of one percent; providing for allocation of portions of the additional tax to cities, counties, and independent school districts; amending Articles 20.02, 20.03, and 20.13, and Section (A) of Article 20.021, and Section (B) of Article 20.05, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended; repealing Chapter 36, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 1066c, Vernon's Texas Civil Statutes); and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Kubiak:

H. B. No. 16, A bill to be entitled An Act relating to allocation to school districts of personnel allotted under the Foundation School Program; amending Subsection (d), Section 16.11, Texas Education Code, and repealing Subsections (e), (f), and (g); repealing Section 9, Chap-

ter 872, Acts of the 61st Legislature, Regular Session, 1969; providing effective dates; and declaring an emergency.

Referred to Committee on Appropriations.

RECESS

Mr. Cavness moved that the House recess until 9:30 o'clock a. m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 10:52 o'clock a. m., took recess until 9:30 o'clock a. m. tomorrow.

APPENDIX

REPORT OF THE COMMITTEE ON ENROLLED AND ENGROSSED BILLS

Austin, Texas, July 29, 1969

The Honorable G. F. (Gus) Mut-scher, Speaker of the House of Representatives

Sir: Your Committee on Enrolled and Engrossed Bills to whom were referred

H. C. R. No. 3,

H. C. R. No. 2,

has carefully compared same and finds the resolutions correctly engrossed.

WARD, Chairman

THIRD DAY

(Continued)

(Thursday, July 31, 1969)

The House met at 9:30 o'clock a.m. and was called to order by the Speaker.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"Our Heavenly Father, though we

are experienced in the ways of men, we know all too little of the ways of God. Turn our wayward minds and hearts to Thee. Forgive the faults and failures of the past and set us free from them. Forgive us for our slowness to see the good in others and help us to see the evil in ourselves.

In our differences may we be kind, in our agreements may we be humble, that Thy will may be done through us.

In Jesus' Name. Amen."

LEAVE OF ABSENCE GRANTED

The following Member was granted leave of absence for today on account of important business:

Mr. Ligarde on motion of Mr. Caldwell.

RESOLUTIONS 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 resolutions:

S. C. R. No. 1, Congratulating the Crew of Apollo 11, Commander Neil Armstrong, Colonel Edwin E. (Buzz) Aldrin, Jr., and Lieutenant Colonel Michael Collins, on their journey to the moon.

S. C. R. No. 4, In Memory of Lieutenant General Andrew Davis Bruce of Houston, Texas.

HOUSE BILL NO. 1 ON SECOND READING

The Speaker laid before the House, as a special order, on its second reading and passage to engrossment,

H. B. No. 1, A bill to be entitled, An Act appropriating money for the support of the Judicial, Executive and Legislative Branches of the State Government, for the construction of State buildings, and for State aid to public junior colleges, for the two-year period beginning September 1, 1969, and ending August 31, 1971; authorizing and prescribing conditions, limitations, rules and procedures for allocating and expending

the appropriated funds; and declaring an emergency.

The bill was read second time.

Mr. Heatly moved that H. B. No. 1 be considered Article by Article.

The motion prevailed without objection.

The House proceeded to the consideration of Article I—Judiciary.

Mr. Nugent of Kerr offered the following amendment to Article I:

Amend H. B. No. 1 by striking the figure 20,000 in Sec. 1, pages 1-11, dealing with salary of Dist. Judges and insert the figure 18,000 and correct the overall figures accordingly.

Mr. Longoria moved to table the above amendment offered by Mr. Nugent of Kerr.

A record vote was requested by Representatives Jones of Harris, Earthman and Nugent of Kerr on the motion to table the amendment offered by Mr. Nugent of Kerr.

The motion to table prevailed by the following vote:

Yeas—104

| | |
|-----------------|------------------|
| Adams | Davis of Travis |
| Allen of Gregg | Dickson |
| Angly | Doran |
| Armstrong | Dramberger |
| Atwell | Evans |
| Baker | Farenthold |
| Bass of Harris | Finck |
| Beckham | Finnell |
| Bigham | Finney |
| Blaine | Garcia |
| Blanton | Golman |
| Braecklein | Hale |
| Bray | Hannah |
| Burgess | Harding |
| Burnett | Hawn |
| Caldwell | Haynes |
| Calhoun | Heatly |
| Carrillo | Hendricks |
| Cavness | Hinson |
| Clark of Harris | Holmes of Hood |
| Clark of Dallas | Holmes of Dallas |
| Clayton | Howard |
| Cobb | Hull |
| Cory | Johnson |
| Cummings | Jones of Lubbock |
| Davis of Harris | Jungmichel |

| | |
|-------------------------|----------------------------------|
| Kilpatrick | Ray |
| Knapp | Reed |
| Kothmann | Rosson |
| Lemmon | Salem |
| Longoria | Salter |
| McAlister | Sanchez |
| McKissack | Schulle |
| Moore of Hill | Semos |
| Moore of Dallas | Shannon, Joe, Jr., of Tarrant |
| Moreno | Shannon, Tommy, of Tarrant |
| Murray | Slack |
| Nabers | Slider |
| Neugent of Galveston | Solomon |
| Newman | Stroud |
| Niland | Swanson |
| Nowlin | Tarbox |
| Ogg | Thomas |
| Orr | Truan |
| Parker | Ward |
| of Jefferson | Wayne |
| Parker of Denton | Weldon |
| Patterson | Wieting |
| Pickens | Williams |
| Poerner | Williamson |
| Presnal | Willis |
| Price | Wright |
| Ratchiff | |

Nays—37

| | |
|-----------------|-----------------|
| Abraham | Jones of Harris |
| Allen of Harris | Jones of Taylor |
| Allred | Kubiak |
| Archer | Lee |
| Atwood | Lombardino |
| Braun | Lovell |
| Christian | McDonald |
| Cole | McLaughlin |
| Craddick | Muniz |
| Cruz | Musgrove |
| Daniel | Nichols |
| Earthman | Nugent of Kerr |
| Floyd | Pickett |
| Graves | Sherman |
| Harris | Stewart |
| Hawkins | Uher |
| Head | Vale |
| Holland | Vance |
| Hubenak | |

Absent

| | |
|-------------------|--------------|
| Bass of Van Zandt | Santiesteban |
| Moyer | Smith |

Absent-Excused

| | |
|----------------------|---------|
| Ligarde | Traeger |
| Moore of McLennan | |

There being no further amendments offered to Article I, the House

proceeded to the consideration of Article II—Public Health, Hospitals, Special Schools and Youth Institutions.

Mr. Braun offered the following amendment to Article II:

Amend House Bill 1, in Article II, page 4, by striking the following words:

“None of the funds appropriated above may be expended on water quality activities except in cooperation with the Water Quality Board.”

Mr. Braecklein moved to table the above amendment offered by Mr. Braun.

A record vote was requested by Representatives Harris, Nichols and Graves.

The motion to table prevailed by the following vote:

Yeas—83

| | |
|-----------------|-------------------------|
| Adams | Holland |
| Allen of Gregg | Holmes of Hood |
| Atwell | Hubenak |
| Baker | Hull |
| Blaine | Jones of Lubbock |
| Blanton | Jones of Taylor |
| Braecklein | Jungmichel |
| Burgess | Knapp |
| Burnett | Lemmon |
| Carrillo | Longoria |
| Cavness | McAlister |
| Clayton | McDonald |
| Cobb | McKissack |
| Cole | Moore of Hill |
| Cory | Moore of Dallas |
| Cummings | Moyer |
| Davis of Harris | Murray |
| Davis of Travis | Musgrove |
| Dickson | Nabers |
| Doran | Neugent of Galveston |
| Finck | Newman |
| Finnell | Nowlin |
| Floyd | Ogg |
| Garcia | Orr |
| Golman | Patterson |
| Hale | Pickens |
| Harding | Poerner |
| Hawkins | Presnal |
| Hawn | Price |
| Haynes | Rosson |
| Head | Salem |
| Heatly | Salter |
| Hendricks | Semos |
| Hinson | |

| | |
|--------------------|------------|
| Shannon, Joe, Jr., | Stroud |
| of Tarrant | Tarbox |
| Shannon, Tommy, | Uher |
| of Tarrant | Ward |
| Sherman | Wayne |
| Slack | Wieting |
| Slider | Williamson |
| Smith | Willis |
| Solomon | Wright |

Nays—56

| | |
|-------------------|-----------------|
| Abraham | Johnson |
| Allen of Harris | Jones of Harris |
| Allred | Kothmann |
| Angly | Kubiak |
| Archer | Lee |
| Armstrong | Lombardino |
| Atwood | Lovell |
| Bass of Harris | McLaughlin |
| Bass of Van Zandt | Moreno |
| Beckham | Muniz |
| Bigham | Nichols |
| Braun | Niland |
| Bray | Nugent of Kerr |
| Caldwell | Parker |
| Christian | of Jefferson |
| Clark of Harris | Pickett |
| Clark of Dallas | Ratcliff |
| Craddick | Ray |
| Cruz | Reed |
| Daniel | Schulle |
| Dramberger | Stewart |
| Earthman | Swanson |
| Evans | Thomas |
| Farenthold | Truan |
| Graves | Vale |
| Hannah | Vance |
| Harris | Weldon |
| Holmes of Dallas | Williams |
| Howard | |

Absent

| | |
|------------|------------------|
| Calhoun | Parker of Denton |
| Finney | Sanchez |
| Kilpatrick | Santiesteban |

Absent-Excused

| | |
|-------------|---------|
| Ligarde | Traeger |
| Moore | |
| of McLennan | |

Mr. Braun offered the following amendment to Article II:

Amend House Bill 1, in Article II, page 4, by adding the following sentence to the third paragraph to read:

"The State Health Department shall notify the Water Quality Board within ten days of any pollution control

activities in which it has been engaged and shall seek the advice and cooperation of the Water Quality Board in any water pollution activities in which it may engage."

Mr. Braecklein moved to table the above amendment offered by Mr. Braun.

A record vote was requested by Representatives Jones of Harris, Earthman and Nugent of Kerr.

The motion to table prevailed by the following vote:

Yeas—79

| | |
|------------------|--------------------|
| Allen of Gregg | McAlister |
| Atwell | McDonald |
| Baker | McKissack |
| Bass of Harris | McLaughlin |
| Blaine | Moore of Hill |
| Blanton | Moyer |
| Braecklein | Murray |
| Burgess | Nabers |
| Burnett | Neugent |
| Calhoun | of Galveston |
| Carrillo | Newman |
| Cavness | Nowlin |
| Cobb | Nugent of Kerr |
| Cory | Ogg |
| Cummings | Parker of Denton |
| Davis of Harris | Patterson |
| Davis of Travis | Pickens |
| Dickson | Poerner |
| Doran | Presnal |
| Evans | Price |
| Finck | Rosson |
| Finnell | Salem |
| Garcia | Salter |
| Golman | Semos |
| Hale | Shannon, Joe, Jr., |
| Harding | of Tarrant |
| Hawn | Shannon, Tommy, |
| Haynes | of Tarrant |
| Head | Sherman |
| Heatly | Slack |
| Hendricks | Slider |
| Hinson | Solomon |
| Holland | Stroud |
| Holmes of Hood | Swanson |
| Hubenak | Tarbox |
| Hull | Thomas |
| Jones of Lubbock | Uher |
| Jones of Taylor | Ward |
| Jungmichel | Wayne |
| Lemmon | Wieting |
| Longoria | Wright |

Nays—58

| | |
|---------|-----------------|
| Abraham | Allen of Harris |
| Adams | Allred |

| | |
|-------------------|-----------------|
| Angly | Jones of Harris |
| Archer | Kilpatrick |
| Armstrong | Kothmann |
| Atwood | Kubiak |
| Bass of Van Zandt | Lee |
| Beckham | Lombardino |
| Braun | Lovell |
| Bray | Moreno |
| Caldwell | Muniz |
| Christian | Musgrove |
| Clark of Harris | Nichols |
| Clark of Dallas | Niland |
| Clayton | Orr |
| Craddick | Parker |
| Cruz | of Jefferson |
| Daniel | Pickett |
| Dramberger | Ratcliff |
| Earthman | Ray |
| Farenthold | Reed |
| Finney | Stewart |
| Floyd | Truan |
| Graves | Vale |
| Hannah | Vance |
| Harris | Weldon |
| Hawkins | Williams |
| Holmes of Dallas | Williamson |
| Howard | Willis |
| Johnson | |

Absent

| | |
|-----------------|--------------|
| Bigham | Sanchez |
| Cole | Santiesteban |
| Knapp | Schulle |
| Moore of Dallas | Smith |

Absent-Excused

| | |
|----------------------|---------|
| Ligarde | Traeger |
| Moore of McLennan | |

There being no further amendments offered to Article II, the House proceeded to the consideration of Article III—Executive, Legislative and Administrative Departments and Agencies.

Mr. Johnson offered the following amendment to Article III:

Amend House Bill No. 1 by adding a new paragraph to provisions of the appropriation to the General Land Office and Veterans' Land Board on page III-96 of the printed bill to read as follows:

None of the funds appropriated to the General Land Office and Veterans' Land Board may be expended for maintenance and operation of any airplane for the purpose of transport-

ing any Member of the Legislature and none of the funds appropriated to the General Land Office and Veterans' Land Board may be expended for operation and maintenance of any airplane for any other purpose unless a daily log showing the names of places to which flights were made, the name of the pilot and the name or names of any passengers on each such flight, and the official business purposes of each flight is maintained and a copy of the log for each month for each airplane, certified to be correct by the Commissioner of the General Land Office, is filed with the Secretary of State of Texas within five days following the end of the month.

Mr. Slider moved to table the above amendment offered by Mr. Johnson.

A record vote was requested by Representatives Johnson, Graves and Allred.

The motion to table prevailed by the following vote:

Yeas—81

| | |
|-----------------|------------------|
| Abraham | Head |
| Adams | Heatly |
| Allen of Gregg | Hendricks |
| Atwell | Hinson |
| Baker | Holland |
| Bass of Harris | Holmes of Hood |
| Beckham | Hubenak |
| Blaine | Hull |
| Blanton | Jones of Lubbock |
| Braecklein | Jungmichel |
| Bray | Knapp |
| Burgess | Lemmon |
| Burnett | Longoria |
| Calhoun | McAlister |
| Carrillo | McLaughlin |
| Cavness | Moore of Hill |
| Cobb | Moyer |
| Cole | Murray |
| Cummings | Nabers |
| Davis of Harris | Neugent |
| Davis of Travis | of Galveston |
| Dickson | Newman |
| Doran | Niland |
| Evans | Nugent of Kerr |
| Finck | Patterson |
| Finnell | Pickens |
| Garcia | Pickett |
| Hale | Poerner |
| Harding | Presnal |
| Hawkins | Price |
| Hawn | Ray |
| Haynes | Rosson |

| | |
|-------------------------------|------------|
| Salem | Swanson |
| Salter | Tarbox |
| Sanchez | Uher |
| Santiesteban | Ward |
| Schulle | Wieting |
| Shannon, Tommy, of Tarrant | Williams |
| Slack | Williamson |
| Slider | Willis |
| Solomon | Wright |

Nays—51

| | |
|-------------------|----------------------------------|
| Allen of Harris | Kothmann |
| Allred | Kubiak |
| Angly | Lee |
| Archer | Lombardino |
| Armstrong | Lovell |
| Atwood | McDonald |
| Bass of Van Zandt | Moreno |
| Bigham | Muniz |
| Braun | Nichols |
| Caldwell | Nowlin |
| Christian | Ogg |
| Clark of Harris | Orr |
| Clark of Dallas | Parker |
| Craddick | of Jefferson |
| Cruz | Ratcliff |
| Daniel | Reed |
| Dramberger | Semos |
| Earthman | Shannon, Joe, Jr., of Tarrant |
| Farenthold | Sherman |
| Floyd | Stewart |
| Golman | Thomas |
| Graves | Truan |
| Harris | Vale |
| Holmes of Dallas | Vance |
| Howard | Weldon |
| Johnson | |
| Jones of Harris | |

Absent

| | |
|-----------------|------------------|
| Clayton | Moore of Dallas |
| Cory | Musgrove |
| Finney | Parker of Denton |
| Hannah | Smith |
| Jones of Taylor | Stroud |
| Kilpatrick | Wayne |
| McKissack | |

Absent-Excused

| | |
|----------------------|---------|
| Ligarde | Traeger |
| Moore of McLennan | |

Mr. Allred offered the following amendment to Article III:

Amend H. B. No. 1, Page III-35, State Building Commission, Item 8, travel expenses, to read \$15,000 in each column.

Mr. Slider moved to table the above amendment offered by Mr. Allred and the motion to table prevailed.

Mr. Allred offered the following amendment to Article III:

Amend H. B. No. 1, Page III-133, by deleting the provision that helicopters may not be used for traffic law enforcement.

Mr. Slider moved to table the above amendment offered by Mr. Allred.

A record vote was requested by Representatives Allred, Nichols and Graves.

The motion to table prevailed by the following vote:

Yeas—75

| | |
|------------------|-------------------------------|
| Allen of Gregg | Kubiak |
| Armstrong | Longoria |
| Atwell | McAlister |
| Baker | McKissack |
| Bass of Harris | Moore of Hill |
| Blaine | Moyer |
| Blanton | Nabers |
| Braecklein | Neugent |
| Burgess | of Galveston |
| Burnett | Newman |
| Carrillo | Niland |
| Cavness | Nowlin |
| Cobb | Nugent of Kerr |
| Cummings | Ogg |
| Davis of Harris | Orr |
| Davis of Travis | Parker of Denton |
| Dickson | Patterson |
| Doran | Poerner |
| Evans | Presnal |
| Finck | Price |
| Finnell | Ray |
| Floyd | Salter |
| Garcia | Sanchez |
| Golman | Schulle |
| Hale | Semos |
| Hannah | Shannon, Tommy, of Tarrant |
| Harding | Slack |
| Hawn | Slider |
| Haynes | Smith |
| Heatly | Solomon |
| Hinson | Stroud |
| Holland | Swanson |
| Holmes of Hood | Tarbox |
| Hubenak | Uher |
| Hull | Ward |
| Jones of Lubbock | Williamson |
| Jungmichel | Willis |
| Kilpatrick | |
| Knapp | |

Nays—64

| | |
|-------------------|--------------------|
| Abraham | Jones of Harris |
| Adams | Jones of Taylor |
| Allen of Harris | Kothmann |
| Allred | Lee |
| Angly | Lemmon |
| Archer | Lombardino |
| Atwood | Lovell |
| Bass of Van Zandt | McDonald |
| Beckham | McLaughlin |
| Bigham | Moreno |
| Braun | Muniz |
| Bray | Murray |
| Caldwell | Musgrove |
| Calhoun | Nichols |
| Christian | Parker |
| Clark of Harris | of Jefferson |
| Clark of Dallas | Pickens |
| Cole | Pickett |
| Craddick | Ratcliff |
| Cruz | Reed |
| Daniel | Rosson |
| Dramberger | Salem |
| Earthman | Shannon, Joe, Jr., |
| Farenthold | of Tarrant |
| Finney | Sherman |
| Graves | Stewart |
| Harris | Thomas |
| Hawkins | Truan |
| Head | Vale |
| Hendricks | Vance |
| Holmes of Dallas | Weldon |
| Howard | Wieting |
| Johnson | Williams |

Absent

| | |
|-----------------|--------------|
| Clayton | Santiesteban |
| Cory | Wayne |
| Moore of Dallas | Wright |

Absent-Excused

| | |
|----------------------|---------|
| Ligarde | Traeger |
| Moore of McLennan | |

Mr. Smith offered the following amendment to Article III:

Amend H. B. No. 1, Page III-35, by changing Item 10 to read as follows:

"For renovation, including two automatic elevators, and repairs of offices, committee rooms and other space in the Capitol Building occupied or utilized by the Senate and/or the House of Representatives, and including all space which will be utilized by the Senate and/or House of Representatives after space now occupied by the State Treasurer's Of-

fices and/or the State Comptroller's Offices shall be made available for use by the Senate and/or House of Representatives, to be expended only after consultation with the Speaker and Lt. Governor or their appointed committees for the year ending August 31, 1970, \$100,000.00; for the year ending August 31, 1971, \$1,400,000.00."

Mr. Slider moved to table the above amendment offered by Mr. Smith and the motion to table prevailed.

There being no further amendments offered to Article III, the House proceeded to the consideration of Article IV—Agencies of Public Education.

There were no amendments offered to Article IV, and the House proceeded to the consideration of Article V—General Provisions.

Mr. Johnson offered the following amendment to Article V:

Amend Article V, Section 19, of H. B. No. 1 by adding a Subsection e to read as follows:

"e. None of the funds appropriated in this Act may be expended by a state agency for operation or maintenance of a state-owned airplane unless the agency files a report with the Legislative Budget Board showing the names of places to which flights were made, the name of the pilot, and the name or names of any passengers on each such flight, and the official business purposes of each such flight. Such report shall be certified as to accuracy by the executive head of the agency and shall be filed by no later than October 1 for the preceding fiscal year."

Mr. Slack moved to table the above amendment offered by Mr. Johnson.

A record vote was requested by Representatives Johnson, Graves and Nichols.

The motion to table was lost by the following vote:

Yeas—62

| | |
|--------|---------|
| Adams | Blaine |
| Atwell | Blanton |

| | |
|------------------|-----------------|
| Braecklein | Moore of Dallas |
| Burgess | Moyer |
| Burnett | Murray |
| Carrillo | Nabers |
| Clayton | Neugent |
| Cobb | of Galveston |
| Davis of Travis | Newman |
| Dickson | Pickens |
| Doran | Poerner |
| Evans | Presnal |
| Finck | Ray |
| Garcia | Salter |
| Golman | Santiesteban |
| Harding | Schulle |
| Hawn | Shannon, Tommy, |
| Haynes | of Tarrant |
| Heatly | Sherman |
| Hinson | Slack |
| Holmes of Hood | Slider |
| Hubenak | Smith |
| Hull | Solomon |
| Jones of Lubbock | Stroud |
| Jungmichel | Swanson |
| Knapp | Tarbox |
| Lemmon | Ward |
| Longoria | Wayne |
| McAlister | Wieting |
| McKissack | Williamson |
| McLaughlin | Willis |
| Moore of Hill | Wright |

Nays—81

| | |
|-------------------|------------------|
| Abraham | Floyd |
| Allen of Harris | Graves |
| Allen of Gregg | Hale |
| Allred | Hannah |
| Angly | Harris |
| Archer | Hawkins |
| Armstrong | Head |
| Atwood | Hendricks |
| Baker | Holland |
| Bass of Harris | Holmes of Dallas |
| Bass of Van Zandt | Howard |
| Beckham | Johnson |
| Bigham | Jones of Harris |
| Braun | Jones of Taylor |
| Bray | Kilpatrick |
| Caldwell | Kothmann |
| Calhoun | Kubiak |
| Cavness | Lee |
| Christian | Lombardino |
| Clark of Harris | Lovell |
| Clark of Dallas | McDonald |
| Cole | Moreno |
| Cory | Muniz |
| Craddick | Musgrove |
| Cruz | Nichols |
| Cummings | Niland |
| Daniel | Nowlin |
| Dramberger | Nugent of Kerr |
| Earthman | Ogg |
| Farenthold | Orr |
| Finnell | Parker |
| Finney | of Jefferson |

| | |
|-----------|--------------------|
| Patterson | Shannon, Joe, Jr., |
| Pickett | of Tarrant |
| Price | Stewart |
| Ratcliff | Thomas |
| Reed | Truan |
| Rosson | Uher |
| Salem | Vale |
| Sanchez | Vance |
| Semos | Weldon |
| | Williams |

Absent

Davis of Harris Parker of Denton

Absent-Excused

Ligarde Traeger
Moore
of McLennan

The amendment offered by Mr. Johnson was then adopted.

Mr. Johnson moved to reconsider the vote by which the above amendment offered by himself was adopted and to table the motion to reconsider.

The motion to table prevailed.

There being no further amendments offered to Article V, the House proceeded to the consideration of Article VI—Legislature.

Mr. Lee offered the following amendment to Article VI:

Amend Section I of Article VI of House Bill No. 1 by deleting on page VI-1 the sums of 5,009,029 and 5,589,839 and substituting the following sums, 3,600,000 and 4,100,000.

Signed: LEE and ARCHER

Mr. Heatly moved to table the above amendment offered by Mr. Lee.

A record vote was requested by Representatives Lee, Archer and Angly.

The motion to table prevailed by the following vote:

Yeas—114

| | |
|----------------|-------------------|
| Adams | Bass of Harris |
| Allen of Gregg | Bass of Van Zandt |
| Armstrong | Beckham |
| Atwell | Bigham |
| Baker | Blaine |

| | |
|------------------|--------------------|
| Blanton | McKissack |
| Braecklein | McLaughlin |
| Burgess | Moore of Hill |
| Burnett | Moore of Dallas |
| Caldwell | Muniz |
| Calhoun | Musgrove |
| Carrillo | Nabers |
| Cavness | Neugent |
| Clark of Harris | of Galveston |
| Clark of Dallas | Newman |
| Clayton | Niland |
| Cobb | Nowlin |
| Cole | Nugent of Kerr |
| Cory | Ogg |
| Cruz | Orr |
| Cummings | Parker |
| Davis of Harris | of Jefferson |
| Davis of Travis | Parker of Denton |
| Dickson | Pickens |
| Doran | Poerner |
| Dramberger | Presnal |
| Evans | Price |
| Finck | Ratcliff |
| Finnell | Ray |
| Finney | Rosson |
| Floyd | Salem |
| Garcia | Salter |
| Golman | Sanchez |
| Hale | Santiesteban |
| Hannah | Schulle |
| Harding | Semos |
| Hawkins | Shannon, Joe, Jr., |
| Hawn | of Tarrant |
| Haynes | Shannon, Tommy, |
| Heatly | of Tarrant |
| Hendricks | Sherman |
| Hinson | Slack |
| Holland | Slider |
| Holmes of Hood | Smith |
| Howard | Solomon |
| Hubenak | Stewart |
| Hull | Stroud |
| Jones of Lubbock | Swanson |
| Jones of Taylor | Tarbox |
| Jungmichel | Uher |
| Kilpatrick | Vale |
| Knapp | Ward |
| Kothmann | Wayne |
| Kubiak | Weldon |
| Lemmon | Wieting |
| Lombardino | Williams |
| Longoria | Williamson |
| Lovell | Willis |
| McAlister | Wright |

Nays—29

| | |
|-----------------|------------|
| Abraham | Christian |
| Allen of Harris | Craddick |
| Allred | Daniel |
| Angly | Earthman |
| Archer | Farenthold |
| Atwood | Graves |
| Braun | Harris |
| Bray | Head |

| | |
|------------------|-----------|
| Holmes of Dallas | Patterson |
| Johnson | Pickett |
| Jones of Harris | Reed |
| Lee | Thomas |
| McDonald | Truan |
| Moreno | Vance |
| Nichols | |

Absent

| | |
|-------|--------|
| Moyer | Murray |
|-------|--------|

Absent-Excused

| | |
|-------------|---------|
| Ligarde | Traeger |
| Moore | |
| of McLennan | |

Mr. Sherman offered the following amendment to H. B. No. 1:

Amend H. B. No. 1 by reducing each item of appropriation in this Act paid out of the General Revenue Fund by 10% and adjust all figures accordingly.

Mr. Heatly moved to table the above amendment offered by Mr. Sherman.

A record vote was requested by Representatives Jones of Harris, Earthman and Lee.

The motion to table prevailed by the following vote:

Yeas—120

| | |
|-------------------|-----------------|
| Allen of Harris | Cory |
| Allen of Gregg | Cruz |
| Archer | Cummings |
| Armstrong | Daniel |
| Atwell | Davis of Harris |
| Baker | Davis of Travis |
| Bass of Harris | Dickson |
| Bass of Van Zandt | Doran |
| Beckham | Dramberger |
| Bigham | Evans |
| Blaine | Farenthold |
| Blanton | Finck |
| Braecklein | Finnell |
| Braun | Finney |
| Bray | Floyd |
| Burgess | Garcia |
| Burnett | Golman |
| Caldwell | Graves |
| Calhoun | Hale |
| Carrillo | Hannah |
| Cavness | Harding |
| Clark of Harris | Harris |
| Clark of Dallas | Hawkins |
| Clayton | Hawn |
| Cobb | Haynes |
| Cole | Heatly |

| | |
|------------------|------------------|
| Hendricks | Parker of Denton |
| Hinson | Pickens |
| Holland | Poerner |
| Holmes of Dallas | Presnal |
| Howard | Price |
| Hubenak | Ray |
| Hull | Reed |
| Johnson | Rosson |
| Jones of Lubbock | Salem |
| Jones of Taylor | Salter |
| Jungmichel | Sanchez |
| Kilpatrick | Santiesteban |
| Knapp | Schulle |
| Kothmann | Semos |
| Kubiak | Shannon, Tommy, |
| Lee | of Tarrant |
| Lemmon | Sherman |
| Lombardino | Slack |
| Longoria | Slider |
| Lovell | Smith |
| McAlister | Solomon |
| McDonald | Stroud |
| McKissack | Swanson |
| Moore of Hill | Tarbox |
| Moreno | Thomas |
| Muniz | Truan |
| Murray | Vale |
| Neugent | Vance |
| of Galveston | Ward |
| Newman | Weldon |
| Nichols | Wieting |
| Nugent of Kerr | Williams |
| Ogg | Williamson |
| Orr | Willis |
| Parker | Wright |
| of Jefferson | |

Nays—19

| | |
|-----------------|--------------------|
| Abraham | McLaughlin |
| Adams | Musgrove |
| Allred | Nabers |
| Atwood | Niland |
| Christian | Nowlin |
| Craddick | Patterson |
| Earthman | Pickett |
| Head | Shannon, Joe, Jr., |
| Holmes of Hood | of Tarrant |
| Jones of Harris | Uher |

Absent

| | |
|-----------------|----------|
| Angly | Ratcliff |
| Moore of Dallas | Stewart |
| Moyer | Wayne |

Absent-Excused

| | |
|-------------|---------|
| Ligarde | Traeger |
| Moore | |
| of McLennan | |

Mr. Sherman offered the following amendment to the bill:

Amend H. B. No. 1 by reducing each item of appropriation in this Act paid out of the General Revenue Fund by 5% and adjust all figures accordingly.

Mr. Heatly moved to table the above amendment offered by Mr. Sherman, and the motion to table prevailed.

RECORD OF VOTES

Mr. Patterson and Mr. Finnell requested to be recorded as voting "Nay" on the motion to table the above amendment offered by Mr. Sherman.

Mr. Carrillo offered the following amendment to the bill:

Amend H. B. No. 1 by adding a new section at page V-56 to read as follows:

"Sec. 58. None of the funds appropriated in this Act shall be expended by agencies which practice racial discrimination in the employment of personnel."

Signed: CARRILLO and LONGORIA

The amendment was adopted without objection.

A record vote was requested by Representatives Jones of Harris, Earthman and Lee on the passage of H. B. No. 1 to engrossment.

H. B. No. 1 was passed to engrossment by the following vote:

Yeas—128

| | |
|-------------------|-----------------|
| Adams | Burgess |
| Allen of Harris | Burnett |
| Allen of Gregg | Caldwell |
| Allred | Calhoun |
| Angly | Carrillo |
| Armstrong | Cavness |
| Atwell | Clark of Harris |
| Baker | Clark of Dallas |
| Bass of Harris | Clayton |
| Bass of Van Zandt | Cobb |
| Beckham | Cole |
| Bigham | Cory |
| Blaine | Cruz |
| Blanton | Cummings |
| Braecklein | Daniel |
| Bray | Davis of Harris |

| | |
|------------------|--------------------|
| Davis of Travis | Newman |
| Dickson | Niland |
| Doran | Nowlin |
| Dramberger | Nugent of Kerr |
| Evans | Ogg |
| Finck | Orr |
| Finnell | Parker |
| Finney | of Jefferson |
| Floyd | Parker of Denton |
| Garcia | Patterson |
| Golman | Pickens |
| Hale | Pickett |
| Hannah | Poerner |
| Harding | Presnal |
| Hawkins | Price |
| Hawn | Ratcliff |
| Haynes | Ray |
| Head | Reed |
| Heatly | Rosson |
| Hendricks | Salem |
| Hinson | Salter |
| Holland | Sanchez |
| Holmes of Hood | Santiesteban |
| Holmes of Dallas | Schulle |
| Howard | Semos |
| Hubenak | Shannon, Joe, Jr., |
| Hull | of Tarrant |
| Johnson | Shannon, Tommy, |
| Jones of Lubbock | of Tarrant |
| Jones of Taylor | Sherman |
| Jungmichel | Slack |
| Kilpatrick | Slider |
| Knapp | Smith |
| Kothmann | Solomon |
| Kubiak | Stewart |
| Lemmon | Stroud |
| Lombardino | Swanson |
| Longoria | Tarbox |
| Lovell | Thomas |
| McAlister | Truan |
| McDonald | Uher |
| McLaughlin | Vale |
| Moore of Hill | Ward |
| Moreno | Wayne |
| Muniz | Weldon |
| Murray | Wieting |
| Musgrove | Williams |
| Nabers | Williamson |
| Neugent | Willis |
| of Galveston | Wright |

Nays—13

| | |
|-----------|-----------------|
| Abraham | Farenthold |
| Archer | Graves |
| Atwood | Harris |
| Braun | Jones of Harris |
| Christian | Nichols |
| Craddick | Vance |
| Earthman | |

Present—Not Voting

Lee

Absent

| | |
|-----------------|-------|
| McKissack | Moyer |
| Moore of Dallas | |

Absent-Excused

| | |
|---------|-------------|
| Ligarde | Traeger |
| Moore | of McLennan |

PAIRED

Mr. Lee (present), who would vote "Nay" with Mr. Moore of McLennan (absent) who would vote "Yea."

HOUSE BILL NO. 1 ON
THIRD READING

Mr. Heatly moved that the constitutional rule requiring bills to be read on three several days be suspended and that House Bill No. 1 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—126

| | |
|-------------------|------------------|
| Adams | Dickson |
| Allen of Harris | Doran |
| Allen of Gregg | Dramberger |
| Allred | Evans |
| Armstrong | Finck |
| Atwell | Finnell |
| Baker | Finney |
| Bass of Harris | Floyd |
| Bass of Van Zandt | Garcia |
| Beckham | Golman |
| Bigham | Hale |
| Blaine | Hannah |
| Blanton | Harding |
| Braecklein | Hawkins |
| Bray | Hawn |
| Burgess | Haynes |
| Burnett | Head |
| Caldwell | Heatly |
| Calhoun | Hendricks |
| Carrillo | Hinson |
| Cavness | Holland |
| Clark of Harris | Holmes of Hood |
| Clark of Dallas | Holmes of Dallas |
| Clayton | Howard |
| Cobb | Hubenak |
| Cole | Hull |
| Cory | Johnson |
| Cruz | Jones of Lubbock |
| Cummings | Jungmichel |
| Daniel | Kilpatrick |
| Davis of Harris | Knapp |
| Davis of Travis | Kothmann |

| | |
|-------------------------|----------------------------------|
| Kubiak | Reed |
| Lemmon | Rosson |
| Lombardino | Salem |
| Longoria | Salter |
| Lovell | Sanchez |
| McAlister | Santiesteban |
| McDonald | Schulle |
| McKissack | Semos |
| McLaughlin | Shannon, Joe, Jr., of Tarrant |
| Moore of Hill | Shannon, Tommy, of Tarrant |
| Moreno | Sherman |
| Muniz | Slack |
| Murray | Slider |
| Musgrove | Smith |
| Nabers | Solomon |
| Neugent of Galveston | Stewart |
| Newman | Stroud |
| Niland | Swanson |
| Nowlin | Tarbox |
| Ogg | Thomas |
| Orr | Truan |
| Parker | Uher |
| of Jefferson | Vale |
| Parker of Denton | Ward |
| Patterson | Wayne |
| Pickens | Weldon |
| Pickett | Wieting |
| Poerner | Williams |
| Presnal | Williamson |
| Price | Willis |
| Ratcliff | Wright |
| Ray | |

Nays—17

| | |
|------------|-----------------|
| Abraham | Graves |
| Angly | Harris |
| Archer | Jones of Harris |
| Atwood | Jones of Taylor |
| Braun | Lee |
| Christian | Nichols |
| Craddick | Nugent of Kerr |
| Earthman | Vance |
| Farenthold | |

Absent

Moore of Dallas Moyer

Absent-Excused

Ligarde Traeger
Moore
of McLennan

The Speaker then laid House Bill No. 1 before the House on third reading and final passage.

The bill was read third time and was passed.

Mr. Heatly moved to reconsider the vote by which H. B. No. 1 was pass-

ed and to table the motion to reconsider.

The motion to table prevailed.

The Speaker stated that H. B. No. 1 was passed subject to the provisions of Section 49A, Article III, of the Constitution of Texas.

REASON FOR VOTE

Reason for voting against the General Appropriations Bill (H. B. No. 1):

Today I voted against the General Appropriations Bill because it contains a legislative device known as a "rider" which prevents the State Health Department from performing its duty of protecting the health of the people of this State. The bill also contains other so-called riders to which I am opposed in principle. I doubt their constitutionality and think that they are an irresponsible and deliberate device to hide the government of this State from the people. Each measure should be voted on separately on its merits, not hidden away. Therefore, I felt it was incumbent upon me to vote against the appropriations bill in the form in which it came before the House today.

Signed: REX BRAUN

MESSAGE FROM THE SENATE

Austin, Texas, July 31, 1969

Honorable Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

H. C. R. No. 2, By Bray, Ogg: Congratulating Dr. Robert Gilruth for his outstanding direction of America's space conquest.

S. B. No. 1, By Aikin: Appropriating money for State Government for a two-year period beginning September 1, 1969, and ending August 31, 1971; and declaring an emergency.

S. C. R. No. 5, By Christie: A tribute to the 5th Marine Division Band of the United States Marine Corps of Camp Pendleton, California.

H. C. R. No. 3, By Heatly: Granting permission for each House to adjourn from Thursday, July 31, 1969, to Tuesday, August 5, 1969.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

RESOLUTIONS 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 resolutions:

H. C. R. No. 2, Commending Dr. Robert R. Gilruth, Director of the Manned Spacecraft Center in Houston, Texas.

H. C. R. No. 3, Granting permission to each House for adjournment from Thursday, July 31, 1969, to Tuesday, August 5, 1969.

RECORD OF VOTE

Mr. Doran requested to be recorded as voting "Nay" on the adoption of H. C. R. No. 3, the vote being on July 29, 1969.

MEMORIAL RESOLUTIONS ADOPTED

The following Memorial Resolutions were adopted unanimously by a rising vote:

H. S. R. No. 12, By Calhoun, Howard, Ratcliff, Kilpatrick, and Allen of Gregg: In memory of Jesse P. Sewell, of Abilene, Texas.

H. S. R. No. 14, By Calhoun: In memory of James B. Dunigan, of Abilene, Texas.

H. S. R. No. 15, By Hull: In memory of Harry Lenox Bengtson, Sr., of Austin, Texas.

H. S. R. No. 16, By Allen of Gregg: In memory of Thomas Edwin Lacy, of Longview, Texas.

H. S. R. No. 18, By Cory: In memory of Paul Francis Correll, Sr., of Victoria, Texas.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

H. S. R. No. 17, By Adams: A tribute to Josiah Wheat of Woodville, Texas, President of the State Bar of Texas.

S. C. R. No. 5, A tribute to the musical artistry and patriotism of the 5th Marine Division Band of the United States Marine Corps of Camp Pendleton, California.

ADJOURNMENT

Mr. Heatly moved that the House adjourn until 11:00 o'clock a. m. next Monday.

The motion prevailed without objection.

The House accordingly, at 12:40 o'clock p. m., adjourned until 11:00 o'clock a. m. next Monday.

APPENDIX

STANDING COMMITTEE REPORT

The Committee on House Administration has filed a favorable report on S. C. R. No. 3.

REPORT OF THE COMMITTEE ON ENROLLED AND ENGROSSED BILLS

Austin, Texas, July 31, 1969

The Honorable G. F. (Gus) Mutscher, Speaker of the House of Representatives

Sir: Your Committee on Enrolled and Engrossed Bills to whom were referred

H. C. R. No. 3

H. C. R. No. 2

has carefully compared same and finds the resolutions correctly enrolled.

WARD, Chairman

In Memory Of

Mrs. Morgan Jones, Sr.

Mr. Calhoun offered the following resolution:

H. S. R. No. 13

Whereas, A lovely and gracious lady who was a leader in Abilene community affairs, Mrs. Morgan Jones, Sr., died July 22, 1969, at the age of 86; Mrs. Jones was the mother of our esteemed colleague, the Honorable Grant Jones; and

Whereas, Mrs. Jones, the former Jessie Kenan Wilder of Graham, was a graduate of Weatherford College, and was a music teacher in Seymour at the time she married the late Morgan C. Jones in 1904; and

Whereas, A lady of rare civic dedication, Mrs. Jones was blessed with a great love and compassion for her fellow citizens. These admirable qualities, combined with her unlimited talent and energy, made her a foremost leader in Abilene community and charitable organizations; and

Whereas, She was known as a "guardian angel" of the United Fund Organization and she founded one of the agencies, the Negro Day Nursery, which gave working mothers a nursery for their children; and

Whereas, She served on the board of directors of several United Fund agencies, she was a former president of the Abilene Free Milk Fund, a former Chairman of the Home Service Committee of the American Red Cross, and she was active in the Girl Scouts organization; and

Whereas, She was a former president of the Abilene Women's Club and of the City Federation of Women's Clubs; a director

of the executive board of the Abilene Museum of Fine Arts for 20 years, she was honored by the American Artists League, Incorporated, when her name was inscribed on the honor roll at the organization's headquarters in New York City; and

Whereas, This dedicated Texas woman was a member of the City Park and Public Recreation Board, and in 1951, she was president of the Abilene Park Board. She was also a founder of the Abilene Garden Club; and

Whereas, Through her work in the 1930's on state beautification, Mrs. Jones was instrumental in establishing a system of roadside parks in Texas; and

Whereas, In 1945 she was voted "Lady of the Year" by the Alpha Omicron and Zeta Alpha Chapters of Beta Sigma Phi and she was honored by the Abilene Exchange Club in 1965 as the recipient of their Golden Deeds Award; and

Whereas, She was a devoted member of St. Paul United Methodist Church and taught a Sunday School class for many years; and

Whereas, The City of Abilene has been immensely enriched by the compassion and understanding of Mrs. Morgan Jones, and her many good works serve as a lasting memorial to her inestimable character; now, therefore, be it

Resolved, That the House of Representatives of the 61st Legislature, 1st Called Session, honor the memory of this great lady of Texas, Mrs. Morgan Jones, Sr., and extend sympathy to the members of her family: to her sons, Morgan Jones, Jr., and the Honorable Grant Jones, State Representative, both of Abilene; and to her two daughters, Mrs. Lockett Shelton of Dallas and Mrs. Everett Fulgham of Little Rock, Arkansas; and, be it further

Resolved, That a copy of this Resolution be prepared for the members of her family, and that when the House of Representatives of the 61st Legislature, 1st Called Session, adjourns this day, it do so in memory of Mrs. Morgan Jones, Sr.

The resolution was adopted unanimously by a rising vote.

On motion of Mr. Dickson the names of all the Members of the House were added to H. S. R. No. 13 as signers thereof.

FOURTH DAY

(Monday, August 4, 1969)

The House met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the Speaker.

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

| | |
|-------------------|------------------|
| Mr. Speaker | Haynes |
| Adams | Head |
| Allen of Harris | Heatly |
| Allen of Gregg | Hendricks |
| Allred | Hinson |
| Angly | Holland |
| Archer | Holmes of Hood |
| Armstrong | Holmes of Dallas |
| Atwell | Howard |
| Atwood | Hubenak |
| Baker | Hull |
| Bass of Harris | Johnson |
| Bass of Van Zandt | Jones of Lubbock |
| Beckham | Jones of Harris |
| Bigham | Jones of Taylor |
| Blaine | Jungmichel |
| Blanton | Kilpatrick |
| Braun | Knapp |
| Bray | Kothmann |
| Burgess | Kubiak |
| Burnett | Lee |
| Caldwell | Lemmon |
| Calhoun | Ligarde |
| Carrillo | Lombardino |
| Christian | Longoria |
| Clark of Harris | Lovell |
| Clayton | McAlister |
| Cobb | McDonald |
| Cole | McLaughlin |
| Cory | Moore of Hill |
| Craddick | Moore of Dallas |
| Cummings | Moore |
| Daniel | of McLennan |
| Davis of Travis | Moreno |
| Dickson | Moyer |
| Doran | Muniz |
| Dramberger | Murray |
| Earthman | Musgrove |
| Evans | Neugent |
| Farenthold | of Galveston |
| Finck | Newman |
| Finnell | Nichols |
| Finney | Niland |
| Floyd | Nowlin |
| Garcia | Nugent of Kerr |
| Golman | Ogg |
| Graves | Orr |
| Hale | Parker of Denton |
| Hannah | Patterson |
| Harding | Pickens |
| Harris | Pickett |
| Hawkins | Poerner |
| Hawn | Presnal |

| | |
|--------------------|------------|
| Price | Smith |
| Ratcliff | Solomon |
| Ray | Stewart |
| Reed | Stroud |
| Rosson | Swanson |
| Salem | Tarbox |
| Salter | Truan |
| Sanchez | Uher |
| Santiesteban | Vale |
| Schulle | Vance |
| Semos | Ward |
| Shannon, Joe, Jr., | Wayne |
| of Tarrant | Weldon |
| Shannon, Tommy, | Wieting |
| of Tarrant | Williams |
| Sherman | Williamson |
| Slack | Willis |
| Slider | Wright |

Absent

Cruz

Absent-Excused

| | |
|-----------------|--------------|
| Abraham | Nabers |
| Braecklein | Parker |
| Cavness | of Jefferson |
| Clark of Dallas | Thomas |
| Davis of Harris | Traeger |
| McKissack | |

A quorum of the House was announced present.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"In Ecclesiastes we find these words:

'Let us hear the conclusion of the whole matter: Fear God, and keep his commandments: for this is the whole duty of man.

For God shall bring every work into judgment, with every secret thing, whether it be good, or whether it be evil.'

Ecclesiastes 12: 13-14

Our Father and our God: During this day that the Lord has made, help us, Oh God, to appreciate its beauty and to use aright its opportunities.

Deliver us, we pray, from spending our precious time in this life on trifles. May we spend our energy and thoughts on what is important that we may accomplish something worthwhile.

Teach us to listen to the prompting of Thy Spirit and save us from floundering in indecision that wastes time, destroys our efficiency, and multiplies our troubles.

In Jesus' Name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence for today on account of important business:

Mr. Davis of Harris on motion of Mr. Cummings.

Mr. Traeger on motion of Mr. Tommy Shannon of Tarrant.

Mr. Parker of Jefferson on motion of Mr. Kubiak.

Mr. Braecklein on motion of Mr. Heatly.

Mr. Abraham on motion of Mr. Christian.

Mr. Clark of Dallas on motion of Mr. Holmes of Dallas.

Mr. McKissack on motion of Mr. Atwell.

The following Member was granted leave of absence for today on account of illness:

Mr. Thomas on motion of Mr. Allred.

The following Member was granted leave of absence for today on account of the birth of a baby boy:

Mr. Nabers on motion of Mr. Wieting.

The following Member was granted leave of absence for today on account of a death in his family:

Mr. Cavness on motion of Mr. Calhoun.

MESSAGE FROM THE SENATE

Austin, Texas, August 4, 1969

Honorable Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate

to inform the House that the Senate has passed the following:

S. C. R. No. 6, By Brooks, Blanchard and all Members of the Senate: Appointing a Lunar Landing Commission of Texas, etc.

C. S. H. B. No. 1, By Heatly: Appropriating money for State Government for a two year period beginning September 1, 1969, and ending August 31, 1971; and declaring an emergency.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

RESOLUTION SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof and its caption had been read, the following enrolled resolution:

S. C. R. No. 5, A tribute to the 5th Marine Division Band of the United States Marine Corps of Camp Pendleton, California.

CONGRATULATORY RESOLUTION ADOPTED

The following Congratulatory Resolution was adopted unanimously:

H. S. R. No. 20, By Adams: Congratulating the Vocational Agricultural Teachers of the State of Texas.

HOUSE BILL NO. 1 WITH SENATE AMENDMENTS

Mr. Heatly called up with Senate Amendments for consideration at this time,

H. B. No. 1, A bill to be entitled An Act appropriating money for the support of the Judicial, Executive and Legislative Branches of the State Government, for the construction of State buildings, and for State aid to public junior colleges, for the two year period beginning September 1, 1969, and ending August 31, 1971; authorizing and prescribing conditions, limitations, rules and procedures for allocating and expending the appropriated funds; and declaring an emergency.

Mr. Heatly moved to suspend all necessary rules and not concur in the Senate Amendments to H. B. No. 1, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

**APPOINTMENT OF CONFERENCE
COMMITTEE ON HOUSE
BILL NO. 1**

The Speaker announced the appointment of the following Conference Committee, on the part of the House, on H. B. No. 1:

Representatives Heatly, Chairman; Slack, Vice-Chairman; Braecklein, Longoria and Slider.

PROVIDING FOR THE APPOINTMENT OF THE LUNAR LANDING COMMISSION OF TEXAS

The Speaker laid before the House the following resolution:

S. C. R. No. 6

Whereas, Texans take great pride that the National Aeronautics and Space Administration Manned Spacecraft Center directs the nation's efforts in space exploration from Texas soil, while aware, always, that this vast scientific complex in Houston belongs not only to Texas but to the entire United States of America; and

Whereas, The people of Texas shared with fellow Americans and the peoples of other lands the thrill that came in the most recent manned space exploration by the Apollo 11 Mission, which culminated on July 20, 1969, with people on earth actually seeing America's Astronauts set foot on lunar soil and place there Old Glory, standard of the United States of America; and

Whereas, The Governor of Texas, the Honorable Preston Smith, has called upon the Texas Legislature to join him in planning an appropriate formal tribute to Neil Armstrong, Edwin E. "Buzz" Aldrin, and Michael Collins, America's Astronauts who are now residents of Texas, and, through them, to the thousands and thousands of scientists and

technicians who helped in accomplishing the Mission that has gained a place in history beside the exploits of Leif Ericson, Christopher Columbus, Ferdinand Magellan, and those other illustrious explorers and discoverers of the Age of Man; and

Whereas, In making his proposal to honor the American Lunar Astronauts, Governor Smith has suggested that a special Medal Of Valor be awarded to Neil Armstrong, Buzz Aldrin, and Michael Collins in the name of the State of Texas, this medal never to be issued to any other person on any other occasion; now, therefore, be it

Resolved, by the Senate of the State of Texas, the House of Representatives concurring, That the 61st Legislature, 1st Called Session, hereby direct that the following be accomplished:

Section 1. A Commission, to be known as the Lunar Landing Commission of Texas, is hereby created consisting of nine members: three Members of the Senate, appointed by the Lieutenant Governor; three Members of the House of Representatives, appointed by the Speaker of the House; and three citizen members, appointed by the Governor. The Governor shall designate the Chairman of the Commission and shall call its first meeting, at which time members shall elect a vice-chairman and secretary and adopt rules of procedure. After the first meeting, the Commission shall meet on the date and at the place designated by the chairman.

Sec. 2. Appointments to the Commission by the respective appointing officials shall be made without delay, so that the Commission shall be organized and come into existence on September 1, 1969; terms of all appointees shall expire on February 1, 1971, or upon completion of the tasks set out in this Resolution, whichever occurs first. Any vacancy in membership shall be filled by the state official who initially makes the appointment to that particular position.

Sec. 3. The Commission, working under the leadership and at the direction of the Governor of Texas, shall join the Governor in selecting an artist to design the Medal Of Valor, which will embody the his-

torical and incalculable significance of the flight of Apollo 11 and the bravery and daring of the men who brought the Mission to its successful conclusion. The Commission shall carry forward all processes in having the medal prepared, from design to die and casting; as soon as the medal has been struck and accepted, the Commission shall make sure that the die is broken and destroyed, never to be used again.

Sec. 4. The Commission shall also make arrangements for appropriate ceremonies when the Medal Of Valor is presented to the Apollo 11 Astronauts, ceremonies with the dignity and distinction appropriate to the glorious achievements of the moon landing and its implications to mankind.

Sec. 5. The Commission shall be authorized to employ or contract for professional, technical and clerical staff necessary to accomplish the purposes of this Resolution and to make such other expenditures as are necessary for that purpose within the budgetary limits fixed by the Commission. The Commission may accept gifts or grants of money from any individual, group, association, corporation, or the federal government. Such funds so received shall be deposited in the State Treasury and are hereby appropriated to be expended in accordance with the specific purposes for which given and under such conditions as may be imposed by the donor or as may be provided by law.

Sec. 6. From the Contingent Expense Funds of the Senate and the House of Representatives equally the members of the Commission shall be reimbursed for their actual expenses incurred in carrying out the purposes of this Resolution, and other necessary expenses of operation of the Commission shall be paid from the Contingent Expense funds of the Senate and the House of Representatives equally; the Commission shall prepare a budget of its operating expenses, which shall be submitted to the Contingent Expense Committee of the Senate and the House Administration Committee for approval and no expenditures shall be made until the budget has been approved. Prior approval of nonbudgeted expenses must also be obtained from the Contingent Expense Committee of the

Senate and the House Administration Committee.

The resolution was referred to the Committee on State Affairs.

SENATE BILL ON FIRST READING

The following Senate Bill received from the Senate was today laid before the House, read first time and referred to a Committee, as follows:

S. B. No. 1, to the Committee on Appropriations.

TO MEMORIALIZE THE CONGRESS OF THE UNITED STATES TO DISREGARD AND TO CONSIDER S. C. R. NO. 24 OF THE 59TH LEGISLATURE OF TEXAS A TOTAL AND COMPLETE NULLITY

Mr. Reed offered the following resolution:

H. C. R. No. 4

Whereas, The Supreme Court of the United States has ruled that membership in both houses of a bicameral state legislature must be apportioned according to population and has thus afforded every citizen of the State of Texas just and equal representation in the Legislature of the State of Texas; and

Whereas, Since 1965 and the passage of Senate Concurrent Resolution No. 24 of the 59th Legislature of the State of Texas, memorializing the Congress of the United States to call a constitutional convention for the purpose of changing the ruling of the Supreme Court, the people of Texas have accepted the wisdom of that decision; and

Whereas, The people of Texas desire to repudiate Senate Concurrent Resolution No. 24 of the 59th Legislature; now, therefore, be it

Resolved, by the Senate of the State of Texas, the House of Representatives concurring, That the Congress of the United States is memorialized to disregard and to consider Senate Concurrent Resolution No. 24 of the 59th Legislature of the State of Texas as a total and complete nullity; and, be it further

Resolved, That Senate Concurrent Resolution No. 24 of the 59th Legislature of the State of Texas is repealed, revoked, and repudiated and has no continuing effect or validity; and, be it further

Resolved, That a duly attested copy of this Resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each Member of the Congress from this State.

The resolution was referred to the Committee on State Affairs.

INSTRUCTING THE BOARD OF CONTROL TO ACCEPT BIDS FOR PRINTING MEMBERS' CARDS AND STATIONERY ONLY FROM PRINTERS WITH UNION SHOPS

Mr. Clark of Harris offered the following resolution:

H. C. R. No. 5

Whereas, A number of the Members of the Texas Legislature feel strongly about having the union label appear on their official cards and stationery; and

Whereas, Some of the Members of the Legislature have received severe criticism for failing to have union labels on their official cards and stationery; and

Whereas, The State provides a fixed amount of money for each Member of the Legislature to have official cards and stationery printed, so that it would not cost the State any more money to have a printer with a union shop print a legislator's cards and stationery; now, therefore, be it

Resolved, by the House of Representatives of the 61st Legislature, 1st Called Session, the Senate concurring, That each Member of the Legislature be authorized to instruct the Board of Control to accept bids for printing the individual Member's official cards and stationery from printers with union shops; and, be it further

Resolved, That the Board of Con-

trol accept bids only from union printers for printing any Legislator's official cards and stationery when requested by the Legislator and award the contract to the lowest responsible bidder.

Signed: Clark of Harris, Tom Bass of Harris and R. C. Nichols.

The resolution was referred to the Committee on House Administration.

PROVIDING FOR THE APPOINTMENT OF THE LUNAR LAND-ING COMMISSION OF TEXAS

Mr. Lemmon offered the following resolution:

H. C. R. No. 6

Whereas, Texans take great pride that the National Aeronautics and Space Administration Manned Spacecraft Center directs the nation's efforts in space exploration from Texas soil, while aware, always, that this vast scientific complex in Houston belongs not only to Texas but to the entire United States of America; and

Whereas, The people of Texas shared with fellow Americans and the peoples of other lands the thrill that came in the most recent manned space exploration by the Apollo 11 Mission, which culminated on July 20, 1969, with people on earth actually seeing America's Astronauts set foot on lunar soil and place there Old Glory, standard of the United States of America; and

Whereas, The Governor of Texas, the Honorable Preston Smith, has called upon the Texas Legislature to join him in planning an appropriate formal tribute to Neil Armstrong, Edwin E. "Buzz" Aldrin, and Michael Collins, America's Astronauts who are now residents of Texas, and, through them, to the thousands and thousands of scientists and technicians who helped in accomplishing the mission that has gained a place in history beside the exploits of Lief Ericson, Christopher Columbus, Ferdinand Magellan, and those other illustrious explorers and discoverers of the Age of Man; and

Whereas, In making his proposal to honor the American Lunar Astronauts, Governor Smith has suggested

that a special Medal Of Valor be awarded to Neil Armstrong, Buzz Aldrin, and Michael Collins in the name of the State of Texas, this medal never to be issued to any other person on any other occasion; now, therefore, be it

Resolved, by the House of Representatives of the State of Texas, the Senate concurring, That the 61st Legislature, 1st Called Session, hereby direct that the following be accomplished:

Section 1. A Commission, to be known as the Lunar Landing Commission of Texas, is hereby created consisting of nine members: three Members of the Senate, appointed by the Lieutenant Governor; three Members of the House of Representatives, appointed by the Speaker of the House; and three citizen members, appointed by the Governor. The Governor shall designate the Chairman of the Commission and shall call its first meeting, at which time members shall elect a vice-chairman and secretary and adopt rules of procedure. After the first meeting, the Commission shall meet on the date and at the place designated by the Chairman.

Sec. 2. Appointments to the Commission by the respective appointing officials shall be made without delay, so that the Commission shall be organized and come into existence on September 1, 1969; terms of all appointees shall expire on February 1, 1971, or upon completion of the tasks set out in this Resolution, whichever occurs first. Any vacancy in membership shall be filled by the state official who initially makes the appointment to that particular position.

Sec. 3. The Commission, working under the leadership and at the direction of the Governor of Texas, shall join the Governor in selecting an artist to design the Medal Of Valor, which will embody the historical and incalculable significance of the flight of Apollo 11 and the bravery and daring of the men who brought the Mission to its successful conclusion. The Commission shall carry forward all processes in having the medal prepared, from design to die and casting; as soon as the medal has been struck and accepted, the

commission shall make sure that the die is broken and destroyed, never to be used again.

Sec. 4. The Commission shall also make arrangements for appropriate ceremonies when the Medal Of Valor is presented to the Apollo 11 Astronauts, ceremonies with the dignity and distinction appropriate to the glorious achievements of the moon landing and its implications to mankind.

Sec. 5. The Commission shall be authorized to employ or contract for professional, technical, and clerical staff necessary to accomplish the purposes of this Resolution and to make such other expenditures as are necessary for that purpose within the budgetary limits fixed by the Commission. The Commission may accept gifts or grants of money from any individual, group, association, corporation, or the federal government. Such funds so received shall be expended in accordance with the specific purposes for which given and under such conditions as may be imposed by the donor or as may be provided by law.

Sec. 6. From the Contingent Expense Funds of the Senate and the House of Representatives equally the members of the Commission shall be reimbursed for their actual expenses incurred in carrying out the purposes of this Resolution, and other necessary expenses of operation of the Commission shall be paid from the Contingent Expense Funds of the Senate and the House of Representatives equally; the Commission shall prepare a budget of its operating expenses, which shall be submitted to the Contingent Expense Committee of the Senate and the House Administration Committee for approval, and no expenditures shall be made until the budget has been approved. Prior approval of nonbudgeted expenses must also be obtained from the Contingent Expense Committee of the Senate and the House Administration Committee.

Signed: Lemmon and Harris County 24th District Delegation; Swanson, Tom Bass of Harris, Clark of Harris, Jamie Bray and Vance.

The resolution was referred to the Committee on State Affairs.

PROVIDING FOR A SPECIAL INTERIM COMMITTEE TO MAKE A STUDY OF PROBLEMS OF OLDER TEXAS CITIZENS

Mr. Hannah offered the following resolution:

H. S. R. No. 19

Whereas, The last decennial census (1960) showed that there were 745,000 Texans over the age of 65, a large percentage of whom were retired; and

Whereas, The number of citizens over 65 is increasing, as new developments and improvements in medical care and treatment have been conducive to longer life spans; and

Whereas, A high proportion of these older citizens are on the fixed income of annuities, welfare payments, social security, and the like, and inflation has created untold hardship to many as they try to stretch their limited resources to cover the bare subsistence needs of food and housing, medical expenses, and taxes; and

Whereas, It is essential that the State of Texas look to the well-being of this important segment of our population by providing whatever remedial measures possible, so that the declining years of those who have contributed so much to the growth and development of Texas may be spent in reasonable comfort and without the worry occasioned by unpaid bills and limited finances; now, therefore, be it

Resolved, That the House of Representatives of the 61st Legislature, 1st Called Session, create a special interim committee to make a thorough study of the problems of older Texas citizens, looking particularly to the possibility of providing relief with respect to their tax burden; and, be it further

Resolved, That the committee be composed of three Members of the House of Representatives, appointed by the Speaker of the House, who shall also designate the chairman of the committee; and be it further

Resolved, That actual expenses of members of the committee and other necessary expenses of operation in

connection with committee activities be paid from the Contingent Expense Fund of the House of Representatives; the committee shall prepare a budget for its operating expenses, which shall be submitted to the House Administration Committee, and no expenditures shall be made until the budget has been approved. Prior approval of nonbudgeted expenditures must also be obtained from the House Administration Committee; and, be it further

Resolved, That the committee shall make its complete report, including findings and recommendations and drafts of any legislation that may be proposed, to the 62nd Legislature when it convenes in January, 1971.

Signed: Hannah and Bill Bass of Van Zandt.

The resolution was referred to the Committee on Interim Activities.

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read first time and referred to Committees as follows:

By Ward:

H. B. No. 17, A bill to be entitled An Act relating to the transfer of certain jurisdiction from the District Court of Johnson County to the County Court of Johnson County; amending Chapter 102, Acts of the 51st Legislature, Regular Session, 1949 (Article 1970-335, Vernon's Texas Civil Statutes); and declaring an emergency.

Referred to Committee on Judicial Districts.

By Bass of Van Zandt:

H. B. No. 18, A bill to be entitled An Act providing for appeals in eminent domain proceedings initiated by water control and improvement districts; providing for trial de novo in district courts; granting the right to trial by jury upon demand of either party; amending Subsection (1), Section 126, Chapter 25, Acts of the 39th Legislature, Regular Session, 1925, as

amended (Article 7880-126, Vernon's Texas Civil Statutes); and declaring an emergency.

Referred to Committee on Judiciary.

By Bray:

H. B. No. 19, A bill to be entitled An Act amending Articles 3.01 and 4.02, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, to increase the occupation taxes on production of oil and gas; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Reed:

H. B. No. 20, A bill to be entitled An Act to provide that certain units of government may secure motor vehicle liability insurance under the assigned risk plan subject to certain limits, amending Sections 33, as amended, and 35, Chapter 498, Acts of the 52nd Legislature, Regular Session, 1951 (Article 6701h, Vernon's Texas Civil Statutes); and declaring an emergency.

Referred to Committee on Urban Affairs.

By Howard:

H. B. No. 21, A bill to be entitled An Act amending Section 21, Article I, Texas Liquor Control Act, as amended (Article 666-21, Vernon's Texas Penal Code), to increase the tax on distilled spirits and clarify that tax stamps are not required on malt liquor containers; amending Section 23, Article II, Texas Liquor Control Act, as amended (Article 667-23, Vernon's Texas Penal Code), to increase the tax on the first sale of beer manufactured in Texas and on the importation of beer into this State; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Caldwell, Cavness, Johnson, Ratchiff, Farenthold, Salem, Braun and Atwell:

H. B. No. 22, A bill to be entitled An Act establishing and adopting an Antiquities Code for the State of Texas; setting forth the public policy of the State with respect to archeolo-

gical and historical sites and items; creating an Antiquities Committee of five members; providing for the organization, compensation, duties, powers, and procedures of the Antiquities Committee; empowering the Antiquities Committee to enter into contracts for research and salvage activities on State Archeological Landmarks; creating and defining State Archeological Landmarks; providing for the designation of certain sites on private lands as State Archeological Landmarks with the consent of the owner thereof; providing for a system of permits and contracts for the salvage of treasures embedded in the earth and the excavation or study of archeological and historical sites and objects; providing the State Archeologist with the power to promulgate reasonable rules and regulations concerning salvage and other study of State Archeological Landmarks; empowering the Antiquities Committee to determine the disposition and repository of objects and artifacts recovered by such salvage and study operations; providing for a means of fair compensation to the salvager operating under permit from the Antiquities Committee; empowering the Antiquities Committee to accept gifts, devises and bequests, and to otherwise purchase and acquire from the permittee objects deemed by the Antiquities Committee to be important enough to remain the property of the State of Texas; making it unlawful to forge or duplicate an archeological artifact or object with intent to deceive or to offer said object for sale; making it unlawful to intentionally deface aboriginal or Indian rock art; making it unlawful to enter the enclosed lands of another without permission and intentionally take, damage, or destroy any archeological or historical site, structure, or monument on private lands; providing a penalty for violations of this Act; providing for injunctive relief for violations of this Act and providing for venue thereof; providing a saving clause; repealing laws in conflict and designated prior laws; and declaring an emergency.

Referred to Committee on Governmental Affairs and Efficiency.

By Tarbox, Jones of Lubbock and McAlister:

H. B. No. 23, A bill to be entitled

An Act authorizing the transfer of certain land from Texas Tech University to Texas Tech University School of Medicine; and declaring an emergency.

Referred to Committee on State Affairs.

By Musgrove:

H. B. No. 24, A bill to be entitled An Act relating to the classification of certain drugs to be sold on prescription; amending Section 6, Chapter 169, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 725b, Vernon's Texas Penal Code); deleting Subparagraph (1) of Section 8, Chapter 169, Acts of the 45th Legislature, Regular Session, 1937, as amended; providing for the repeal of all laws or parts of laws in conflict herewith; and declaring an emergency.

Referred to Committee on Criminal Jurisprudence.

By Lemmon:

H. B. No. 25, A bill to be entitled An Act amending Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, adding a new Chapter 16, imposing a tax on sale or transfer of certain stocks, bonds and securities; providing for administration; setting penalties; allocating funds; and declaring an emergency.

Referred to Committee on Revenue and Taxation.

By Swanson:

H. B. No. 26, A bill to be entitled An Act enabling companies offering and selling policies of insurance on property within this State to secure reinsurance under the Federal Reinsurance Program as created by the Federal Urban Property Protection and Reinsurance Act of 1968 by creating a fund to be designated "Riot Reinsurance Reimbursement Fund" to be administered by the State Treasurer subject to certification by the State Board of Insurance; authorizing said Board to make assessments upon certain insurers authorized to do business in this State for amounts necessary to reimburse the Secretary of the Department of Housing and Ur-

ban Development; requiring that assessments be proportionate; making provisions for insolvency of insurers; providing for recovery of amounts paid as assessments; repealing conflicting laws to the extent of conflict only; providing for severability; and declaring an emergency.

Referred to Committee on Insurance.

By Hale:

H. B. No. 27, A bill to be entitled An Act amending the Texas Education Code to incorporate the acts passed during the Regular Session of the 61st Legislature and coming within the scope of the code; repealing the acts incorporated into the code; providing effective dates; and declaring an emergency.

Referred to Committee on Public Education.

By Sherman:

H. B. No. 28, A bill to be entitled An Act amending Article 2621, Revised Civil Statutes of Texas, 1925, authorizing and directing the Board of Regents of The University of Texas System to support and maintain the general academic institution known as The University of Texas at Arlington; authorizing the Board of Regents to support and maintain a standard four-year course for the university, to prescribe courses leading to customary degrees, and to award such degrees; stating the intent of the Legislature that such degrees shall include baccalaureate, master's and doctoral degrees, and their equivalents, providing for the establishment of a four-year undergraduate program, and providing that no department, school, or degree program shall be instituted without the prior approval of the Coordinating Board; authorizing the Board of Regents to make rules and regulations for the operation, control, and management of the university, including the determination of the number of students that shall be admitted; authorizing joint appointments; authorizing the acceptance of gifts, grants, and donations from any source in aid of the planning, establishment, conduct, and operation of the university authorized by this Act, and in

aid of the teaching and research conducted therein; providing for severability; providing a repealer; and declaring an emergency.

Referred to Committee on State Affairs.

PROVIDING FOR TAPE RECORDING OF CERTAIN TESTIMONY OF OFFICIALS AND EMPLOYEES OF THE EXECUTIVE BRANCH BEFORE STANDING COMMITTEES OF THE HOUSE

Mrs. Farenthold offered the following resolution:

H. S. R. No. 11

Whereas, The testimony of executive officials before standing committees of the House of Representatives is of great value and often a determining factor for Representatives in formulating legislation; and

Whereas, There is presently no regular record kept of such testimony, which creates a hardship for Representatives evaluating proposed legislation, as well as for students of State Government; now, therefore, be it

Resolved, by the House of Representatives, the Sixty-first Legislature, First Called Session, That Rule VIII, Section 33 of the House Rules, Sixty-first Legislature, be amended by adding the following:

"The testimony of all officials or employees within the Executive Branch before standing, temporary, conference, and interim committees of the House of Representatives shall be recorded by means of a tape recorder. The tapes of such testimony shall be placed on file in the Legislative Reference Library, along with a tape recorder, for use by Legislators, State employees, students of State Government, and the general public. Such testimony shall be reduced to writing upon the request of one-fourth of the present Members of that committee before which the testimony was presented. Distribution of such testimony in written form to any committee of the House or Senate, or to all House and/or Senate Members may be made at the request of one-fourth of the present members of that committee

before which such testimony was given."

The resolution was read and was referred to the Committee on Rules.

ADOPTION OF S. C. R. NO. 3

The Speaker laid before the House for consideration at this time,

S. C. R. No. 3, Providing for a Joint Session on August 19, 1969, to hear an Address by W. Robert McClellan, Deputy Assistant Secretary of Commerce of the United States.

The resolution had been referred to the Committee on House Administration and was reported favorably by the Committee.

The resolution was adopted without objection.

ADJOURNMENT

Mr. Smith moved that the House adjourn until 11:00 o'clock a. m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 11:27 o'clock a. m., adjourned until 11:00 o'clock a. m. tomorrow.

APPENDIX

REPORT OF THE COMMITTEE ON ENROLLED AND ENGROSSED BILLS

Austin, Texas. July 31, 1969

The Honorable G. F. (Gus) Mutscher, Speaker of the House of Representatives

Sir: Your Committee on Enrolled and Engrossed Bills to whom was referred

H. B. No. 1,

has carefully compared same and finds it correctly engrossed.

WARD, Chairman

SENT TO THE GOVERNOR

August 4, 1969

H. C. R. No. 2

H. C. R. No. 3

FIFTH DAY

(Tuesday, August 5, 1969)

The House met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the Speaker.

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

| | |
|-------------------|------------------|
| Mr. Speaker | Evans |
| Abraham | Farenthold |
| Adams | Finck |
| Allen of Harris | Finnell |
| Allen of Gregg | Finney |
| Allred | Floyd |
| Angly | Garcia |
| Archer | Golman |
| Armstrong | Graves |
| Atwell | Hale |
| Atwood | Hannah |
| Baker | Harding |
| Bass of Harris | Harris |
| Bass of Van Zandt | Hawkins |
| Beckham | Hawn |
| Bigham | Haynes |
| Blaine | Head |
| Blanton | Heatly |
| Braecklein | Hendricks |
| Braun | Hinson |
| Bray | Holland |
| Burgess | Holmes of Hood |
| Burnett | Holmes of Dallas |
| Caldwell | Howard |
| Calhoun | Hubenak |
| Carrillo | Hull |
| Cavness | Johnson |
| Christian | Jones of Lubbock |
| Clark of Harris | Jones of Harris |
| Clayton | Jones of Taylor |
| Cobb | Jungmichel |
| Cole | Kilpatrick |
| Cory | Knapp |
| Craddick | Kothmann |
| Cruz | Kubiak |
| Cummings | Lee |
| Daniel | Lemmon |
| Davis of Harris | Ligarde |
| Davis of Travis | Lombardino |
| Dickson | Longoria |
| Doran | Lovell |
| Dramberger | McAlister |
| Earthman | McDonald |

| | |
|------------------|--------------------|
| McKissack | Salem |
| McLaughlin | Salter |
| Moore of Hill | Sanchez |
| Moore of Dallas | Santiesteban |
| Moore | Schulle |
| of McLennan | Semos |
| Moreno | Shannon, Joe, Jr., |
| Moyer | of Tarrant |
| Muniz | Shannon, Tommy, |
| Murray | of Tarrant |
| Musgrove | Sherman |
| Neugent | Slack |
| of Galveston | Slider |
| Newman | Smith |
| Nichols | Solomon |
| Niland | Stewart |
| Nowlin | Stroud |
| Nugent of Kerr | Swanson |
| Ogg | Tarbox |
| Orr | Thomas |
| Parker | Traeger |
| of Jefferson | Truan |
| Parker of Denton | Uher |
| Patterson | Vale |
| Pickens | Vance |
| Pickett | Ward |
| Poerner | Wayne |
| Presnal | Weldon |
| Price | Wieting |
| Ratcliff | Williams |
| Ray | Williamson |
| Reed | Willis |
| Rosson | Wright |

Absent-Excused

Clark of Dallas Nabers

A quorum of the House was announced present.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"Oh God, be merciful when we pray with half our hearts or listen with half our minds and pity us that we are torn as we are from time to time in knowing what is right and proper. Vainly we long for life without such difficult decisions.

May this minute of prayer find each one of us, in his own way, reaching out for Thy help and guidance. Hear our prayers and be with us this day.

We pray in Jesus' Name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence for today on account of important business:

Mr. Nabers on motion of Mr. Wieting.

Mr. Clark of Dallas on motion of Mr. Bass of Van Zandt.

MESSAGE FROM THE SENATE

Austin, Texas, August 5, 1969

Hon. Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on C. S. House Bill No. 1.

The following have been appointed on the part of the Senate:

Senators Aikin, Creighton, Herrington, Schwartz and Word.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

H. S. R. No. 22, By Heatly: Commending Miss Cynthia Bishop, Chief of Nutrition and Food Services of the Texas Department of Mental Health and Mental Retardation, upon receiving the 1969 Medallion of Merit Award from the Kitchens of Sara Lee.

H. S. R. No. 23, By Wayne: Commending the owners of Rocket Bar, an outstanding quarter horse.

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read first time and referred to Committees as follows:

By Cory:

H. B. No. 29, A bill to be entitled An Act amending various provisions of the Family Code, as follows: Section 1.03(b), relating to the contents of the form for an application for a

marriage license; Subchapter C. Chapter 1, relating to underage applicants for a marriage license; Section 2.41, relating to annulment of a marriage on the grounds of underage; Section 3.08(b), relating to the defense of condonation in a suit for divorce; Section 3.52, relating to pleadings in a suit for divorce or annulment; Section 3.54(b), relating to the report of a counselor in a divorce suit; Section 3.63, relating to the division of property in a decree of divorce or annulment; Section 4.04, relating to nonjoinder of spouses in civil suits; Section 5.22(b) and (c), relating to management, control, and disposition of community property; Section 5.03, relating to recordation of separate property; Section 5.24, relating to protection of third persons dealing with a spouse with regard to property; Section 5.25(g), relating to the effect of failure to record a court order providing for management, control, and disposition of certain community property under unusual circumstances; Section 5.41(e), relating to recordation of a marital property agreement and the effect of failure to record in the case of real property; Section 5.42(d), relating to recordation of a partition or exchange and the effect of failure to record in the case of real property; Section 1.92(b), relating to the contents of the form for a declaration of informal marriage; adding Sections 1.93-1.96, relating to proof of identity and age of parties to a declaration of informal marriage, permission to omit certain information, effect of divorce during six-month period preceding execution of declaration, recording of declaration, and penalty for violations by county clerk or deputy; and declaring an emergency.

Referred to Committee on Judiciary.

By Smith, Bass of Harris, and Lemmon:

H. B. No. 30, A bill to be entitled An Act relating to the establishment and duties of the Lunar Landing Medal of Valor Commission and the creation of a Medal of Valor to be awarded to the Apollo 11 Astronauts; and declaring an emergency.

Referred to Committee on State Affairs.

By Cory:

H. B. No. 31, A bill to be entitled An Act relating to the issuance of certain bonds by cities having a population of 5,000 or more; amending Section 1, Chapter 341, Acts of the 57th Legislature, Regular Session, 1961 (Article 1187f, Vernon's Texas Civil Statutes); and declaring an emergency.

Referred to Committee on Urban Affairs.

By Hawkins:

H. B. No. 32, A bill to be entitled An Act relating to issuance of patents on vacant and unsurveyed land; exempting certain litigation from the provisions of this Act; providing this Act shall not affect the rights of any party under any previously executed mineral deed or oil and gas lease; adding a new Section 5a to Chapter 271, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 5421c, Vernon's Texas Civil Statutes); and declaring an emergency.

Referred to Committee on Public Lands and Buildings.

By Clark of Harris, Stroud, Bigham, Reed, Parker of Jefferson, Nichols and Moreno:

H. B. No. 33, A bill to be entitled An Act relating to the printing of Legislators' official cards and stationery by printers with union shops; amending Chapter 304, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 664-3, Vernon's Texas Civil Statutes), by adding a new Section 8a; and declaring an emergency.

Referred to Committee on House Administration.

EXTENDING HEARTIEST CONGRATULATIONS TO THE HONORABLE BEN ATWELL ON HIS BIRTHDAY

Mr. Moyer offered the following resolution:

H. S. R. No. 21

Whereas, August 4 is not a nation-

ally recognized holiday, State Employees will not have a day off, and neither will banks close their doors; however, in the House of Representatives August 4th holds a special significance for one of our most distinguished colleagues; and

Whereas, This day is the birthday of the Honorable Ben Atwell, Dean of the Dallas County Delegation and Chairman of the all-important House Revenue and Taxation Committee; and

Whereas, Representative Atwell is a 10 term veteran of the House, and although his 6 foot 4 inch frame, his natty dress, and his dry sense of humor would make him a noticeable figure in any gathering, it is his strong sense of dedication and his desire to serve the people of Texas which give him great distinction as a Member of the House of Representatives; now, therefore, be it

Resolved, That the House of Representatives extend heartiest congratulations to Jumbo Atwell on this August 4, 1969, and wish for him many more birthday celebrations and years as a distinguished Member of the House; and, be it further

Resolved, That a copy of this Resolution be prepared for the Honorable Ben Atwell as an expression of affection and high esteem from his colleagues in the House of Representatives.

The resolution was read and was adopted unanimously.

On motion of Mr. Wieting the names of all the Members of the House were added to H. S. R. No. 21 as signers thereof.

ADJOURNMENT

Mr. Tommy Shannon of Tarrant moved that the House adjourn until 10:30 o'clock a. m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 11:26 o'clock a. m., adjourned until 10:30 o'clock a. m. tomorrow.

In Memory of

Paul Francis Correll

Mr. Cory offered the following resolution:

H. S. R. No. 18

Whereas, An outstanding resident of Victoria, Paul Francis Correll, died June 29, 1969, at the age of 51; and

Whereas, Mr. Correll, a native of Harrisburg, Pennsylvania, was a graduate of West Virginia University. He was a Mason and a veteran of World War II; and

Whereas, Since moving to Victoria in 1960, Mr. Correll was a leader in the Boy Scout organization and he served as the organization and extension chairman of the DeLeon District; and

Whereas, He was also a devoted member of the First United Methodist Church; and

Whereas, Through his work with civic organizations, particularly with the Boy Scouts, Mr. Correll provided an invaluable service to his community and his talents and enthusiasm were greatly appreciated by his fellow citizens; now, therefore, be it

Resolved, That the House of Representatives of the 61st Legislature, 1st Called Session, honor the memory of Paul Francis Correll and extend sympathy to the members of his family: to his wife, Mrs. Evelyn Correll of Victoria; and his two sons, Michael Correll and Paul F. Correll, Jr., both of Victoria; and be it further

Resolved, That a copy of this Resolution be prepared for the members of his family, and that when the House of Representatives adjourns this day, it do so in memory of Paul Francis Correll.

The resolution was adopted unanimously by a rising vote.

SIXTH DAY

(Wednesday, August 6, 1969)

The House met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the Speaker.

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

| | |
|-------------------|------------------|
| Mr. Speaker | Hannah |
| Abraham | Harding |
| Adams | Harris |
| Allen of Harris | Hawkins |
| Allen of Gregg | Hawn |
| Allred | Haynes |
| Angly | Head |
| Archer | Heatly |
| Armstrong | Hendricks |
| Atwell | Hinson |
| Atwood | Holland |
| Baker | Holmes of Hood |
| Bass of Harris | Holmes of Dallas |
| Bass of Van Zandt | Howard |
| Beckham | Hubenak |
| Bigham | Hull |
| Blaine | Johnson |
| Blanton | Jones of Lubbock |
| Braecklein | Jones of Harris |
| Braun | Jones of Taylor |
| Bray | Jungmichel |
| Burgess | Kilpatrick |
| Burnett | Kothmann |
| Caldwell | Kubiak |
| Calhoun | Lee |
| Carrillo | Lemmon |
| Cavness | Ligarde |
| Christian | Lombardino |
| Clark of Harris | Longoria |
| Clayton | Lovell |
| Cobb | McAlister |
| Cole | McDonald |
| Cory | McKissack |
| Craddick | McLaughlin |
| Cruz | Moore of Hill |
| Cummings | Moore of Dallas |
| Daniel | Moore |
| Davis of Harris | of McLennan |
| Davis of Travis | Moreno |
| Dickson | Moyer |
| Doran | Muniz |
| Dramberger | Murray |
| Earthman | Musgrove |
| Evans | Neugent |
| Farenthold | of Galveston |
| Finnell | Newman |
| Finney | Nichols |
| Floyd | Niland |
| Garcia | Nowlin |
| Golman | Nugent of Kerr |
| Graves | Ogg |
| Hale | Orr |

| | |
|--------------------|------------|
| Parker | Sherman |
| of Jefferson | Slack |
| Parker of Denton | Slider |
| Patterson | Smith |
| Pickens | Solomon |
| Pickett | Stewart |
| Poerner | Swanson |
| Presnal | Tarbox |
| Price | Thomas |
| Ratcliff | Traeger |
| Ray | Truan |
| Reed | Uher |
| Rosson | Vale |
| Salem | Vance |
| Salter | Ward |
| Sanchez | Wayne |
| Santiesteban | Wieting |
| Schulle | Williams |
| Semos | Williamson |
| Shannon, Joe, Jr., | Willis |
| of Tarrant | Wright |
| Shannon, Tommy, | |
| of Tarrant | |

Absent

Knapp

Stroud

Absent-Excused

Clark of Dallas
FinckNabers
Weldon

A quorum of the House was announced present.

The Invocation was offered by the Reverend Benedict Zientek, Pastor of Sacred Heart Cathedral, San Angelo, Texas, as follows:

We pray Thee, O God of might, wisdom, and justice! through Whom authority is rightly administered, laws are enacted, and judgment decreed, assist with Thy holy spirit of counsel and fortitude the President of the United States, that his administration may be conducted in righteousness, and be eminently useful to Thy people over whom he presides; by encouraging due respect for virtue and religion; by a faithful execution of the laws in justice and mercy; and by restraining vice and immorality. Let the light of Thy divine wisdom direct the deliberations of Congress, and shine forth in all the proceedings and laws framed for our rule and government, so that they may tend to the preservation of peace, the promotion of national happiness, the increase of industry, sobriety, and use-

ful knowledge; and may perpetuate to us the blessing of equal liberty.

We pray for his excellency, the Governor of this State, for the members of the Assembly, for all judges, magistrates, and other officers who are appointed to guard our political welfare, that they may be enabled, by Thy powerful protection, to discharge the duties of their respective stations with honesty and ability.

We recommend likewise, to Thy unbounded mercy, all our brethren and fellow citizens throughout the United States, that they may be blessed in the knowledge and sanctified in the observance of Thy most holy law; that they may be preserved in union, and in that peace which the world cannot give; and after enjoying the blessings of this life, be admitted to those which are eternal.

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence for today on account of important business:

Mr. Weldon on motion of Mr. Parker of Jefferson.

Mr. Clark of Dallas on motion of Mr. Holmes of Dallas.

The following Member was granted leave of absence for today on account of the birth of a baby boy:

Mr. Nabers on motion of Mr. Joe Shannon, Jr., of Tarrant.

The following Member was granted leave of absence for today on account of illness:

Mr. Finck on motion of Mr. Price.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

H. S. R. No. 24, By Nugent of Kerr: Expressing appreciation to Mr. and Mrs. Adolf Stieler of Kerrville, Texas, for their outstanding services to Texas, to their community and to their fellowmen.

H. S. R. No. 25, By Golman:

Commending Democratic Women from the 8th Senatorial District, Dallas County.

MESSAGE FROM THE SENATE

Austin, Texas, August 6, 1969

Honorable Gus Mutscher, Speaker of the House of Representatives

Sir: I am directed by the Senate to inform the House that the Senate has passed the following:

S. C. R. No. 7, By Cole: Commending Postmaster Granville W. Elder and the Houston Post Office.

S. C. R. No. 8, By Ratliff: Congratulating John Worth Cloud, etc.

Respectfully,
CHARLES A. SCHNABEL
Secretary of the Senate

HOUSE BILLS ON FIRST READING

The following House Bills were today laid before the House, read first time and referred to Committees as follows:

By Finney:

H. B. No. 34, A bill to be entitled An Act relating to death or disablement pension benefits of firemen from heart or lung disease; and declaring an emergency.

Referred to Committee on Urban Affairs.

By Lombardino:

H. B. No. 35, A bill to be entitled An Act prohibiting the commission of certain offences by a person entering a private residence by force, threats, or fraud at night; providing penalties; and declaring an emergency.

Referred to Committee on Criminal Jurisprudence.

TO DEDICATE THIS BIRTHDAY
MESSAGE TO THE HONORABLE
CARL PARKER OF PORT
ARTHUR

Mr. Weldon offered the following resolution:

H. S. R. No. 26

Whereas,

'Twas the eve before Session,
when all through the House
Not a creature was stirring,
not even a mouse;
The desks were all ready,
machines all plugged in
Ready and waiting,
roll call to begin.

The Members not nestled
all snug in their bed
Met at the Deck Club,
to plan far ahead.
But estimable Carl Parker,
and one other chap,
Kept talking and talking,
not caring a rap.

Came a lull in their voices,
there rose a great clatter,
We leaped to our feet,
to see what was the matter.
Carl stood arms akimbo,
face red as a rash,
"It's my birthday," he said,
"and I'm all for a bash!"

"It seems that you and my
colleagues so true,
Always get the glory,
and leave me to stew!
A birthday is celebrated,
congratulations read,
And I grin and bear it,
and wish I were dead!

"Can I help the month
the stork picked for me?
How did he know a House Member
I'd be,
With sessions in winter and
into the spring,
But never in summer
to give me my fling?"

"I want a birthday,
I want to be choice,
To be told I am great—
in a big, loud voice."

The hush in the room
brought us all to our senses,
We felt downright mean,
sans all good defenses,
When we looked at pal Parker,
a pretty good Joe,
Whom we had been treating
too much like a foe.

His usual demeanor,
so happy and merry,

His cheeks like pink roses,
his nose like a cherry,
His broad, friendly mouth
curled up in a grin,
Laugh wrinkles wreathing
his indomitable chin.

His broad, cheery face
and little round belly,
Ashake with his laughs
like a bowlful of jelly.
Chubby and plump,
a right jolly old elf,
Now age 35,
in spite of himself.

So this 6th day of August, 1969,
We want Carl to know,
we think he's divine.
We want him to feel,
he's a prince of a man,
A fellow who's really one of the clan!

Happy Birthday, dear Carl,
You're a gallant, white knight,
Happy Birthday, dear Carl,
You're quite out of sight!

now, therefore, be it

Resolved, That the House of Representatives of the 61st Legislature, 1st Called Session, dedicate this birthday message, with all good wishes and apologies to Clement Clarke Moore, to our friend and colleague, the Honorable Carl Parker of Port Arthur.

Signed: Weldon, Kilpatrick, Smith and Haynes.

The resolution was read and was adopted unanimously.

On motion of Mr. Kilpatrick the names of all the Members of the House were added to H. S. R. No. 26 as signers thereof.

HOUSE BILL NO. 2 SET FOR SPECIAL ORDER

Mr. Atwell moved that H. B. No. 2 be set for special order at 9:30 o'clock a. m., tomorrow, August 7.

The motion prevailed without objection.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

S. C. R. No. 7, Commending Postmaster Granville W. Elder and the Houston Post Office for instituting a training program for deaf applicants.

S. C. R. No. 8, Congratulating John Worth Cloud of Albany, Texas, on being awarded the official state award for "Best Historical Publication of the Year on Local or Regional History," presented by the Texas Historical Survey Committee; and officially designating "The Legend of Old Stone Ranch" as the official epic poem of Texas.

RECESS

Mr. Sherman moved that the House recess until 9:30 o'clock a. m. tomorrow.

The motion prevailed without objection.

The House accordingly, at 10:57 o'clock a. m., took recess until 9:30 o'clock a. m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORT

The Committee on Revenue and Taxation has filed a favorable report on H. B. No. 2.

SIXTH DAY

(Continued)

(Thursday, August 7, 1969)

The House met at 9:30 o'clock a.m. and was called to order by the Speaker.

The Invocation was offered by Chaplain Clinton Kersey, as follows:

"Our Heavenly Father, this day, as the saying goes, will separate the men from the boys and we thank Thee that it is not custom that brings us again into this moment of prayer but our deep sense of need of Thy help.

May we conduct ourselves today with dignity, being able to disagree

without being disagreeable. But above all, when this day's work is over may we truly say it has been good for Texas and what she stands for.

In Jesus' Name. Amen."

LEAVE OF ABSENCE GRANTED

The following Member was granted leave of absence for today on account of illness:

Mr. Finck, temporarily for today, on motion of Mr. Doran.

RESOLUTION SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof and its caption had been read, the following enrolled resolution:

S. C. R. No. 3, Providing for a Joint Session on August 19, 1969, to hear an address by W. Robert McClellan, Deputy Assistant Secretary of Commerce of the United States.

CONGRATULATORY RESOLUTIONS ADOPTED

The following Congratulatory Resolutions were adopted unanimously:

H. S. R. No. 27, By Hendricks: Commending the ladies from the McKinney Job Corps Center for Women visiting the House of Representatives.

H. S. R. No. 29, By Lombardino: Extending birthday wishes to Jon Alexander Lindskog, employed as an administrative assistant to State Representative Frank Lombardino.

EXTENDING PRIVILEGES OF THE FLOOR TO REPRESENTATIVE-ELECT E. L. SHORT

Speaker Mutscher stated that, if there was no objection, privileges of the Floor would be granted to Representative-elect E. L. Short of District 73, who was present in the House.

There was no objection offered.

HOUSE BILL NO. 2 ON
SECOND READING

The Speaker laid before the House, as a special order, on its second reading and passage to engrossment,

H. B. No. 2, A bill to be entitled An Act raising revenue for the support of State Government, amending Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by raising the rate on limited sales, excise and use tax; amending the collection schedule to conform to the new rate; removing exemptions on alcoholic beverages; making conforming amendments to the Local Sales and Use Tax (Article 1066c, Vernon's Texas Civil Statutes); amending Chapter 6, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by raising the tax rate on the retail sale of motor vehicles; amending Chapter 7, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, by levying an additional tax on cigarettes; amending Chapter 12, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, to levy additional corporate franchise taxes for a two year period; providing an effective date; and declaring an emergency.

The bill was read second time.

Mr. Clark of Harris moved that consideration of H. B. No. 2 be postponed until next Monday, August 11, at 11:00 o'clock a. m.

Mr. Atwell moved to table the above motion by Mr. Clark of Harris.

A record vote was requested by Representatives Bass of Harris, Reed and Moreno on the motion to table.

The motion to table prevailed by the following vote:

Yeas—108

| | |
|----------------|------------|
| Abraham | Blaine |
| Adams | Blanton |
| Allen of Gregg | Braecklein |
| Archer | Burgess |
| Armstrong | Burnett |
| Atwell | Calhoun |
| Atwood | Carrillo |
| Baker | Cavness |
| Beckham | Christian |

| | |
|------------------|--------------------|
| Clayton | Moore of Hill |
| Cobb | Moore of Dallas |
| Cole | Moyer |
| Cory | Murray |
| Craddick | Musgrove |
| Cummings | Nabers |
| Daniel | Neugent |
| Davis of Harris | of Galveston |
| Davis of Travis | Newman |
| Dickson | Niland |
| Doran | Nugent of Kerr |
| Dramberger | Ogg |
| Earthman | Orr |
| Finnell | Parker of Denton |
| Finney | Patterson |
| Floyd | Pickens |
| Garcia | Poerner |
| Golman | Presnal |
| Harding | Price |
| Hawkins | Ratcliff |
| Hawn | Ray |
| Head | Rosson |
| Heatly | Salter |
| Hendricks | Sanchez |
| Hinson | Santiesteban |
| Holland | Schulle |
| Holmes of Hood | Semos |
| Holmes of Dallas | Shannon, Joe, Jr., |
| Howard | of Tarrant |
| Hubenak | Shannon, Tommy, |
| Hull | of Tarrant |
| Jones of Lubbock | Sherman |
| Jones of Harris | Slack |
| Jones of Taylor | Slider |
| Jungmichel | Solomon |
| Kilpatrick | Swanson |
| Knapp | Tarbox |
| Lee | Thomas |
| Lemmon | Traeger |
| Ligarde | Uher |
| Lombardino | Ward |
| Longoria | Wayne |
| Lovell | Wieting |
| McAlister | Williamson |
| McDonald | Willis |
| McKissack | Wright |
| McLaughlin | |

Nays—38

| | |
|-------------------|--------------|
| Allen of Harris | Hale |
| Allred | Hannah |
| Angly | Harris |
| Bass of Harris | Haynes |
| Bass of Van Zandt | Johnson |
| Bigham | Kothmann |
| Braun | Kubiak |
| Bray | Moore |
| Caldwell | of McLennan |
| Clark of Harris | Moreno |
| Clark of Dallas | Muniz |
| Cruz | Nichols |
| Evans | Nowlin |
| Farenthold | Parker |
| Graves | of Jefferson |

| | |
|---------|----------|
| Pickett | Truan |
| Reed | Vale |
| Salem | Vance |
| Stewart | Weldon |
| Stroud | Williams |

Absent

Smith

Absent-Excused

Finck

Mr. Atwell offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend H. B. No. 2 by striking all below the enacting clause and substituting the following:

ARTICLE 1.

Section 1. Section (A), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(A) Person. ‘Person’ shall mean and include any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, or any other group or combination acting as a unit. ‘Person’ shall also include the United States or any agency thereof, this State, or any agency hereof, or any city, county, special district, or other political subdivision of this State to the extent engaged in the selling of items taxable under this Chapter.”

Sec. 2. Section (D), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(D) Receipts.

“(1) ‘Receipts’ means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of taxable items by retailers,

valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

“(a) The cost of the taxable item sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the tangible personal property.

“(b) The cost of the materials used, labor or service costs, interest paid, losses or any other expenses.

“(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

“(d) The cost of transportation incident to the performance of a taxable service.

“(2) ‘Receipts’ does not include any of the following:

“(a) Cash discounts allowed on sales.

“(b) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit, or refunds on the sales price of taxable services.

“(c) The amount of any tax (not including, however, any manufacturers’ or importers’ excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

“(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of taxable items

under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

“(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

“(f) Charges for transportation of tangible personal property after sale.”

Sec. 3. Section (F), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(F) Occasional Sale. ‘Occasional Sale’ means:

“(1) One or two sales of taxable items at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling taxable items at retail.

“(2) The sale of the entire operating assets of a business or of a separate division, branch or identifiable segment of a business. For the purpose of this Subsection a ‘separate division, branch or identifiable segment’ shall be deemed to exist if prior to its sale the income and expenses attributable to such ‘separate division, branch or identifiable segment’ could be separately ascertained from the books of account or record. The purpose of this Subsection is to clarify existing law and merely expresses the original intention of the Legislature.

“(3) Any transfer of all or substantially all the property held or used by a person in the course of an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this Subsection, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the ‘real or ultimate ownership’ of the property of such corporation or other entity.”

Sec. 4. Section (G), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last

amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(G) Purchase. ‘Purchase’ means:

“(1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

“(2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

“(3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

“(4) The acceptance or utilization of any taxable service for a consideration.”

Sec. 5. Section (I), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(I) Retail Sale or Sale at Retail. ‘Retail Sale’ or ‘Sale at Retail’ means:

“(1) Any sale of a taxable item.

“(2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts.

“(3) The performance in this State of any taxable service.”

Sec. 6. Subsection (1), Section (J), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(1) 'Retailer' includes:

"(a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

"(b) Every person making more than two (2) retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

"(c) Every person who leases or rents to another tangible personal property for storage, use or other consumption.

"(d) Every person selling taxable services."

Sec. 7, Subsection (1), Section (K), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(1) (a) 'Sale' means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

"(b) 'Sale' includes the performance of a taxable service for a consideration.

"(c) 'Sale' when used in connection with amusement services means the sale of admission or the right to participate, whether by means of or through the purchase of a club or other membership card, subscription, dues, season or other ticket, lease for admission, or simply by the payment of cash without the delivery or use of any receipt, ticket or other instrument or device."

Sec. 8, Section (L), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chap-

ter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(L) Sales Price.

"(1) 'Sales Price' means the total amount for which taxable items are sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

"(a) The cost of the taxable items sold.

"(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

"(c) The cost of transportation of the tangible personal property prior to its sale or purchase.

"(d) The cost of transportation incident to the performance of a taxable service.

"(2) The total amount for which a taxable item is sold includes all of the following:

"(a) Any services which are a part of the sale.

"(b) Any amount for which credit is given to the purchaser by the seller.

"(3) 'Sales Price' does not include any of the following:

"(a) Cash discounts allowed on sales.

"(b) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit, or refunds on the sales price of taxable services.

"(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

"(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of taxable items under conditional sale contracts or

other contracts providing for deferred payments of the purchase price.

“(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of a taxable item of any kind or nature.

“(f) Charges for transportation of tangible personal property after sale.”

Sec. 9. Section (M), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(M) Seller. ‘Seller’ includes every person engaged in the business of selling, leasing or renting taxable items of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax.”

Sec. 10. Section (R), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(R) Use. ‘Use’ includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business or the transfer of tangible personal property as an integral part of a taxable service rendered in the regular course of business. ‘Use’ specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such except as provided in Article 20.01(T)(2).”

Sec. 11. Section (S), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(S) Sale for Resale. ‘Sale for Resale’ means:

“(1) A sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it within the geographical limits of the United States of America, its territories and possessions in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other tangible personal property.

“(2) A sale of tangible personal property to a purchaser for the sole purpose of that purchaser’s renting or leasing, within the geographical limits of the United States of America, its territories and possessions, the tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

“(3) A sale of tangible personal property to any purchaser who is purchasing the tangible personal property for the purpose of subsequently transferring it within the geographical limits of the United States of America, its territories and possessions, as an integral part of a taxable service.

“(4) A sale of a taxable service performed on any tangible personal property that is held by the purchaser of the taxable service for resale.”

Sec. 12. Section (U), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(U) Manufacturing. ‘Manufacturing’ shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another. ‘Manufacturing’ shall include the production of telephone and telegraph services.”

Sec. 13. Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is

amended by adding Section (V) to read as follows:

“(V) Taxable Services. ‘Taxable Services’ means:

“(1) intrastate telephone service to a regular subscriber, including local and long distance calls whether furnished on a flat rate or measured basis, and including the lease or use of telephone lines, wires or equipment;

“(2) transmitting an intrastate message by telegraph;

“(3) laundry and dry cleaning services, including dyeing and storage of property;

“(4) repairs, maintenance, and other services performed on or for household appliances, including electrical appliances, major appliances, radios, television sets, refrigerators, and washing and drying machines, and repairing and upholstering furniture;

“(5) repairs, maintenance, and all other services performed on clocks, watches, and jewelry; and

“(6) repairs, maintenance, and all other services performed on or for motor vehicles, including washing, polishing, waxing, lubricating, and parking, except metered parking and other parking services performed by any city, governmental agency, or political subdivision.”

Sec. 14. Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Sections (W) and (X) to read as follows:

“(W) Taxable Items. ‘Taxable Items’ means tangible personal property, and taxable services.

“(X) Motor Vehicles. ‘Motor Vehicle’ means every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semitrailers. ‘Motor Vehicle’ does not include any device moved only by human power or used exclusively upon stationary rails or tracks and does not include farm machinery or farm trailers or road building machinery or any self-pro-

pelled vehicle used exclusively to move farm machinery or farm trailers or road building machinery.

Sec. 15. Article 20.02, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 4, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

“Article 20.02. Imposition of Limited Sales Tax

“There is hereby imposed a limited sales tax at the rate of three and one-half per cent (3-1/2%) on the receipts from the sale at retail of all taxable items within this State.”

Sec. 16. Section (A), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 5, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

“(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. It is further specified that where tangible personal property is segregated in contemplation of transfer of title or possession and is thereafter to be transported by common carrier from the seller to the buyer, with the price fixed FOB the seller's place of business, and which shall be computed only upon the basis of the charge for the tangible personal property itself, exclusive of the separately stated and independently fixed transportation charges. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

| Amount of Sale | Tax |
|------------------|--------|
| \$.01 to \$.13 | No Tax |
| .14 to .41 | .01 |
| .42 to .69 | .02 |
| .70 to .97 | .03 |
| .98 to 1.25 | .04 |
| 1.26 to 1.53 | .05 |
| 1.54 to 1.81 | .06 |
| 1.82 to 2.14 | .07 |

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying three and one-half per cent (3-1/2%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"When several taxable items are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or item of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

"The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited."

Sec. 17. Subsection (1), Section (B), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the taxable items sold. Provided, however, that this Section (B) does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this Chapter."

Sec. 18. Section (F), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(F) Presumption of Taxability: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the

limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

"The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for the purpose of reselling, leasing or renting it in the regular course of business or for the purpose of subsequently transferring it as an integral part of a taxable service rendered in the regular course of business."

Sec. 19. Section (G), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling, leasing or renting taxable items. A resale certificate may be given by a purchaser, who at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased, rented, or transferred in the regular course of business or will be used for some other purpose."

Sec. 20. Subdivision (1), Section (H), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(1) The certificate shall:

"(a) Be signed by and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased, or rented by the purchaser in the regular course of business, or transferred as an integral part of a taxable service rendered in the regular course of business."

Sec. 21. Section (I), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(I) Liability of Purchaser Giving Resale Certificate. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sales price of the tangible personal property to him shall be deemed the measure of the tax."

Sec. 22. Section (J), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer by him as an integral part of a taxable service rendered in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter."

Sec. 23. Section (M), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(M) Refunds and Allowances. Credit shall be allowed to the retailer for taxes paid on the amount of any

refunds or credits allowed to a purchaser as a result of a bona fide renegotiation of a sales price. Such renegotiation shall include agreements by which the seller refunds or allows credit for any amount in satisfaction for an alleged breach of warranty with respect to taxable items previously sold by him to the person with whom said agreement is made."

Sec. 24. Article 20.03, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 6, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

"Article 20.03. Imposition and Rate of Use Tax

"(A) An excise tax is hereby imposed on the storage, use or other consumption in this State of tangible personal property purchased, leased or rented from any retailer on or after September 1, 1961, for storage, use or other consumption in this State, at the rate of three and one-half percent (3½%) of the sales price of the property, or in the case of leases or rentals, of said lease or rental prices.

"(B) An excise tax is hereby imposed on the use or consumption in this State of taxable services purchased on or after January 1, 1970, for use or consumption in this State at the rate of three and one-half percent (3½%) of the sales price of the taxable service."

Sec. 25. Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding an Article 20.031 to read as follows:

"Article 20.031. Administration and Enforcement of Use Tax

"(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State taxable items purchased from a retailer or leased or rented from another person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to this State, except that a receipt from a retailer engaged in business in this State or from a retailer who is authorized by the Comptroller, under such rules

and regulations as he may prescribe, to collect the tax and who is, for the purposes of this Chapter relating to the use tax regarded as a retailer engaged in business in this State, given to the purchaser pursuant to paragraph (B) of this Article is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

“(B) Collection by Retailer: Purchaser’s Receipt. Every retailer engaged in business in this State and selling, leasing or renting taxable items for storage, use, or other consumption in this State shall at the time of making the sale collect any use tax which may be due from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Comptroller.

“‘Retailer engaged in business in this State’ as used in this Section (B) and the preceding Section (A) means and includes any of the following:

“(1) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

“(2) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any taxable items.

“(C) Assumption, Absorption of Tax by Retailers, Unlawful Advertising. It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling, renting, or leasing price of the taxable item sold, rented or leased, or that it or any part thereof will be refunded.

“(D) Unlawful Acts. Any person convicted of violating paragraphs (B) or (C) of this Article shall be guilty of a misdemeanor and shall suffer the penalties set forth in Article 20.12(D) of this Chapter.

“(E) Registration of Retailers. Every retailer selling, leasing or renting taxable items for storage, use or other consumption in this State shall register with the Comptroller and give:

“(1) The names and addresses of all agents operating in this State.

“(2) The location of all distribution or sales houses or offices or other places of business in this State.

“(3) Such other information as the Comptroller may require.

“(F) Presumption of Purchase for Use: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the use tax and of the duty to collect the use tax, it shall be presumed that tangible personal property sold, leased or rented by any person for delivery in this State is sold, leased or rented for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who sells, leases or rents the property unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for resale, leasing, or renting.

“(G) Effect of Resale Certificate. The resale certificate relieves the seller from the burden of proof only if taken in good faith from a person who is engaged in the business of selling taxable items. A resale certificate may be given by a purchaser who, at the time of purchasing the tangible personal property, intends to sell, lease or rent it in the regular course of business, transfer it as an integral part of a taxable service rendered in the regular course of business or is unable to ascertain at the time of purchase whether the tangible personal property will be sold, leased or rented or will be used for some other purpose.

“(H) Form and Contents of Resale Certificate.

“(1) The certificate shall:

“(a) Be signed and bear the name and address of the purchaser.

"(b) Indicate the number of the permit issued to the purchaser or that an application for such permit is pending before the Comptroller.

"(c) Indicate the general character of the tangible personal property sold, leased or rented by the purchaser in the regular course of business or transferred as an integral part of a taxable service rendered in the regular course of business.

"(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

"(I) Liability of Purchaser Giving Resale Certificate; Use of Article Bought for Resale. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than retention, demonstration or display while holding it for sale, lease or rental, in the regular course of business or for transfer as an integral part of a taxable service rendered in the regular course of business, the use shall be taxable to the purchaser as of the time when the tangible personal property is first so used, and the sale price of the property to him shall be deemed the measure of the tax.

"(J) Improper Use of Resale Certificates. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is purchased for the purpose of use rather than for the purpose of resale, lease or rental by him in the regular course of business or for transfer as an integral part of a taxable service rendered in the regular course of business is guilty of a misdemeanor and shall upon conviction suffer the penalty set forth in Article 20.12(B) of this Chapter.

"(K) Resale Certificate: Commingled Fungible Goods. If a purchaser gives a resale certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certifi-

cate until a quantity of commingled goods equal to the quantity of such goods so commingled has been sold.

"(L) Presumption of Purchase from Retailer. It shall be further presumed in the absence of evidence to the contrary, that tangible personal property shipped or brought to this State by the purchaser after the effective date of this Chapter was purchased from a retailer on or after the effective date of this Chapter for storage, use or other consumption in this State, and that taxable services consumed in this State after January 1, 1970, were purchased from a retailer on or after January 1, 1970, for use or consumption in this State."

Sec. 26. Article 20.04, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 2, H. B. No. 129, Acts of the 61st Legislature, Regular Session, 1969, is amended to read as follows:

"Article 20.04. Exemptions

"(A) 'Exempted from taxes imposed by this Chapter' means exempted from the computation of the amount of the taxes imposed.

"(B) Exemption Certificates. If a purchaser certifies in writing to a seller that the taxable items purchased will be used in a manner or for a purpose entitling the seller to regard the receipts from the sale as exempted by this Chapter from the computation of the amount of the limited sales tax, and if the purchaser then uses the taxable items in some other manner or for some other purpose, the purchaser shall be liable for payment of the limited sales tax as if he were a retailer making a retail sale of the taxable items at the time of the use, and the cost of the taxable items to him shall be deemed the receipts from such retail sale for the purpose of determining the amount of tax for which he is liable.

"Any person who gives an exemption certificate to the seller for taxable items which he knows, at the time of purchase, will be used in a manner other than that expressed in the exemption certificate is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

“(C) Constitution and Statutory Exemptions. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of and the storage, use or other consumption in this State of taxable items the gross receipts from the sale, lease or rental of which, or the storage, use or other consumption of which, this State is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this State.

“(D) Items Taxed Under Existing Statutes.

“(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental, production or distribution, or the storage, use or other consumption in this State of:

“(a) oil as taxed under the provisions of Chapter 4 of this Title;

“(b) sulphur as taxed under the provisions of Chapter 5 of this Title;

“(c) cigarettes as defined and taxed under the provisions of Chapter 7 of this Title;

“(d) cigars and tobacco products as defined and taxed under the provisions of Chapter 8 of this Title;

“(e) motor fuels as defined, taxed or exempted under the provisions of Chapter 9 of this Title;

“(f) special fuels as defined, taxed or exempted under the provisions of Chapter 10 of this Title;

“(g) cement as taxed under the provisions of Chapter 18 of this Title; and

“(h) motor vehicles, trailers and semitrailers as defined, taxed or exempted under the provisions of Chapter 6 of this Title.

“(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, production, distribution or the storage, use or other consumption in this State of alcoholic beverages, including distilled spirits, beer, ale and wine, subject to a tax imposed by the Texas Liquor Control Act, as amended; except that any such alcoholic

beverages shall be taxable when, and only when, consumed with food as a part of a meal served on or off the premises of the vendor for consumption at tables, chairs or counters or from trays, glasses, dishes or other tableware provided by the vendor.

“(3) There are exempted from the taxes, imposed by this Chapter the receipts from the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of water.

“(E) Property Used in Manufacturing, Packaging and Containers.

“(1) Tangible Personal Property Used in Manufacturing. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of:

“(a) tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed or fabricated for ultimate sale at retail within or without this State; and

“(b) tangible personal property used or consumed in or during any phase of such actual manufacturing, processing or fabricating operation, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operations. Chemicals, catalysts, and other materials which are used during such operations and which are used for the purpose of producing or inducing a chemical or physical change during such operations or for removing impurities or otherwise placing a product in a more marketable condition are included within the exemption, as are other articles of tangible personal property used in such a manner as to be necessary or essential in the actual manufacturing, processing, or fabricating operations. The exemption provided herein does not include the following:

“(i) machinery, equipment and replacement parts and accessories therefor, having a useful life when new in excess of six (6) months;

“(ii) machinery, equipment, mater-

ials and supplies used in a manner that is merely incidental to the manufacturing, processing or fabricating operation such as intraplant transportation equipment, and maintenance and janitorial equipment and supplies;

“(iii) hand tools such as hammers, wrenches, saws, etc.; and

“(iv) tangible personal property used by a manufacturer, processor or fabricator in any activities other than the actual manufacturing, processing or fabricating operation such as office equipment and supplies, equipment and supplies used in selling or distributing activities, in research and development of new products, or in transportation activities.

“(2) Wrapping, Packing and Packaging Supplies.

“(a) There are exempted from the taxes imposed by this Chapter the receipts from sales of all internal and external wrapping, packing, and packaging supplies and materials to any person for use in wrapping, packing or packaging any tangible personal property for the purpose of expediting or furthering in any way the sale of that property.

“(b) For the purpose of this Section, wrapping, packing and packaging supplies shall include, but shall not be limited to:

“(1) Wrapping paper, wrapping twine, bags, cartons, crates, crating materials, tape, rope, labels, staples, glue and mailing tubes.

“(2) Property used inside a package in order to shape, form, preserve, stabilize or protect the contents, such as, but not limited to, excelsior, straw, cardboard fillers, separators, shredded paper, ice, dry ice, cotton batting, shirt boards, hay and laths.

“(3) Containers.

“(a) There are exempted from the taxes imposed by this Chapter the receipts of sales, leases, or rentals of, and the storage, use or other consumption in this State of:

“(1) Nonreturnable containers when sold without the contents to persons

who place the contents in the container and sell the contents together with the container.

“(2) Containers when sold with the contents if the sale price of the contents is not required to be included in the measure of the taxes imposed by this Chapter.

“(3) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

“(b) As used in this Article, the term ‘returnable containers’ means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are ‘nonreturnable containers.’

“(F) Certain Meals and Food Products. There are exempted from the taxes imposed by this Chapter the receipts from the sale of, and the storage, use or other consumption in this State of:

“(1) Meals and food products (including soft drinks and candy) for human consumption served by public or private schools, school districts, student organizations, or Parent-Teacher Associations pursuant to an agreement with the proper school authorities, in an elementary or secondary school during the regular school day.

“(2) Meals and food products (including soft drinks and candy) for human consumption when sold by a church or at a function of said church.

“(3) Meals and food products (including soft drinks and candy) for human consumption when served to patients and inmates of hospitals and other institutions licensed by the State for the care of human beings.

“(G) Interstate Shipments.

“(1) Property Shipped Outside State Pursuant to Sales Contract; Delivery by Retailer. There are exempted from the taxes imposed by this Chapter receipts from any sale of tangible personal property which, pursuant to the contract of sale, is shipped to a point outside this State by the retailer by means of:

“(a) facilities operated by the retailer;

“(b) delivery by the retailer to a carrier for shipment to a consignee at such point; or

“(c) delivery by the retailer to a customs broker or forwarding agent for shipment outside this State.

“(2) Common Carriers. There are exempted from the computation of the limited sales tax, the receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this State and the tangible personal property is actually transported to the out-of-State destination for use by the carrier in the conduct of its business as a common carrier outside the State of Texas.

“(3) Special Use Tax Exemption. The use tax imposed herein shall not apply to:

“(a) The use, in this State, of tangible personal property which is acquired outside this State and which is moved into this State for use as a licensed and certificated carrier of persons or property.

“(b) The temporary storage in this State of tangible personal property which is acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property which is used solely outside this State.

“(c) The storage, use or consumption of tangible personal property which is acquired outside this State, the sale, lease or rental or the storage, use or consumption of which tangible personal property would be exempt from the limited sales or use tax were it purchased within this State.

“(d) The storage and use, in this State, of tangible personal property acquired outside this State for use as a repair or replacement part for

and actually affixed in this State to a self-propelled vehicle which is a licensed and certificated common carrier of persons or property.

“(H) United States; State; Political Subdivisions; Religious, Eleemosynary Organizations. There are exempted from the computation of the amount of the taxes imposed by this Chapter, the receipts from the sale, lease or rental of any taxable items to, or the storage, use or other consumption of taxable items by:

“(1) The United States, its unincorporated agencies and instrumentalities.

“(2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

“(3) The State of Texas, its unincorporated agencies and instrumentalities.

“(4) Any county, city, special district or other political subdivision of this State.

“(5) Any organization created for religious, educational, charitable or eleemosynary purposes, provided that no part of the net earnings of any such organization inures to the benefit of any private shareholder or individual.

“(I) Occasional Sales. There are exempted from the taxes imposed by this Chapter the receipts from the occasional sales of taxable items and the storage, use or other consumption in this State of taxable items the sale of which to the consumer constitutes an occasional sale or the sale of which to the consumer is made by way of an occasional sale.

“(J) Use Tax: Reciprocal Credit for Similar Taxes Paid Elsewhere. There shall be allowed as a credit to any taxpayer against the use tax imposed by this chapter upon any taxable item, the amount of any like tax paid by that taxpayer in another state, territory or possession of the United States of America with respect to the sale, purchase or use of the items; provided that such other

states, territories, or possessions provided for a similar tax credit for taxpayers of this State.

“(K) Use Tax Inapplicable When Limited Sales Tax Applies or When Use Tax Previously Paid. The storage, use or other consumption in this State of taxable items, the receipts from the sale, lease, rental or use of which are required to be included in the measure of the limited sales tax, or taxable items upon which a use tax has been paid by the taxpayer using said taxable items, is exempted from the use tax imposed by this Chapter.

“(L) Food and Food Products for Human Consumption. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of, food products for human consumption.

“(1) ‘Food products’ shall include, except as otherwise provided herein, but shall not be limited to, cereals and cereal products; milk and milk products, including ice cream; oleo-margarine; meat and meat products; poultry and poultry products; fish and fish products; eggs and egg products; vegetables and vegetable products; fruit and fruit products; spices, condiments and salt; sugar and sugar products; coffee and coffee substitutes; tea, cocoa products; or any combination of the above.

“(2) ‘Food products’ shall not include:

“(a) Medicines, tonics, vitamins and medicinal preparations in any form.

“(b) Carbonated and noncarbonated packaged soft drinks and diluted juices where sold in liquid or frozen form; and ice and candy.

“(c) Foods and drinks (which include meals, milk and milk products, fruits and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared or sold ready for immediate consumption in or by restaurants, drug stores, lunch counters, cafeterias, hotels or like places of business or sold ready

for immediate consumption from push carts, motor vehicles, or any other form of vehicle. Provided, however, that food and drinks purchased by a common carrier for the purpose of serving passengers traveling en route aboard such carriers shall be exempt.

“(M) Drugs, Medicines, Prosthetic Devices. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of insulin and of drugs and medicines when prescribed or dispensed for humans or animals by a licensed practitioner of the healing arts. There are also exempted from the taxes imposed by this Chapter, the receipts from sales of and the storage, use or other consumption of braces, spectacles, hearing aids, orthopedic and dental prosthetic appliances, and replacement parts designed specifically for such products.

“(N) Animal Life; Feed; Seeds; Plants; Fertilizer. There are exempted from the taxes imposed by this Chapter the receipts from sales of, and the storage, use or other consumption of:

“(1) Any form of animal life of a kind the products of which ordinarily constitute food for human consumption. Horses, mules and work animals.

“(2) Feed for farm and ranch animals and for animals which are held for sale in the regular course of business.

“(3) Seeds and annual plants the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business.

“(4) Fungicides, insecticides, herbicides, defoliant and desiccants exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

“(5) Fertilizer.

“(6) Machinery or equipment ex-

clusively used or employed on farms or ranches in the production of food for human consumption, production of grass, the building or maintaining of roads and water facilities, feed for any form of animal life, or other agricultural products to be sold in the regular course of business.

“(O) Sale for Resale: Leasing or Renting.

“(1) There are exempted from the taxes imposed by this Chapter the receipts from all sales for resale, leasing, renting or for transfer as an integral part of a taxable service rendered in the regular course of business.

“(2) However, if a person purchases tangible personal property for the purpose of leasing or renting it to another person, and if he later sells it by means of an occasional sale before he has collected and paid to this State as much tax on the rental or lease charges as would have been due and payable to this State had he not purchased the tangible personal property for the purpose of so renting and leasing it, he shall, at the time of his occasional sale of said tangible personal property include in his receipts from taxable sales the amount by which his purchase price exceeded the amount of rents collected by him on said tangible personal property.

“(3) When a lessor makes a retail sale of leased tangible personal property to a lessee of that tangible personal property under an agreement whereby certain rental payments are credited against the purchase price of that tangible personal property, he need not collect or pay any tax on the sale price to the extent that he has collected and paid on such rental payments.

“(P) Vessels.

“(1) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty (50) tons displacement and over, built

in this State, and the receipts from the sale of such ships, vessels, or barges when sold by the builder thereof.

“(2) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; or to materials and supplies used in the repair of such ships and vessels where such materials and supplies enter into and become a component part of such ships or vessels.

“(3) The taxes imposed by this Chapter shall not apply to the receipts from the sale, lease or rental of, or the storage, use or other consumption in this State of drilling equipment used in the exploration for or production of oil, gas, sulphur, or other minerals when such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

“(Q) Certain Aircraft. There are exempted from the taxes imposed by this Chapter the receipts from the sale, use, storage, lease or other consumption of aircraft sold to persons using such aircraft as certificated or licensed carriers of persons or property, or sold to any foreign government or sold to persons who are not residents of this State.

“(R) Gas and Electricity. There are exempted from the taxes imposed by this Chapter the sale, production, distribution, lease or rental of and the storage, use or other consumption in this State of gas and electricity except when sold for residential use or commercial use.

“For the purpose of this subsection, the terms ‘residential use’ and ‘commercial use’ shall have the following meanings:

“‘Residential use’ means use in a family dwelling or building or por-

tion thereof occupied as the home, residence, or sleeping place of one or more persons.

“‘Commercial use’ means use by persons engaged in selling, warehousing or distributing a commodity or service, either professional or personal.

“The term ‘commercial use’ specifically does not include use by persons engaged in: (1) processing tangible personal property for sale as tangible personal property; (2) exploration for or production and transportation of a material extracted from the earth; (3) agriculture, including dairy or poultry operations and pumping water for farm and ranch irrigation; or (4) electrical processes such as electroplating, electrolysis and cathodic protection.

“(S) Rolling Stock. There are exempted from the taxes imposed by this Chapter receipts from any sale, use, storage or other consumption of locomotive and rolling stock, including fuel or supplies essential to the operation of locomotives and trains.

“(T) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this State of books consisting wholly of writings sacred to any religious faith and religious periodicals published or distributed by any religious faith consisting wholly of writings promulgating the teachings of such faith.

“(U) Vending Machine Sales. (1) There are exempted from the taxes imposed by this Chapter the receipts from the sale of tangible personal property when sold through a coin-operated vending machine for a total consideration of sixteen cents (16¢) or less.

“(2) There are exempted from the taxes imposed by this Chapter the receipts from the sale of telephone service paid for by inserting coins in coin-operated telephones.

“(V) Transfers Without Substantial Change in Ownership. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental of, and the storage, use or other consumption in this

State, pursuant to the terms of a good faith bona fide contractual relationship, of an interest in tangible personal property to a partner, co-owner or other person who before or after such a sale owns a joint or undivided interest (with the seller) in such tangible personal property where the Texas Limited Sales, Excise and Use Tax has previously been paid on such tangible personal property.

“(W) Casing, Drill Pipe, Tubing, and Other Pipe. There are exempted from the taxes imposed by this Chapter, the receipts from the sale, lease, or rental in this State of casing, drill pipe, tubing, and other pipe to be used in exploration for or production of oil, gas, sulphur, and other minerals offshore outside the territorial limits of the State.

“(X) Property for Use in Offshore Exploration and Production. (a) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease or rental in this State of tangible personal property for use exclusively in the exploration for or the production of oil, gas, sulphur, or other minerals offshore and outside the territorial limits of the State.

“(b) The property described in Subdivision (a) of this section may be delivered to the purchaser or lessee in this State and removed by means of his own facilities or by any other means beyond the territorial limits of the State.

“(c) Receipts from the sale, lease or rental of property described in Subdivision (a) of this section are exempt when the property is shipped to any place in the State for further assembly or fabrication, and receipts from the sale, lease or rental of such property made upon completion of the assembly or fabrication are exempt if the property is forthwith removed beyond the territorial limits of the State.

“(Y) Contracts with Exempt Organizations. There are exempted from the computation of the amount of taxes imposed by this Chapter, the receipts from the sale, lease or rental of any tangible personal property to, or the storage, use or other consumption of tangible personal property by, any contractor for the performance of a contract for the improvement of

realty for an exempt organization as defined in Section 20.04(H) of this Chapter or otherwise exempt from the taxes imposed by this Chapter to the extent of the value of the tangible personal property so used or consumed or both in the performance of such contract."

Sec. 27. Section (B), Article 20.05, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 7, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

"(B) Method Retailer Is To Use in Computing Tax. The limited sales tax levied under Article 20.02 shall be computed and paid to the Comptroller on the basis of three and one-half per cent, (3½%) of all receipts from the total sales of taxable tangible personal property and taxable services sold by the retailer; provided any retailer who can establish to the satisfaction of the Comptroller that fifty per cent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is thirteen cents (13¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Article 20.02 of this Chapter. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the Limited Sales, Excise and Use Tax and the retailer shall be subject to assessment for back taxes, penalties and interest as provided for in this Chapter."

Sec. 28. Subsection 2, Section (C), Article 20.05, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 770, Acts of the 60th Legislature, Regular Session, 1967, is amended to read as follows:

"(2) For purposes of the limited sales tax a return shall be filed by every person subject to the tax. For purposes of the use tax a return shall be filed by every retailer engaged in business in the State and by every person who has purchased taxable items, the storage, use or other consumption of which is subject to the use tax, but who has not paid the use tax due to a retailer required to collect the tax."

Sec. 29. Section (D), Article 20.05, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(D) Contents of Return.

"(1) For the purposes of the limited sales tax, the return shall show the sale or receipts of the retailer or seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total receipts from sales of taxable items sold by him during the preceding reporting period which was purchased for the purpose of storage, use or consumption in this State.

"(2) Gross proceeds from taxable rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the Comptroller may prescribe.

"(3) In case of a return filed by the purchaser, the return shall show the total sales price of the taxable items purchased by him, the storage, use or consumption of which became subject to the use tax during the preceding reporting period.

"(4) The return shall also show the amount of the taxes for the period covered by the return and such other information as the Comptroller deems necessary for the proper administration of this Chapter."

Sec. 30. Subsection 2, Section (I) Article 20.05, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(2) Notwithstanding any other provision of this Chapter, any vendor whose taxable receipts from the sale of taxable items are less than ten per cent (10%) of his total receipts may elect to report his taxable receipts from the sale of taxable items by the method set forth by paragraph (a) of subsection (1) of this Section (I) irrespective of the fact that such vendor may not fall within the definition of the term 'retail grocer' as that term is defined by paragraph (c) of subsection (1) of this Section (I)."

Sec. 31. Section (J), Article 20.05, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 11, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

"(J) Commingled Tax and Receipts. Any retailer who establishes an accounting system under which the amount of tax collected pursuant to this Chapter is commingled with the receipts from the sale of taxable items may determine taxable receipts in the following manner:

"(1) He shall subtract from his total receipts the receipts from any sales which are specifically exempt from or otherwise excluded from the tax imposed by this Chapter. The remainder shall consist of the receipts from the sale of taxable items plus the tax collected pursuant to the provisions of this Chapter.

"(2) This remainder shall then be divided by 1.04. The answer resulting shall be the taxable gross receipts of the retailer for reporting purposes as prescribed by Section (B) of this Article.

"The sole purpose of this Section is to permit the widest possible latitude in the internal accounting system of retailers and to avoid requiring certain retailers to remit to the State a tax computed upon a base which already includes the tax imposed by this Chapter. Nothing herein shall be construed to relieve the retailer of the obligation and duty of collecting the tax in the specific manner prescribed by Article 20.021 of this Chapter."

Sec. 32. Section (K), Article 20.05, Title 122A, Taxation-General, Revis-

ed Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(K) Direct Payment Procedure Authorized. The Comptroller shall establish a system of direct payment which shall be applicable to those consumers who meet the qualifications set forth in this Section and who, after approval by the Comptroller, are issued a direct payment permit. The holder of a direct payment permit may issue to all of the vendors or sellers from whom purchases of taxable items are made a blanket exemption certificate covering all future purchases made by the direct payment permit holder and such certificate shall show the number of the direct payment permit and shall specify that the direct payment permit holder agrees to accrue and pay to the State of Texas all taxes which are or may in the future be due on taxable items purchased pursuant to exemption certificate.

"(1) Direct payment permits may be issued by the Comptroller after receipt of a written application for such a permit. The application shall be accompanied by:

"(a) Records establishing the fact that the applicant is a responsible person annually purchasing taxable items having a value when purchased equal to or in excess of Two Hundred Thousand Dollars (\$200,000) exclusive of any purchase for which a resale certificate authorized by Article 20.021(F) of this Chapter can be or could have been issued.

"(b) A description, in such detail as the Comptroller may require, of the accounting methods by which the applicant proposes to differentiate between taxable and exempt purchases.

"(c) An agreement, in a form prescribed by the Comptroller and signed by the applicant or, if a corporation, by a responsible officer thereof, under which the applicant agrees to accrue and pay all taxes imposed by Article 20.03 of this Chapter on all purchases not specifically exempted by Article 20.04 of this Chapter. The agreement shall stipulate that the applicant agrees to remit the taxes due quarterly on or before the

last day of the month next succeeding each quarterly period. Such agreement shall also stipulate that the applicant agrees to waive any claim for the discount authorized by Article 20.05(E) of this Chapter on any tax paid by him pursuant to a direct payment permit, provided, however, that if the applicant holds a valid seller's permit issued under the provisions of Article 20.021(C) of this Chapter he shall continue to be entitled to claim the discounts authorized on sales made pursuant to such seller's permit.

"(2) A direct payment permit shall be issued to any applicant who meets, to the satisfaction of the Comptroller, the qualifications set forth in subsection (1) of this Section. The Comptroller shall be the sole judge of whether such qualifications have been met and refusal by the Comptroller to issue a direct payment permit shall not be appealable. Any applicant may, however, request an opportunity to submit an amended application or if denied a direct payment permit, after a reasonable length of time, he may submit a new application.

"(3) Persons holding direct payment permits hold them as a matter of revocable privilege and not as a matter of right and the Comptroller may, upon his own initiative and with reasonable notice, cancel any direct payment permit. A cancellation shall not be appealable. The Comptroller shall notify a direct payment permit holder that his permit has been cancelled by registered mail and, immediately upon receipt of such notification, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of taxable items are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of taxable items are made of the cancellation of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notices.

"(4) Any direct payment permit holder may voluntarily relinquish such permit by notifying the Comptroller of his desire to relinquish such permit. Such voluntary relinquish-

ment of a direct payment permit shall not be effective until a termination notice is issued by the Comptroller. Immediately upon receipt of the Comptroller's termination notice, the direct payment permit holder shall contact all of the vendors or sellers from whom purchases of taxable items are made and notify them that the exemption certificates issued to them pursuant to the direct payment permit are no longer valid. Failure of a person to so notify the vendors or sellers from whom purchases of taxable items are made of the voluntary relinquishment of a direct payment permit shall be considered as a failure and refusal to pay the Limited Sales, Excise and Use Tax by the person required to issue such notice."

Sec. 33. Section (C), Article 20.06, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(C) Notice of Comptroller's Determination; Service.

"(1) The Comptroller shall give to the retailer or person storing, using or consuming taxable items written notice of his determination.

"(2) The notice may be served personally or by mail; if by mail, the notice shall be addressed to the retailer or person storing, using or consuming taxable items at his address as it appears in the records of the Comptroller.

"(3) In case of service by mail of any notice required by this Chapter, the service is complete at the time of deposit in the United States Post Office."

Sec. 34. Subsection 2, Section (D), Article 20.06, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(2) The limitation specified in this Article does not apply in case of a limited sales tax proposed to be determined with respect to sales of taxable items for the storage, use or

other consumption of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1) and (G) of this Article, and paragraph (B) of Article 20.07. The limitation specified in this Article does not apply in case of an amount of use tax proposed to be determined with respect to storage, use or other consumption of taxable items for the sale of which notice of a deficiency determination has been or is given pursuant to paragraphs (C), (D) (1), and (G) of this Article, and paragraph (B) of Article 20.07 and to subparagraph 1 of this paragraph."

Sec. 35. Subsection 1, Section (E), Article 20.06, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(1) If any person fails to make a return, the Comptroller shall make an estimate of the receipts of the person, or, as the case may be, of the amount of the total sales, rent or lease price of taxable items sold, rented or leased or purchased, by the person, the storage, use or other consumption of which in this State is subject to the use tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the Comptroller's possession or may come into his possession upon the basis of this estimate, the Comptroller shall compute and determine the amount required to be paid to the State, adding to the sum thus arrived at a penalty equal to ten per cent (10%) thereof. One or more determinations may be made for one or for more than one period."

Sec. 36. Sections (C) and (D), Article 20.11, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(C) Records to be Kept by Sellers, Retailers and Others.

"(1) Every seller, every retailer,

and every person storing, using or otherwise consuming in this State taxable items purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the Comptroller may reasonably require.

"(2) Every such seller, retailer or person shall keep such records for not less than four (4) years from the making of such records unless the Comptroller in writing sooner authorizes their destruction.

"(D) Examination of Records; Investigation of Business. The Comptroller, or any person authorized in writing by him, may examine the books, papers, records and equipment of any person selling taxable items and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made, or, if no return is made by the person, to ascertain and determine the amount required to be paid."

Sec. 37. Section (F), Article 20.11, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(F) Reports for Administering Use Tax: Contents. In administration of the use tax, the Comptroller may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of taxable items, the storage, use or other consumption of which is subject to the tax. The report shall:

"(1) Be filed when the Comptroller requires.

"(2) Set forth the names and addresses of purchasers of the tangible personal property, the sales price of the property, the date of sale, and such other information as the Comptroller may require."

Sec. 38. Section (B), Article 20.12, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(B) Penalty for Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for property which he knows, at the time of purchase, is purchased for the purpose of use rather than the purpose of resale, lease or rental by him in the regular course of business or for transfer as an integral part of a taxable service in the regular course of business, is guilty of a misdemeanor and such person shall upon conviction be fined not more than Five Hundred Dollars (\$500) for each conviction."

Sec. 39. Subsection B, Section 2, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"B. The sales tax portion of any local sales and use tax adopted under this Section is hereby imposed at the rate of one percent (1%) on the receipts from the sale at retail of all taxable items within any city adopting such tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended."

Sec. 40. Subdivision (2), Subsection K, Section 2, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967, as last amended by Section 8, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of four percent (4%) on the receipts from the sale at retail of all taxable items within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all taxable items within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of four and one-half percent (4½%) on combined taxes in such city on the receipts from the sale of all tangible personal property within such city which is

subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

| Amount of Sale | Tax |
|------------------|--------|
| \$.00 to \$.11 | No Tax |
| .12 to .33 | \$.01 |
| .34 to .55 | .02 |
| .56 to .77 | .03 |
| .78 to .99 | .04 |
| 1.00 to 1.22 | .05 |
| 1.23 to 1.44 | .06 |
| 1.45 to 1.66 | .07 |
| 1.67 to 1.88 | .08 |
| 1.89 to 2.11 | .09 |

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying four and one-half percent (4-1/2%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

"Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is eleven cents (\$.11) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and

the Limited Sales, Excise and Use Tax Act."

Sec. 41. Section 5, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 5. On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and Use Tax for the State of Texas, an additional tax under the authority of this Act of one percent (1%) on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such city which property is subject to the State Limited Sales, Excise and Use Tax Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller. On and after the effective date of any proposition to abolish such local sales and use tax in any city, the Comptroller shall comply therewith as provided in this Act."

Sec. 42. Subdivision 1, Subsection B, Section 6, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"B. (1) For the purposes of the local sales tax imposed by this Act, all retail sales, leases and rentals, except sales of natural gas or electricity, are consummated at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination or the taxable service is to be performed at an out-of-state location. In the event the retailer has no permanent place of business in the State, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of

the tax imposed by this Act shall be determined under rules and regulations prescribed by the Comptroller. If the retailer has more than one place of business in the State, the place or places at which retail sales, leases, and rentals are consummated shall be the retailer's place or places where the purchaser or lessee takes possession and removes from the retailer's premises the articles of tangible personal property, or if the retailer delivers the tangible personal property to a point designated by the purchaser or lessee, then the sales, leases, or rentals are consummated at the retailer's place or places of business from which tangible personal property is delivered to the purchaser or lessee. The sale of natural gas or electricity is consummated at the point of delivery to the consumer."

Sec. 43. Subsection C, Section 6, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"C. (1) All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain articles and items taxable under the provisions of Article 20.04, Chapter 20, Title 122A, are hereby made applicable to the imposition and collection of the tax imposed by this Act.

"(2) The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the tax imposed by this Act, if:

"(a) the items are used for the performance of a written contract entered into prior to the date this Act takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

"(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date this Act takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

"(c) if notice of a contract or bid

on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date this Act takes effect in any city which may affect the bid or contract.

"The exemption provided by this Subsection shall have no effect after three (3) years from the date this Act takes effect in any city."

Sec. 44. Section 8, Chapter 36, Acts of the 60th Legislature, Regular Session, 1967 (Article 1066c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Sec. 8. Each city's share of all local sales and use tax collected under this Act by the Comptroller shall be transmitted to the Treasurer or the officer performing the functions of such office of such city by the Comptroller payable to the city periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each State fiscal year, the Funds so transmitted may be used by the city for any purpose for which the general funds of the city may be used. Before transmitting such funds, the Comptroller shall deduct seven and one-half percent (7.5%) of the sum collected from each such city during such period as a charge by the State of Texas for its services specified in this Act, and the amounts so deducted, subject to the provisions of Section 7B of this Act, shall be deposited by the Comptroller in the State Treasury to the credit of the General Revenue Fund of the State. The Comptroller is authorized to retain in the suspense account of any city a portion of the city's share of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent (5%) of the amount remitted to the city. The Comptroller is authorized to make refunds from the suspense account of any city for overpayments made to such accounts, and to redeem dishonored checks and drafts deposited to the credit of the suspense accounts of such cities. When any city shall adopt the Local Sales and Use Tax, and shall thereafter abolish such tax, the Comptroller may retain in the suspense account of such city for a period of one year five percent (5%) of the final remittance to each such city at the time of termination of collection of such tax in

such city to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year had elapsed after the effective date of abolition of such tax in such city, the Comptroller shall remit the balance in such account to the city and close the account."

Sec. 45. (a) There are exempted from the additional one-half per cent increase in the Limited Sales, Excise, and Use Tax imposed by this Act the receipts from the sale, use, or rental, and the storage, use, or consumption in this state of tangible personal property, and there are exempted from the Limited Sales, Excise, and Use Tax the receipts from the sale, use, or rental, and the storage, use or consumption in this state of taxable services not taxed before the effective date of this Act, if:

(1) the items are used for the performance of a written contract entered into prior to the date this Act takes effect, if the contract is not subject to change or modification by reason of the tax; or the items are used pursuant to an obligation of a bid or bids submitted prior to the effective date of this Act if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(2) notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller before November 1, 1969.

(b) The exemptions provided by this section have no effect after August 31, 1972.

ARTICLE 2.

Section 1. Section 1, Article 7.06, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 401, Acts of the 59th Legislature, Regular Session, 1965, is amended to read as follows:

"(1) In addition to the tax levied by Article 7.02, herein, there is hereby imposed a tax of six dollars (\$6.00) per thousand on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The 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, 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 packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale."

Sec. 2. Section (1) of Article 7.01, Chapter 7, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(1) Cigarette shall mean and include any roll for smoking made of tobacco or substitute therefor irrespective of size or shape and irrespective of tobacco or substitute therefor being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or other material than tobacco. This definition shall not include cigars."

Sec. 3. Section (8) of Article 7.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(8) 'First Sale' shall mean and include the first sale or distribution of cigarettes in intrastate commerce, or the first use or consumption of cigarettes within this State, or the loss of cigarettes in this State whether by negligence, theft, or any other unaccountable loss."

ARTICLE 3.

Section 1. Article 17.05, Chapter 17, Title 122A, Taxation-General, as amended, is amended by adding a new subsection (e) to read as follows:

(e) The license and exemption fees provided by this article shall be computed and paid as follows:

1. For the calendar year 1970 the full amount of the fees shall be com-

puted and the total reduced by 10%, the remaining 90% to be paid to the Comptroller of Public Accounts.

2. For the calendar year 1971 the full amount of the fees shall be computed and the total reduced by 30%, the remaining 70% to be paid to the Comptroller of Public Accounts.

3. For the calendar year 1972 the full amount of the fees shall be computed and the total reduced by 50%, the remaining 50% to be paid to the Comptroller of Public Accounts.

4. For the calendar year 1973 the full amount of the fees shall be computed and the total reduced by 70%, the remaining 30% to be paid to the Comptroller of Public Accounts.

5. For the calendar year 1974 the full amount of the fees shall be computed and the total reduced by 90%, the remaining 10% to be paid to the Comptroller of Public Accounts.

Section 2. Chapter 17, Title 122A, Taxation-General, is repealed effective January 1, 1975.

ARTICLE 4.

Section 1. Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Article 12.011, to read as follows:

"Art. 12.011. Exemption for Homes for Elderly People

"The additional franchise tax levied by Subsection (1) (a) (ii) of Article 12.01 of this Title shall not apply to corporations organized for the purpose of providing homes for elderly people sixty-two (62) years of age and older not for profit without regard to whether such corporations are for purely public charity."

ARTICLE 5.

Section 1. Article 11.02, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Art. 11.02. Utility Companies

"(A) Tax Imposed. An occupation tax is hereby imposed upon the gross

receipts of telegraph, telephone, electric, gas, and water companies as provided by this Article.

“(B) Telegraph Companies. Each individual, company, corporation, or association owning, operating, managing, or controlling any telegraph lines in this State, or owning, operating, controlling, or managing what is known as wireless telegraph stations, for the transmission of messages or aerograms, and charging for the transmission of such messages or aerograms, shall make quarterly, on the first day of February, May, August and November of each year, a report to the Comptroller, showing the gross amount received from all business within this State during the preceding quarter, ending on the last day of December, March, June and September, respectively, in the payment of telegraph or aerogram charges, including the amount received on full-rate messages and aerograms, and half-rate messages and aerograms and from the lease or use of any wires or equipment within this State during the quarter, excepting all business transacted for on behalf of the agencies of the United States Government, for which rates are prescribed by the Postmaster General.

“(C) Gas, Electric Light, Power, or Water Works Companies. (1) 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 the town or city, and charging for such gas, electric lights, electric power, or water, shall make quarterly on the first day of February, May, August and November of each year, a report to the Comptroller showing the gross amount received from such business done in each incorporated city or town within this State in the payment of charges for the gas, electric lights, electric power, or water during the preceding quarter ending on the last day of December, March, June and September, respectively.

“(2) Nothing herein shall apply to any such gas, electric light, electric 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.

“(3) 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.

“(4) Utilities paying an occupation tax under this Article shall not hereafter be required to pay the license fee imposed in Article 17.05 of this Title for the privilege of selling gas and electric appliances and parts for the repairs thereof, in towns of three thousand (3,000) or less in population according to the next preceding Federal Census.

“(D) Telephone Companies. (1) Each individual, company, corporation, or association owning, operating, managing, or controlling any telephone line or lines, or any telephones located within any incorporated town or city in this State and charging for the use of same, shall make quarterly, on the first day of February, May, August and November of each year, a report to the Comptroller showing the gross amount received from such business done in each incorporated city or town within this State during the preceding quarter ending on the last day of December, March, June and September, respectively, in the payment of charges, including intrastate long distance tolls, for the use of its line or lines, telephone or telephones, and from the lease or use of any wires or equipment in such towns or cities during the quarter.

“(2) Nothing herein shall apply to any telephone line or lines owned and operated by a cooperative, nonprofit, membership corporation.

“(E) Rates. (1) Each individual, company, corporation, or association, at the time of making the report, shall pay to the Treasurer of this State an occupation tax on the gross amount of receipts shown by the report, as defined in the preceding sections, for each quarter beginning on the first day of January, April, July

and October, respectively, according to the following rates:

“(a) For the gross amount reported for any incorporated town or city of more than one thousand (1,000) inhabitants and fewer than two thousand five hundred (2,500) inhabitants, the tax shall be six-tenths of one percent (0.06%) of the gross amount.

“(b) For the gross amount reported for any incorporated town or city of two thousand five hundred (2,500) inhabitants or more and fewer than ten thousand (10,000) inhabitants, the tax shall be one percent (1%) of the gross amount.

“(c) For the gross amount reported for any incorporated town or city of ten thousand (10,000) inhabitants or more, the tax shall be two percent (2%) of the gross amount.

“(2) The population of incorporated towns or cities shall be determined from the last Federal Census next preceding the filing of the report.

“(F) 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 Section (B) of this Article, provided that nothing in Section (B) shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that Section (B) shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise.

“(G) 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 Section (C) or (D) of this Article. Nothing in this Article shall be construed as affecting in any way the collection of ad valorem taxes authorized by law, nor impairing or altering in any way the provisions of any contracts, agreements or franchises now in exist-

tence, or hereafter made between a city and public utility, relating to payments of any sort to a city. Nothing in Section (C) or (D) 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, and each such city shall have such right and power; 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 percent (2%) of the gross receipts of such utility within such municipality derived from the local sale of gas, electric energy, water or use of telephone lines or telephones. Any special taxes, rentals, contributions, or charges accruing after September 1, 1969, under the terms of any preexisting contract or franchise, against any utility paying an occupation tax under Section (C) or (D) when paid to any such city, shall be credited on the amount owed by such public utility on any charge or rental imposed for the use of streets, alleys, and public ways, levied by ordinance, and accruing after September 1, 1969; provided that where valid ordinances have been enacted heretofore by cities imposing a charge or rental in excess of two percent (2%) of the gross receipts of such utilities, nothing herein shall be construed so as to prohibit the collection of such sum as may be due said cities thereunder from the date of said ordinances up to September 1, 1969.”

Sec. 2. Articles 11.03 and 11.06, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, are repealed.

ARTICLE 6.

Sec. 1. Article 21.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

“Article 21.01. Reports Required

“Every person, firm, association of persons, or corporation owning or operating any place of amusement which charges a price or fee for ad-

mission to motion pictures, operas, plays, concerts, musical shows, skating exhibitions and shows, skating rinks open to skating by patrons, and like amusements, or to horse racing, dog racing, motorcycle racing or boat racing, shall file with the Comptroller a quarterly report on the twenty-fifth day 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 and the price or fee for admission; provided, however, that the report herein required shall be made upon the day following each amusement, exhibition, entertainment or contest, when such amusement, exhibition, entertainment or contest is not held continuously at a regular fixed place or establishment; and further provided, however, no tax shall be levied under this Chapter on the admission to any amusement, the proceeds of which inure exclusively to the benefit of State, religious, educational or charitable institutions, societies, or organizations, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual, or for any type of exhibition or amusement conducted by and exclusively for the benefit of a non-profit corporation organized and chartered under the laws of the State of Texas for the purpose of encouraging agriculture by the maintenance of public fairs and exhibitions of live-stock, or for admission to any rodeo; and provided further, that an operator of amusements where the admission charge is less than One Dollar and Five Cents (\$1.05) per person, and where no tax is due hereunder, shall be relieved from the filing of a report and the payment of a tax levied under the provisions of this Chapter. 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 in rates and amounts as hereinafter provided."

Sec. 2. Article 21.02, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 21.02. Tax Imposed

"(1) There is hereby levied on each admission to entertainments such as motion pictures, operas, plays, con-

certs, musical shows, skating exhibitions and shows, skating rinks open to skating by patrons, and like amusements, where the admission charged is in excess of One Dollar and Five Cents (\$1.05) and not more than One Dollar and Fifteen Cents (\$1.15) a tax of one cent (1¢); and where the admission charge is in excess of One Dollar and Fifteen Cents (\$1.15) a tax of two cents (2¢) plus one cent (1¢) on each ten cents (10¢) or fractional part thereof in excess of One Dollar and Twenty-five cents (\$1.25).

"(2) There is hereby levied a tax equivalent to ten per centum (10%) of the amount paid as admission to horse racing, dog racing, motorcycle racing, and boat racing.

"(3) There is hereby levied on the amounts paid for admission by season ticket, subscription, or lease for admission to any place, a tax equivalent to ten per centum (10%) of the amount paid therefor, provided a single admission to the place would be subject to taxation under the provisions of this Chapter.

"(4) The taxes herein levied shall not apply to complimentary tickets and passes for which no admission charge is collected."

ARTICLE 7.

Sec. 1. Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, is amended by adding Chapter 26 to read as follows:

"CHAPTER 26

ENTERTAINMENT TAX

"Article 26.01. Tax Imposed

"(a) There is hereby imposed an entertainment tax at the rate of three and one-half percent on receipts collected by any person, except as specifically exempted under this chapter, which are collected as

"(1) a charge for admission to any athletic contest in which the participants are professionals or receive monetary compensation for participating, such as baseball, football, basketball, soccer, hockey, rugby, polo, boxing, wrestling, and track and field meets; or

"(2) a charge denominated as an admission charge to a dance hall, private club, night-club, bottle club, lounge, cabaret, tavern, dinner club, or dining room when the charge is made for the privilege of any use of the facilities of the person making the charge in order to consume food or beverages, to dance, or to view a floor show or other entertainment; or

"(3) a charge for admission to any natural or man-made phenomena, object or structure or curiosity or interest, such as caverns, amusement parks, buildings, ruins and guided tours of such natural or man-made phenomena, object, structure, curiosity or interest and shall include charges made for the privilege of participating in or using any of the additional amusements therein or connected therewith.

"(b) 'Receipts' or 'receipts from admission' as used in this chapter means the total consideration received by a taxpayer as defined in Article 26.03 of this chapter, whether the consideration is paid as dues; under the terms of a subscription, membership or other card, season or other ticket, or lease for admission; or without the delivery or use of any receipt, ticket, or other written instrument or device. 'Receipts' or 'receipts from admission' as used in this chapter does not include that portion of the consideration collected as federal excise tax.

"(c) The tax imposed by this chapter is in addition to any other excise tax imposed by the state, any political subdivision of the state, or any city.

"Article 26.02. Exemptions

"(a) There shall be exempt from the tax imposed by this chapter

"(1) receipts from admissions otherwise taxable if all of the net receipts inure exclusively to the benefit of state, religious, educational, or charitable institutions, societies, or organizations;

"(2) receipts from any rodeo, regardless of whether the participants are amateurs or professional performers.

"(b) For the purpose of the proper administration of this chapter, it shall be presumed that all places of business and all persons who collect receipts or receipts from admission subject to tax under Article 26.01 of this chapter are liable for the tax unless the contrary is established. The burden of proving that receipts are exempt under the provisions of this article is upon the person collecting or receiving the receipts, unless he has obtained from the Comptroller an exemption certificate.

"Article 26.03. Method of Collection

"(a) The entertainment tax imposed by this chapter shall be added to the receipts from admission, and when added, the tax shall become a part of the admission charge. The tax shall be collected by the taxpayer, as herein defined, from the payees of the receipts from admission, and said tax shall be reported and paid to the state by the taxpayer in the manner and at the times provided for herein. The granting of a permit to an owner or operator to collect such taxes for and in behalf of the state shall be deemed to establish a fiduciary relationship between such permit holder and the state.

"(b) Except as hereinafter provided, the tax imposed by this chapter shall be due and payable quarterly at the office of the Comptroller at Austin on the twenty-fifth day of January, April, July and October for the quarter ending on the last day of the preceding month.

"(c) Any person, firm, association, or corporation required to obtain a permit in accordance with Article 26.05 of this chapter shall be referred to herein as the taxpayer and shall be subject to the liabilities and responsibilities imposed by this chapter.

"(d) The taxpayer shall deduct and withhold from the taxes otherwise due from him two percent (2%) of such taxes otherwise due or One Thousand Dollars (\$1,000), whichever is the lesser, to reimburse himself for the cost of collecting the tax. In the event the payment of any taxes due under the applicable provisions of this chapter are not paid within the

time required, or in the event that the taxpayer does not file reports when due as provided by the provisions of this chapter, the taxpayer forfeits his claim and right to the discount of two percent (2%) or One Thousand Dollars (\$1,000), as the case may be.

“(e) The taxpayer shall pay to the state at the office of the Comptroller at Austin the amount of taxes required to be collected under this chapter on the dates on which said taxes are due under the applicable provisions of this chapter. At the same time that the tax herein is payable, the taxpayer shall file with the Comptroller at Austin a report on such forms as the Comptroller shall from time to time prescribe, showing the receipts from admission and the price or charge for each class of admission.

“(f) The tax imposed by this Chapter upon the receipts from admission shall be payable on the dates set forth in paragraph (b) of this Article, except in the case of taxes due on receipts from admission to events or contests not held at a regular fixed place or establishment, in which case the tax shall be payable on the day following the event or contest (excluding Saturdays, Sundays, and legal holidays). However, the taxpayer shall have the right to request an extension of time within which to pay the tax or file such report.

“(g) The Comptroller may require returns or payments to be made at times other than provided in this chapter. The Comptroller may upon good cause shown extend for a period not to exceed thirty (30) days the time for making returns or payments.

“Article 26.04. Records Required

“(a) The taxpayer shall make and keep records in Texas at an address shown on the reports to be filed with the Comptroller for a period of two years. The records shall correctly reflect (1) the date of the event for which an admission charge was made; (2) the charge for admission; (3) the number of patrons admitted; and (4) if admitted gratuitously, the number of patrons so admitted. The records shall be open to inspection by the Comptroller and the Attorney General, or their duly authorized agents.

“(b) In addition, for the purpose of enabling the Comptroller or his authorized agent to determine the amount of tax collected and payable to the state, or which should have been collected and paid to the state, or to determine whether a tax liability has been incurred, the Comptroller or his authorized representative shall have the right to inspect any premises, and any books and records that may be kept incident to the conduct of any business or venture having receipts subject to tax under this chapter, as well as the books and records required to be kept by this chapter.

“(c) For the foregoing purposes, the Comptroller or his duly authorized agent shall also have the right to remain upon said premises for such length of time as is necessary to determine fully whether a tax liability has been incurred and the amount thereof. If the taxpayer fails to keep the required records or refuses to allow their inspection, the taxpayer shall forfeit to the State of Texas as a penalty not more than One Thousand Dollars (\$1,000) for each violation, and each violation shall constitute a separate offense. The venue for the collection of such penalties shall be in Travis County, Texas.

“Article 26.05. Permit Required

“(a) From and after the effective date of this chapter, every person, firm, association, or corporation owning or operating, or who desires to own or operate, any place of business or venture which makes a charge for admission which is subject to tax under this chapter shall file with the Comptroller a duly acknowledged application for an owner's or operator's permit. The application shall be accompanied by an annual fee of Ten Dollars (\$10) to pay the expenses of administering and enforcing the provisions of this chapter. The permit shall be on the form prescribed by the Comptroller. An application shall be filed and a permit obtained for all places of business and ventures charging admission owned or operated by the applicant. The application form shall set forth the name or names under which such owner or operator transacts or intends to transact each business or venture, as well

as such owner's or operator's principal office, residence, or place of business in Texas, and if other than an individual, the principal officers of the corporation or the members of the partnership or association, as the case may be, and their office, street, or post office address, as well as such other information as the Comptroller may reasonably require. No one shall operate any such place of business or venture charging admission until the application has been filed and a permit issued. The permit shall not be assignable. Only one permit shall be required of an owner or operator for all places of business and ventures to be operated. The application for a permit and the permit issued shall designate each location of the place of business or venture to be operated, by street address and town, and the permit may be amended from time to time in order to designate additional locations without the payment of an additional fee. No place of business or venture subject to the tax imposed by this chapter shall be operated unless the location of such place of business or venture is designated on a permit. Each applicant shall be issued a permit for each place of business or venture and shall display the permit conspicuously at the place.

"(b) Upon receipt of the application and the posting of bond required by Article 26.07 of this chapter, the Comptroller shall issue to the owner or operator a nonassignable, consecutively-numbered permit authorizing the operation of a designated place or places of business or ventures charging admission in this state from the date of the issuance of said permit, until and including the following August 31. On or before September 1 of each year, and before any owner or operator shall operate a place of business or venture in this state after August 31 of that year, an application shall be filed, a bond posted, and a permit obtained for the succeeding fiscal year. Said permit shall provide that the same is revocable and shall be cancelled upon violation of any provisions of this chapter. If such permit is cancelled or suspended, said owner or operator shall not operate or allow to be operated any place of business or venture charging admission within the state until a new permit is granted

or the original permit is reinstated. However, no permit shall be issued or reinstated 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 tax, penalty, or interest under the provisions of this chapter.

"(c) In the event that a place of business or a venture for which admission is charged is not held at a regular fixed place or establishment, then the owner or operator shall make application for a permit as required in Paragraph (a) of this Article within a period of twenty (20) days prior to the date contemplated for the event or contest for which admission is charged is scheduled to begin. The permit shall be effective for a period no longer than the period set forth in the application as being the period during which the event or contest will be held. Such application shall also set forth the location or locations, where the event or contest will be held and the permit shall disclose such location or locations.

"(d) A corporation or organization which is otherwise exempt from the application of this chapter may apply and receive from the Comptroller an exemption certificate on a form prescribed by the Comptroller upon submission of satisfactory evidence that such corporation or organization is exempt. The application for exemption shall designate the date or dates and place of the activity for which exemption is claimed. Issuance of an exemption certificate shall be presumptive only of the exempt nature of the activity for which the certificate was issued.

"(e) Upon receipt of an appropriate application for permit and bond, the Comptroller shall not refuse to issue a permit because the applicant is contesting in good faith an admission tax otherwise due for a period prior to the effective date of this chapter. However, nothing contained herein shall be construed as meaning that any such tax is forgiven. All admission or entertainment taxes, penalties, and interest accruing to the state by virtue of any of the reenacted or re-

pealed provisions set out in this chapter before the effective date of this chapter shall be and remain valid and binding obligations to the state for all taxes, penalties, and interest accruing under the provisions of all prior laws, and all such taxes, penalties, and interest now or hereafter becoming delinquent to the state are hereby expressly preserved and declared to be legal and valid obligations to the state.

“Article 26.06. Cancellation of Permit

“(a) The Comptroller, or any duly authorized agent of the Comptroller, is hereby authorized to cancel, or to refuse the issuance, extension, or reinstatement of, any owner's or operator's permit or exemption certificate as provided under the terms of this chapter to any person who has violated or has failed to comply with any of the provisions of this chapter, including any of the following offenses: (1) failure or refusal to remit or pay to the state any excise tax imposed by this chapter, which tax is shown to be owing to the state by a duly verified audit made by a duly authorized agent of the Comptroller from any report filed with the Comptroller or from any books or reports required to be kept or any books or records authorized to be audited by the provisions of this chapter; (2) failure to file any return or report required under the provisions of this chapter; (3) making and filing with the Comptroller of any false or incomplete application, return or report required under the provisions of this chapter; (4) failure to keep any books and records for the period and in the manner required to be kept; (5) falsifying, destroying, mutilating, removing from the state, or secreting any books and records, or any application, return, or report; (6) refusing to permit the Comptroller, Attorney General, or their duly authorized agents to inspect, audit, and examine any books and records required to be kept or to inspect any premises they are authorized to inspect; (7) engaging any business or venture requiring a permit under the provisions of this chapter without obtaining and possessing a valid permit.

“(b) Before any permit or exemption certificate may be cancelled, or the issuance, reinstatement, or ex-

tension thereof refused, the Comptroller shall give the applicant or permittee not less than fifteen (15) days' notice of a hearing at the office of the Comptroller in Austin granting the applicant or permittee an opportunity to show cause before the Comptroller, or his duly authorized agent, why such action should not be taken. The notice shall be in writing and may be mailed by United States registered mail to the applicant or permittee at his last known address, or may be delivered to him personally by a duly authorized agent of the Comptroller, and no other notice shall be necessary. The Comptroller may prescribe rules of procedure and evidence for such hearings.

“(c) In the event that the permit or exemption certificate is cancelled by the Comptroller, or his duly authorized agent after such hearing is held or opportunity to be heard has been given, 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 paragraph, shall become due and payable concurrently with the cancellation of the permit, and the permittee shall forthwith make a report covering the period of time not covered by the preceding reports he filed and ending with the date of cancellation, and shall pay to the state all taxes which have accrued under this chapter.

“After being given notice of cancellation, it shall be unlawful for any person to continue to operate a place of business or venture charging admission under the cancelled permit.

“(d) An appeal from any order of the Comptroller or his duly authorized agent cancelling or refusing the issuance, extension, or reinstatement of any permit or exemption certificate may be taken to a district court of Travis County by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits except that the following exceptions shall be applicable: (1) 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 agent; (2) such proceedings shall have precedence over all other causes of a different nature; and (3) the order,

decision, or ruling of the Comptroller, or his duly authorized agent may for good cause shown be suspended or modified by the court pending a trial on the merits. Any suspension or modification shall not relieve the taxpayer or his surety of their obligations under this chapter or under any bond posted on behalf of such taxpayer.

"Article 26.07. Bond Required

"(a) Before any permit shall be issued and before engaging in the operation of a place of business or a venture charging admission on which a tax is required to be paid under this chapter every owner or operator shall execute and file with the Comptroller a good and sufficient surety bond in the amount of One Thousand Dollars (\$1,000), which shall run concurrently with the permit. The bond shall be signed by the owner or operator and a surety company or companies authorized to do business in this state. The bond shall be payable to the State of Texas and the conditions, and form of the bond shall be prescribed by the Comptroller. Each bond shall provide for the performance of all obligations, and the payment at Austin of all taxes due, and all costs, penalties, and interest provided in this chapter; 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, shall not for any fiscal 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 renewal 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 certificate, when issued, shall have all the force and effect of the original bond for the fiscal year for which said renewal certificate is issued. After six (6) months from the effective date thereof, the amount of the bond shall be adjusted to a sum equal to no more than two (2) times the highest tax said owner or operator may be liable to the state for any quarter during the preceding six (6) months, or Ten Thousand Dollars (\$10,000), whichever is the lesser. The Comptroller is hereby given the authority, in the

appropriate case and upon submission of satisfactory evidence that the revenues will be protected, to reduce the amount of the bond below the maximums provided for herein; provided, however, that the amount of the bond shall never be less than One Hundred Dollars (\$100).

"(b) The Comptroller shall have the right, if 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 within the maximums provided for herein. When said new bond has been furnished, the Comptroller shall cancel the bond for which said new bond is substituted. No recoveries or execution on any new bond may be demanded when any new permit is issued or revived, but no revocation or revival shall affect adversely to the Comptroller the validity of any bond. Should any owner or operator fail or refuse to supply a new or additional bond within thirty (30) days after his receipt of notice of the Comptroller's demand for a new or additional bond, the owner's or operator's permit shall be cancelled by the Comptroller.

"(c) Any surety on any bond furnished by any owner or operator under this Article shall be discharged from any and all liability to the state accruing on such bond after the expiration of thirty (30) days from the date on which the surety shall have lodged with the Comptroller a written request for discharge. Provided, however, that the request shall not operate to release the surety from any liability already accrued, or which shall accrue prior to the expiration of said thirty-day period. The Comptroller shall, promptly on the receipt of notice of such request by the surety, notify the owner or operator of the surety's request, and unless such owner or operator shall within thirty (30) days from the date of receipt of said notice file with the Comptroller a new bond with a surety duly authorized to do business in this state, in the amount and form required by this Article, the Comptroller shall proceed to cancel the permit of the owner or operator in the manner provided in this chapter. If the new bond shall be furnished by said owner or operator as above provided, the Comptroller shall cancel

the bond for which the new bond is substituted.

"(d) In lieu of giving a bond, any owner or operator may deposit in the suspense account of the State Treasury money in the amount of the bond that may be otherwise required by the terms of this article which shall not be released until a bond is executed in lieu thereof, or until the Comptroller has made an audit of the owner's or operator's records and authorized the same released.

"(e) Suit may be filed against any surety on any bond, without first resorting to or exhausting the assets of the owner or operator, or without making the owner or operator, as principal obligor in said bond, a party to the suit.

"Article 26.08. Penalties

"(a) If any taxpayer fails to pay the tax or file a report as required by this chapter when the same shall be due, he shall forfeit five percent (5%) of the amount of tax due as a penalty, and after the first thirty (30) days, he shall forfeit an additional five percent (5%) of the tax. Provided, however, that the penalty shall never be less than One Dollar (\$1). Delinquent taxes and accrued penalty shall draw interest at the rate of six percent (6%) per annum beginning sixty (60) days from the date due. Venue for the collection of penalties shall be in Travis County.

"(b) All taxes, penalties, and cost of auditing, as provided for herein, due, or that might become due by any taxpayer to the state, shall be and become a preferred lien, first and prior to all other existing liens, contract or statutory, legal or equitable, and regardless of the time the lien originated upon all the property devoted to or used in the business or venture of the taxpayer charging admission, which property includes land, buildings, fixtures, equipment, trucks, cars, or other motor vehicles, or any other equipment used in carrying on such business or venture. The Attorney General of the State of Texas may file suit for the collection of taxes, penalty and interest and for the foreclosure of the lien herein provided in any court of competent jurisdiction in Travis County, Texas. If

any person, firm, corporation, or association of persons are alleged to be liable for any tax imposed by this chapter and who fails or refuses to pay such tax and it becomes necessary to file suit or intervene in any manner for the establishment or collection of said taxes, claims or penalties, a claim showing the amount of the tax due the state certified to by the Comptroller of Public Accounts or his chief clerk 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 claim may be shown.

"The lien provided for herein shall not be valid or effective against any mortgagee, holder of a deed of trust, purchaser, pledgee, or judgment creditor acquiring title, lien, or other right or interest in the property covered by the lien provided for herein more than twelve (12) months immediately preceding the filing or recording of notice of the lien provided for herein.

"(c) Any taxpayer required to file a report or keep records as provided in this chapter, who fails or refuses to file the report on the dates provided in this chapter, or make and keep such records, or who violates any other provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) and the fine is in addition to the civil penalties provided in Article 26.08 of this chapter. The venue for prosecutions under this paragraph shall be in Travis County.

"Article 26.09. Restraining Orders and Injunctions

"Any owner or operator of a place of business or venture charging admission who does not have an exemption certificate issued by the Comptroller as provided for in this chapter, and who fails to obtain a permit and post bond in accordance with the provisions of this chapter, may be restrained or enjoined by court order from operating the place of business or venture without a permit and bond, or, if the owner or operator is entitled to an exemption certificate, without having a certificate. Suits for

any restraining order or injunction shall be filed by the Attorney General in a court of competent jurisdiction in Travis County. In the event that the owner or operator has already commenced the business or venture, then the Attorney General may seek in his suit any taxes due under this chapter from the owner or operator as additional relief.

"This Article shall be cumulative of and in addition to any other provisions of law authorizing any kind of injunctive relief.

"Article 26.10. Promulgation of Rules and Regulations by Comptroller.

"The Comptroller is vested with authority to promulgate rules and regulations, not inconsistent with this chapter, to enforce the provisions of this chapter and to facilitate the collection of taxes imposed."

ARTICLE 8.

Section 1. Chapter 1, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Article 1.033 to read as follows:

"Article 1.033. Reports

"Notwithstanding the provisions of any Article of this title, the Comptroller may revise any report required by any article of this title so as to eliminate any specific information required by the provisions of any Article of this title. The requirement for the information which is eliminated may be reinstated by the Comptroller at any time."

Sec. 2. Section (1), Article 1.11A, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(1) This Article applies to any occupation, excise, gross receipts, gross production (as levied by Article 6032, Title 102, Revised Civil Statutes of Texas, 1925, as amended), franchise, license or other privilege tax or fee collected or administered by the Comptroller of Public Accounts. It does not apply to the State

ad valorem tax nor to refunds for nontaxable use of any motor fuel or special fuels."

Sec. 3. (a) Article 7150, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 22a to read as follows:

"Section 22a. All real and personal property owned by nonprofit corporations (as defined in the Texas Non-Profit Corporation Act), which property is reasonably necessary for, and used for, the promotion of any of the following purposes:

"(1) Libraries and archival institutions

"(2) Zoos

"(3) Restoration and preservation of historic houses, structures and landmarks

"(4) Symphony orchestras, choirs, and chorals

"(5) Theaters of the dramatic arts, historical pageants."

(b) Section 22, Article 7150, Revised Civil Statutes of Texas, 1925, as added by Section 1, Chapter 363, Acts of the 60th Legislature, Regular Session, 1967, is repealed. The only purpose of this section is to renumber Section 22 of Article 7150 as added by Section 1, Chapter 363, Acts of the 60th Legislature, Regular Session, 1967; and nothing in this section affects Section 22 of Article 7150 as added by Section 1, Chapter 152, Acts of the 60th Legislature, Regular Session, 1967.

Sec. 4. Chapter 1, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Article 1.15 to read as follows:

"Article 1.15 Where the Comptroller of Public Accounts or his deputy or employee in the performance of the function of his office has kept or recorded any memorandum, document, entry, or report, or has kept or recorded any information contained in such memorandum, document, entry or report, or otherwise recorded any action taken by him, and

has caused the same to be copied or reproduced by any photographic, photostatic, microfilm, magnetic or other process which accurately reproduces or forms a durable medium for so reproducing the original or information contained therein, such reproduction shall be, so far as relevant, admitted without further proof in any judicial or administrative proceeding in respect to the enforcement or administration of any tax imposed by this Title as evidence of the matters stated in such reproduction.

“The existence, nonexistence, availability or nonavailability of the original shall not effect the admissibility of the reproduction; provided that the original or other competent evidence is admissible in evidence to show the incorrectness of the reproduction or any information reflected thereon.”

ARTICLE 9.

Section 1. This Act takes effect January 1, 1970.

Sec. 2. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both Houses 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 this Rule is hereby suspended.

Mr. Harris moved that the Committee Amendment to H. B. No. 2 be taken up and considered Article by Article, and the motion prevailed without objection.

Mr. Solomon offered the following amendment to Article I of Committee Amendment No. 1:

Amendment No. 1 to Committee Amendment No. 1:

Amend Section 26 of Article 1 of Committee Amendment No. 1 to H. B. No. 2 by deleting Subsection (2), Section (D) of quoted Article 20.04 and adding to Subsection (2), Section (L) of quoted Article 20.04 the following new paragraph (d):

“(d) Alcoholic beverages of all types served or sold in any form, and any ingredients served or sold, mixed or to be mixed, with alcoholic beverages.”

Signed: **SOLOMON and HOWARD**

Mr. Cory moved to table the above amendment offered by Mr. Solomon.

A record vote was requested by Representatives Hinson, Howard, Solomon, Johnson, Jungmichel and Farenthold.

The motion to table prevailed by the following vote:

Yeas—99

- | | |
|-----------------|-----------------|
| Abraham | Hale |
| Allen of Harris | Harding |
| Allen of Gregg | Harris |
| Angly | Hawn |
| Archer | Haynes |
| Armstrong | Holland |
| Atwell | Hubenak |
| Atwood | Hull |
| Bass of Harris | Johnson |
| Bigham | Jones of Harris |
| Blaine | Jungmichel |
| Blanton | Kilpatrick |
| Braecklein | Knapp |
| Braun | Kothmann |
| Bray | Kubiak |
| Burnett | Lee |
| Carrillo | Lemmon |
| Clark of Harris | Ligarde |
| Cobb | Lombardino |
| Cory | Longoria |
| Craddick | McDonald |
| Cruz | McKissack |
| Cummings | McLaughlin |
| Davis of Harris | Moore of Hill |
| Dickson | Moore of Dallas |
| Doran | Moore |
| Dramberger | of McLennan |
| Earthman | Moreno |
| Evans | Moyer |
| Farenthold | Muniz |
| Finney | Murray |
| Floyd | Musgrove |
| Garcia | Neugent |
| Golman | of Galveston |
| Graves | Newman |

| | |
|------------------------|----------------------------------|
| Nichols | Shannon, Joe, Jr., of Tarrant |
| Niland | Shannon, Tommy, of Tarrant |
| Nowlin | Sherman |
| Ogg | Slack |
| Parker of Jefferson | Smith |
| Pickens | Stroud |
| Pickett | Swanson |
| Poerner | Traeger |
| Price | Truan |
| Ratcliff | Uher |
| Ray | Vale |
| Salem | Vance |
| Sanchez | Weldon |
| Santiesteban | Williams |
| Schulle | Willis |
| Semos | |

Nays—48

| | |
|-------------------|------------------|
| Adams | Howard |
| Allred | Jones of Lubbock |
| Baker | Jones of Taylor |
| Bass of Van Zandt | Lovell |
| Beckham | McAlister |
| Burgess | Nabers |
| Caldwell | Nugent of Kerr |
| Calhoun | Orr |
| Cavness | Parker of Denton |
| Christian | Patterson |
| Clark of Dallas | Presnal |
| Clayton | Reed |
| Cole | Rosson |
| Daniel | Salter |
| Davis of Travis | Slider |
| Finnell | Solomon |
| Hannah | Stewart |
| Hawkins | Tarbox |
| Head | Thomas |
| Heatly | Ward |
| Hendricks | Wayne |
| Hinson | Wieting |
| Holmes of Hood | Williamson |
| Holmes of Dallas | Wright |

Absent-Excused

Finck

Mr. Pickens offered the following amendment to Article I of Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill No. 2 by striking all of Article 1 and substituting the following:

ARTICLE 1.

Section 1. Section (A), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chap-

ter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(A) Person. ‘Person’ shall mean and include any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, assignee, or any other group or combination acting as a unit. ‘Person’ shall also include the United States or any agency thereof, this State, or any agency hereof, or any city, county, special district, or other political subdivision of this State to the extent engaged in the selling of items taxable under this Chapter.”

Sec. 2. Section (D), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(D) Receipts.

“(1) ‘Receipts’ means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of taxable items by retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

“(a) The cost of the taxable item sold. However, in accordance with such rules and regulations as the Comptroller may prescribe, a deduction may be taken if the retailer has purchased tangible personal property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the tangible personal property, and has resold the tangible personal property prior to making any use of the tangible personal property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the tangible personal property.

“(b) The cost of the materials used, labor or service costs, interest paid, losses or any other expenses.

“(c) The cost of transportation of the tangible personal property prior to its sale to the purchaser.

“(d) The cost of transportation incident to the performance of a taxable service.

“(2) ‘Receipts’ does not include any of the following:

“(a) Cash discounts allowed on sales.

“(b) Sales price of tangible personal property returned by customers when the full sales price is refunded either in cash or credit, or refunds on the sales price of taxable services.

“(c) The amount of any tax (not including, however, any manufacturers’ or importers’ excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

“(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of taxable items under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

“(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of tangible personal property of any kind or nature.

“(f) Charges for transportation of tangible personal property after sale.”

Sec. 3. Section (F), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(F) Occasional Sale. ‘Occasional Sale’ means:

“(1) One or two sales of taxable items at retail during any twelve-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling taxable items at retail.

“(2) The sale of the entire oper-

ating assets of a business or of a separate division, branch or identifiable segment of a business. For the purpose of this Subsection a ‘separate division, branch or identifiable segment’ shall be deemed to exist if prior to its sale the income and expenses attributable to such ‘separate division, branch or identifiable segment’ could be separately ascertained from the books of account or record. The purpose of this Subsection is to clarify existing law and merely expresses the original intention of the Legislature.

“(3) Any transfer of all or substantially all the property held or used by a person in the course of an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this Subsection, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the ‘real or ultimate ownership’ of the property of such corporation or other entity.”

Sec. 4. Section (G), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(G) Purchase. ‘Purchase’ means:

“(1) Any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

“(2) A transaction whereby the possession of tangible personal property is transferred but the seller retains the title as security for the payment of the price.

“(3) A transfer, for a consideration, of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

“(4) The acceptance or utilization of any taxable service for a consideration.”

Sec. 5. Section (I), Article 20.01, Title 122A, Taxation-General, Revised

Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(1) Retail Sale or Sale at Retail, ‘Retail Sale’ or ‘Sale at Retail’ means:

“(1) Any sale of a taxable item.

“(2) The delivery in this State of tangible personal property by an owner or former owner thereof or by a factor or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this State. The person making the delivery in such cases shall include the retail selling price of the tangible personal property in his receipts.

“(3) The performance in this State of any taxable service.”

Sec. 6. Subsection (1), Section (J), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(1) ‘Retailer’ includes:

“(a) Every seller engaged in the business of making sales of tangible personal property for storage, use or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use or other consumption.

“(b) Every person making more than two (2) retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy.

“(c) Every person who leases or rents to another tangible personal property for storage, use or other consumption.

“(d) Every person selling taxable services.”

Sec. 7. Subsection (1), Section (K),

Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(1) (a) ‘Sale’ means and includes any transfer of title or possession, or segregation in contemplation of transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

“(b) ‘Sale’ includes the performance of a taxable service for a consideration.

“(c) ‘Sale’ when used in connection with amusement services means the sale of admission or the right to participate, whether by means of or through the purchase of a club or other membership card, subscription, dues, season or other ticket, lease for admission, or simply by the payment of cash without the delivery or use of any receipt, ticket or other instrument or device.”

Sec. 8. Section (L), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(L) Sales Price.

“(1) ‘Sales Price’ means the total amount for which taxable items are sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

“(a) The cost of the taxable items sold.

“(b) The cost of material used, labor or service costs, interest paid, losses, or any other expenses.

“(c) The cost of transportation of the tangible personal property prior to its sale or purchase.

“(d) The cost of transportation incident to the performance of a taxable service.

"(2) The total amount for which a taxable item is sold includes all of the following:

"(a) Any services which are a part of the sale.

"(b) Any amount for which credit is given to the purchaser by the seller.

"(3) 'Sales Price' does not include any of the following:

"(a) Cash discounts allowed on sales.

"(b) The amount charged for tangible personal property returned by customers when the entire amount charged therefor is refunded either in cash or credit, or refunds on the sales price of taxable services.

"(c) The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

"(d) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of taxable items under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

"(e) The value of tangible personal property taken by a seller in trade as all or a part of the consideration for a sale of a taxable item of any kind or nature.

"(f) Charges for transportation of tangible personal property after sale."

Sec. 9. Section (M), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(M) Seller. 'Seller' includes every person engaged in the business of selling, leasing or renting taxable items of a kind, the receipts from the retail sale, lease or rental of which are required to be included in the measure of the limited sales tax."

Sec. 10. Section (R), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(R) Use. 'Use' includes the exercise of any right or power over tangible personal property incident to the ownership of that tangible personal property except that it does not include the sale of that tangible personal property in the regular course of business or the transfer of tangible personal property as an integral part of a taxable service rendered in the regular course of business. 'Use' specifically includes the incorporation of tangible personal property into real estate or into improvements upon real estate without regard to the fact that such real estate and improvements may subsequently be sold as such except as provided in Article 20.01(T)(2)."

Sec. 11. Section (S), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(S) Sale for Resale. 'Sale for Resale' means:

"(1) A sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it within the geographical limits of the United States of America, its territories and possessions in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or integral part of, other tangible personal property.

"(2) A sale of tangible personal property to a purchaser for the sole purpose of that purchaser's renting or leasing, within the geographical limits of the United States of America, its territories and possessions, the tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

"(3) A sale of tangible personal property to any purchaser who is

purchasing the tangible personal property for the purpose of subsequently transferring it within the geographical limits of the United States of America, its territories and possessions, as an integral part of a taxable service.

"(4) A sale of a taxable service performed on any tangible personal property that is held by the purchaser of the taxable service for resale."

Sec. 12. Section (U), Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

"(U) Manufacturing. 'Manufacturing' shall mean and include every operation commencing with the first production stage of any article of tangible personal property and ending with the completion of tangible personal property having the physical properties (including packaging, if any) which it has when transferred by the manufacturer to another. 'Manufacturing' shall include the production of telephone and telegraph services."

Sec. 13. Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section (V) to read as follows:

"(V) Taxable Services. 'Taxable Services' means:

"(1) intrastate telephone service to a regular subscriber, including local and long distance calls whether furnished on a flat rate or measured basis, and including the lease or use of telephone lines, wires or equipment;

"(2) transmitting an intrastate message by telegraph;

"(3) laundry and dry cleaning services, including dyeing and storage of property;

"(4) repairs, maintenance, and other services performed on or for household appliances, including electrical appliances, major appliances, radios, television sets, refrigerators,

and washing and drying machines, and repairing and upholstering furniture;

"(5) repairs, maintenance, and all other services performed on clocks, watches, and jewelry; and

"(6) repairs, maintenance, and all other services performed on or for motor vehicles, including washing, polishing, waxing, lubricating, and parking, except metered parking and other parking services performed by any city, governmental agency, or political subdivision."

Sec. 14. Article 20.01, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Sections (W) and (X) to read as follows:

"(W) Taxable Items. 'Taxable Items' means tangible personal property, and taxable services.

"(X) Motor Vehicles. 'Motor Vehicle' means every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semitrailers. 'Motor Vehicle' does not include any device moved only by human power or used exclusively upon stationary rails or tracks and does not include farm machinery or farm trailers or road building machinery or any self-propelled vehicle used exclusively to move farm machinery or farm trailers or road building machinery.

Sec. 15. Article 20.02, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 4, Chapter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

"Article 20.02. Imposition of Limited Sales Tax

"There is hereby imposed a limited sales tax at the rate of four and one-half per cent (4½%) on the receipts from the sale at retail of all taxable items within this State."

Sec. 16. Section (A), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 5, Chap-

ter 2, Acts of the 60th Legislature, 1st Called Session, 1968, is amended to read as follows:

“(A) Every retailer shall add the sales tax imposed by Article 20.02 of this Chapter to his sale price and when added the tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. It is further specified that where tangible personal property is segregated in contemplation of transfer of title or possession and is thereafter to be transported by common carrier from the seller to the buyer, with the price fixed FOB the seller’s place of business, and which shall be computed only upon the basis of the charge for the tangible personal property itself, exclusive of the separately stated and independently fixed transportation charges. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

| Amount of Sale | Tax |
|-----------------|--------|
| \$.00 to \$.11 | No Tax |
| .12 to .33 | \$.01 |
| .34 to .55 | .02 |
| .56 to .77 | .03 |
| .78 to .99 | .04 |
| 1.00 to 1.22 | .05 |
| 1.23 to 1.44 | .06 |
| 1.45 to 1.66 | .07 |
| 1.67 to 1.88 | .08 |
| 1.89 to 2.11 | .09 |

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying four and one-half per cent (4½%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax, equal to one-half of one cent (\$.005), or more shall be collected as a whole cent (\$.01) of tax.

“When several taxable items are purchased together and at the same time, the tax shall be computed on the total amount of the several items less the amount paid for any article or items of tangible personal property specifically exempt under the provisions of Article 20.04 of this Chapter.

“The use of tokens or stamps for the purpose of collecting or of enforcing the collection of the tax imposed in this Chapter or for any other purpose in connection with such tax is prohibited.”

Sec. 17. Subsection (1), Section (B), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(1) It is unlawful for any retailer to advertise or to hold out or to state to the public or to any customer, either directly or indirectly, that the tax or any part thereof will be assumed or absorbed by him or that any part of it will be refunded or that it will not be added to the selling price of the taxable items sold. Provided, however, that this Section (B) does not prohibit any utility from billing its customers in one lump sum covering the utility sales price plus the tax imposed by this Chapter.”

Sec. 18. Section (F), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 138, Acts of the 58th Legislature, 1963, is amended to read as follows:

“(F) Presumption of Taxability: Resale Certificate. For the purpose of the proper administration of this Chapter and to prevent evasion of the limited sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established.

“The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the tangible personal property is purchased for the purpose of reselling, leasing or renting it in the regular course of business or for the purpose of subsequently transferring it as an integral part of a taxable service rendered in the regular course of business.”

Sec. 19. Section (G), Article 20.021, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last