JOURNAL

OF THE

House of Representatives

OF THE

FIRST CALLED SESSION

OF THE

Fifty-sixth Legislature

OF THE

STATE OF TEXAS

BEGUN AND HELD AT

THE CITY OF AUSTIN

MAY 18, 1959

Speaker Waggoner Carr called the House to order.

A quorum of the House was announced present.

Speaker Waggoner Carr presented Honorable Price Daniel, Governor of Texas, to the Joint Session.

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

MESSAGE OF GOVERNOR PRICE DANIEL, SPECIAL SESSION, 56TH LEGISLATURE
MAY 18, 1959

To The Members of The 56th Legislature:

I sincerely hope that you have had a little rest since adjournment of the Regular Session. Of course, there can be no real rest for any of us until we have completed the task which faced us in January. I assure you that every day and most of the nights since your adjournment my staff and I have worked to lessen your burden and assist you in every way possible.

Someone has said that in this life there is nothing sure but death and taxes. Even taxes are not sure until majorities of the minds of the legislators agree upon them. Agreement is always difficult. That is because we usually believe another adage—that taxes are never popular. However, even a vote for taxes will meet widespread approval under some circumstances. Even taxes can become popular when without them our schools will not open in September, our hospitals cannot continue to minister to the needs of the sick and disabled, our colleges cannot continue to operate, and the Treasurer's checks to our judges, legislators, teachers, State employees, and 225,000 old-age pensioners cannot be issued.

Today we have reached that point in the life of our State. The popular will of the people we represent has been expressed in favor of public schools, higher education, public welfare, hospitals and special schools, construction of highways and roads and other public services. These State services require over 98% of every tax dollar now collected (See exhibit VI attached hereto). Their adequate continuation requires almost 100% of all the additional revenue which we are called upon to provide at this special session.

Yes, the day of public approval of additional taxes is here, because we face an emergency which must be met by appropriations and backed up by taxes before September 1, or else funds will not be available with which to continue our schools and colleges, or maintain our hospitals, pensions, salaries and governmental services.

In my message to the Regular Session on January 21, and in a subsequent message on March 10, I strongly urged that the deficit be disposed of as an emergency in order that we might begin the next biennium with a balanced budget. I am not here to criticize the failure of this accomplishment. I am here only to share with you the burden of bringing about its fulfillment now and meeting our existing obligations for the next biennium.

At this date both have become emergency matters. Unless our tax measures are finally approved by a two-thirds vote in each House, their earliest effective date will be 90 days after the adjournment of this session, which would be Sept. 15. Half of the first month of any new taxes for the next fiscal year will have been lost. Furthermore, the State Comptroller advises me that on most taxes collections will not begin until 30 days after the effective date of the new tax bill.

All of this simply means that unless the Legislature can place its tax bill in effect as an emergency, there will be eliminated one and a half months of the anticipated revenue for the next fiscal year. Saying it another way, it means that for every month of delay in the effective date of the tax measure, the ultimate tax bill must be 1/12 higher. In dollars, it means that every month of delay in the effective date will require that approximately $6,666,000 must be added to the total tax bill for the next year.

On the other hand, it means that by emergency enactment at the end of this session the taxes would start coming in July 1, and we could reduce the total tax bill for the year nearly $14 million. These figures from the Comptroller indicate that every day of delay in the effective date of the tax bill for the next

biennium will cost the taxpayers of this State over $200,000 per day.

Furthermore, the deficit itself is costing the State and its special funds more than $1,200,000 per year, or $100,000 for each month its retirement is delayed. In addition, a special 30-day session of the Legislature costs at least a quarter of a million dollars.

Adding all of these delay costs together, we find that each month of delay in meeting the obligations now before us will cost the taxpayers at least $7 million. There you have the emergency nature of this session expressed in dollars and cents. Any person or organization advocating a second special session or a third special session simply advocates a result which will increase the total tax bill for next year another 7 to 14 million dollars.

I hope that a few genial gentlemen of the "third house" who have been openly and gleefully advocating that you stay here all summer in second and third called sessions will take note of what this will do to our total tax bill. Their glee could quickly turn to gloom if this Legislature should put this extra $7 million in taxes for each month of delay on their own vested interests.

Governor Campbell, faced with a similiar situation, once asked all of the delay and obstruction lobbyists to stay on the other side of the iron fence which circles the grounds of this Capitol. I shall not do that. They have a right to be here and to represent their corporations in any lawful manner, but if they wilfully participate in delaying and obstructing the completion of our duties in 30 days, I shall do my best to see that they leave these Capitol grounds with tax bills in their pockets sufficient to pay the cost of their activities.

I know that some of you will object and perhaps criticize your Governor on the floor of the House or Senate for speaking so frankly and bluntly about some of our friends in the "third house," but I feel fully justified in every word that I have uttered concerning—not all—but a few of those who represent vested interests and fight to delay every tax proposed. I am talking about those who want all the new taxes to be put upon the family budgets of the people of this State—those who have openly boasted that it could be done if they wear down the Governor and sweat out the Legislature with two or three special sessions.

My reply to them is that the Governor is feeling fine. The members of the Legislature look good to me, and I believe we can stay here just as long as it is necessary to write a tax bill which is fairly distributed upon the people and the corporations in proportion to their ability to pay. Taxes in Texas are now fairly equally divided in their assessment upon corporations and individuals, and they should remain that way in the future. I earnestly appeal to the fine men registered here in this Capitol, who represent their splendid businesses and industries before this Legislature, to be constructive in their endeavors and helpful to those of us who were elected by the people to carry the heavy burden and responsibility that is ours today. I have no personal enmity toward them. Many have been my friends. During the Regular Session I was in a group with one of our best known lobbyists. Some of his friends expressed surprise and kidded him for being in the company of the Governor. His reply was: "Why, I like the Governor all right. It is just my clients who don't like him!"

Every lawyer and lobbyists should represent his clients fully, but those clients also have a vital stake in the financial condition of the Texas government. None of them would want Texas to be listed with Michigan as a State which cannot pay its bills or finance its schools. If they will practice constructive business statesmanship and unselfish patriotism, for which they have been noted in other fields, they will render a great service to Texas in one of the most critical financial emergencies we have ever known.

It is time for all Texans, including those who are listening to this message by radio, to reason together and work together in support of the Legislature and all officials who are trying to carry out their duties in accordance with their public pledges to the people, and their solemn oaths of office. A 30-day emergency session of the Legislature, called solely for meeting the deficit and continuing current obligations of the State, is not the time or place to attempt to

force a majority of the Legislature or the Governor to break public commitments and pledges concerning methods of taxation. This is no time to attempt to force the will of the minority upon those who were elected by the people to serve in these halls.

Recognizing the emergency which exists and the importance of solving it within the next 30-days, I have limited the call for this session to retirement of the deficit, appropriations authorized under existing laws, and the raising of revenue for such limited purposes. We should pay our debts and meet our present commitments before considering any new programs which call for additional expenditures. I strongly favor some of these new programs, such as enactment of most of the Hale-Aikin public school program and the commencement of payment for as much of the program as possible during this administration. Also, I favor implementation of the medical aid for old-age pensioners authorized by the recent Constitutional Amendment. However, they both require new legislation which was considered but not enacted in the Regular Session. I shall not submit them again to the Legislature until we have paid our debts and our obligations under present laws.

As stated in my recent message to you on May 12, those who are interested in the public schools and the aged should remember that a good part of our deficit and a large part of our new revenue are necessary to continue payments of the $400 increase in teachers' salaries, the increase in teachers' retirement, and increased old-age pensions which were voted by the Legislature two years ago. This Legislature is entitled to the full cooperation of all interested in public education and the aged citizens of Texas in raising the revenue to pay them the increases we enacted two years ago before asking for the consideration of new programs and additional expenditures.

The Deficit

Since the deficit for the current year is not a recurring matter, and I hope it never will be, I again recommend that it be handled as a separate matter and not be included within the recurring annual tax bill. I submit to you as emergency matters three bills which would retire the deficit. They are the Comptroller's Bookkeeping Bill, H. B. 53, as passed by the House in the Regular Session; the one-year increase in the franchise tax, H. B. 238, as passed by the House in the Regular Session; and the Abandoned Property Bill, revised to meet the objections offered in the Regular Session and to more nearly follow the present procedures in the Escheat Law.

Abandoned Property—Escheat

Article 3272, the present Texas Escheat Law provides:

"If any person die possessed of any personal estate and having no heirs or where the owner of . . . any personal estate shall be absent for the term of 7 years and is not known to exist, leaving no heirs (or a will) . . . such estate shall escheat to and vest in the State."

It was to supplement this present law that the Abandoned Property Bill of the Regular Session was recommended. I thought the version was fair and just. It was the uniform law heretofore adopted by many of the States and recommended by the American Bar Association, the Commission on Uniform Laws, and the Council of State Governments. On the other hand, I am convinced of the sincerity of many members of the House and the attorney for the Texas Bankers Association who argued that a judicial proceeding would be the safest means of protecting the rights of all concerned.

Therefore, I recommend that a law be enacted requiring annual reports of these accounts to the State Treasurer, and giving the Treasurer and the Attorney General the power and authority to publish notices for the owners and simplify judicial proceedings in line with present laws. By meeting these objections made by many members and others in good faith, I believe that the opposition to this bill will be narrowed down to the very, very few who simply want to hold and use money that belongs to someone else or to the State under present laws.

The entire plan for retirement of the deficit is set out in detail as Exhibit I, attached to this Message.

Budget for Next Biennium

I resubmit to you the budget for the next biennium recommended on January 21, insofar as it applies to programs authorized under existing laws and any new laws enacted at the Regular Session, with the additions subsequently recommended for higher education, State employees, the Board of Water Engineers, and new funds required for Arlington College, and industrial and tourist development. My revised budget recommendations are attached as Exhibit II. The total thereof from the General Fund is $326,447,181.00 Deducting from this amount the Comptroller's estimate of anticipated receipts available during the next biennium under present laws, leaves $144,171,611.00 to be raised for the next biennium to meet the budget I have submitted.

Tax Recommendations

In order to be certain that my tax recommendations are high enough to care for all needs to be considered in this session, I have based them upon the higher budget contained in the appropriation bill passed by the House in Regular Session, a total of $337,000,000. Deducting from this the available funds but adding $7 million which will be necessary in the event the tax bill is a 90-day measure, I have recommended a tax program of $161 million for next biennium, or a tax bill of approximately $80 million per year. It is set out in detail in Exhibit III attached hereto, and it can be reduced substantially by actions heretofore mentioned.

I recognize that the Constitution vests in the Legislature the duty and responsibility to levy taxes, and that such bills must originate in the House. I would be very happy to end this Message now and leave to you alone the problem of who should be taxed to raise this money. Some Governors have done just that and I am sure they slept better at night and had more time with their families and friends. However, in view of the State's critical financial situation today any public officer or citizen who fails to work toward solving the problem is as bad as a man who refuses to aid his country in time of war. Ease and selfishness have no place in the Texas government today.

Furthermore, I believe that any time a Governor recommends a budget, he should recommend a way to meet that budget. I do so now, without seeking to transgress upon your responsibility or impose my own views as the only way to raise the money. I will accept and approve any new tax bill that a majority in each House sends to me at this called session, assuming of course that the majority in each House publicly pledged against a State income tax or a general sales tax stays with this commitment. My own commitment against any such form of taxation is the same as that of the majority of you who constitute the 56th Legislature. It is the same as the Democratic platform of Texas, which reads:

"We oppose a general sales tax and a State income tax as inequitable and unnecessary because of present and additional sources of revenue which are available."

I said when I opened my campaign for Governor in Wooldridge Park, just three blocks away from this Capitol, that as long as I am Governor of Texas we will not have a State income tax or a general sales tax. I shall do everything within my power to save Texas from these "last-resort" measures as long as there are other ample sources of revenue to meet our obligations.

With this commitment in mind and firmly believing that taxes should be levied as much as possible in proportion to ability to pay, my staff and I spent nearly a year comparing all taxes now levied in Texas with those levied in the other States, and especially with those of the adjoining States. We had the benefit of the excellent study conducted by the Texas Research League and the Texas Tax Study Commission authorized by the Legislature two years ago. Based on all these studies and especially keeping in mind that we should retain our competitive tax position with other States, both as to business and individuals, I have re-examined my original tax recommendations and resubmit some of them to you for your consideration with the following changes and additions.

Gas Severance Beneficiary Tax

1. I recommend the natural gas

severance beneficiary tax as submitted at the Regular Session, at the rate of 5% of value instead of 3%. In this connection, I recommend that the present 7% production tax on natural gas be reduced to 5%. This would make the new production tax and the severance beneficiary tax the same, each at 5% for the future.

This change was suggested in conferences with legislators during the interim, including the author of the bill in the Regular Session. I think the suggested change is good, because producers have been bearing the heaviest portion of the natural gas tax load in this State long enough. The severance beneficiaries, which have tied up practically all of the natural gas available in Texas under long term contracts and dedicated reserves, bear the lightest total tax load of any industry in Texas. 53% of the Texas gas produced and sold moves into other States where it is taxed from 3 to 9 times as much as we tax it in the State of production.

This adjustment in the natural gas tax will bring in an additional $36 million during the next biennium. It would leave the total tax on gas produced in this State at the 10% which I previously recommended. This will be only 1% higher than was put on gas production when, because of another emergency, the production tax was set at 9% for one year and 8% for the next year. Our State needs are greater now than they were then, and far more gas is now being produced, at greater profit than when the tax was at 9%—all of it on the producer.

This would leave the total gas tax in Texas less than half of the present production tax in our chief competitor State of Louisiana. In that State, gas production tax is 2.3 cents per MCF, which is about 20% on our average price of 10 cents per MCF. True, the Louisiana tax is in lieu of ad valorem taxes but this is offset by the fact that Louisiana has a 4% corporation income tax based on a three-factor formula and other State taxes which amount to more than our ad valorem tax.

The best thing about this new approach is that the severance beneficiaries—the gas pipeline companies which are making the most money out of this Texas natural resource—would pay their fair share of the tax burden in accordance with the desires of the officials and citizens of this State for many years. This 5% of value at the well-head would amount to less than the gas-gathering tax levied by the Legislature in 1951, based upon the average value of gas at that time. That tax was contested in Texas by the long-line gas companies and it was declared unconstitutional. Texas was required to refund to these companies over $31 million, but some of the same companies continued to pay this same tax to Louisiana even after it had been doubled to 1 cent per MCF. Texas and Louisiana laws were the same, but the long-line gas companies did not treat Texas and Louisiana the same. While they were making our State refund $31 million, they were continuing to pay Louisiana this same tax. If they had continued to pay the Texas tax at the lower Texas rate, we would have collected from this tax during the past seven years more than $133 million. When the companies finally challenged the Louisiana law last year, after it was raised to 2 cents per MCF, the Governor simply called the Louisiana Legislature in special session and put the entire 2.3 cents per MCF on production, so that Louisiana continues to receive more than twice as much as Texas from its natural gas.

Is there any reason why Texas should continue to be such easy pickings for the gas pipeline companies? Governor Shivers did not think so. He recommended to the Regular Session in 1953 and to the First Called Session in 1954 the levy of a similar tax on natural gas pipeline companies. Together with other lawyers who have studied the Supreme Court decisions, we have written a severance beneficiary tax bill applicable equally to interstate and intrastate companies, which treats the occupation of producing or obtaining the production of natural gas under long-term contracts as a taxable occupation, just as it actually and literally exists in this State. The Attorney General of Texas has written an opinion upholding the constitutionality of this tax, and I firmly believe that his opinion is correct. At least we should follow it in our

deliberation on the subject rather than the opinion of some long-line gas company lawyer to the contrary. The Attorney General is the lawyer for the State and he wrote this opinion at the request of the House Revenue and Taxation Committee.

In any event, this bill is so drawn that the money will not be tied up in court. It specifically provides that it shall be paid into the General Fund and that someone is to pay this tax. If there is no severance beneficiary, or if his share of the tax is declared unconstitutional, it is true that the tax would be paid by the producer. We had to draw the bill in that manner to make it constitutional, because in many instances the producing company is itself the only user and severance beneficiary, and we must tax all such companies equally in order to make it constitutional. If you are inclined favorably to this measure, I hope you will resist and defeat any attempt to remove such producers from the severance beneficiary tax, because that is a vital part of the bill. It is one of the main assurances of constitutionality and of the fact that this money will never be reclaimed or refunded from the State Treasury. Someone will pay the tax, if the bill is enacted as it is written, and all of the independent producers with whom I have talked are perfectly willing to take their chances on the bill as written, in order that this State may have an opportunity to collect a fair share of taxes from those who are making gigantic profits from gas pipeline companies which have tied up the gas reserves of this State. They especially like the possibility of being relieved of the 2% from the present production tax.

It has often been said on this floor that no matter where the tax is placed, the consumers of Texas will pay it. Here, I have recommended to you a tax which will not be passed on to Texas consumers alone, but over half of which will be passed on to consumers of other States—those States which now collect 3 to 9 times as much on Texas gas as we ourselves collect.

Michigan has an occupation tax and added value tax on the manufacture of automobiles, which are collected before those automobiles leave Michigan. There is no rightful reason why Texas should not collect an occupation tax on those who are engaged in the business of obtaining production of Texas gas under long-term contracts before that gas leaves this State.

Of course you will hear the argument that any further tax on gas will increase the price of the product and reduce sales and production. That is pure bunk. I have the figures for the years we collected the gas gathering tax and the 9% production tax. Those taxes did not slow up production on sales. In fact, the biggest increase in total gas production in the last decade was the year the Legislature enacted the gas gathering tax. The much higher Louisiana tax has not retarded production and sales in that State.

The truth is that gas is a cheap, clean, and desirable fuel which the long lines have tied up under 20-year contracts at an average price of 10 cents per MCF while the current prices in new fields are running 20 cents. The pipelines have a great fortune buried away in their low-price dedicated reserves, and they will either absorb with ease or pass along whatever tax is placed on them.

If higher prices discourage consumption—if they have reached the point of diminishing returns—then why has Lone Star Gas Company petitioned the Texas Railroad Commission for approval of a 10 cent per MCF increase in its transmission division's price on gas delivered to its distribution division? Just before this Legislature convened in January, Lone Star Gas Company asked the Commission to permit this increase of from 30¢ to 40¢ per MCF on gas delivered to all cities and towns served by its system. Hearings were held on January 12 and 13, and then by strange coincidence, they were recessed to May 18—this very day. At 10 o'clock this morning the hearings reconvened in the Sun Room of the Austin Hotel. Although you were expected to be in adjournment on this day, present circumstances will give you the opportunity of observing how the State's biggest gas company argues about the adverse effect of a measly 5% tax increase in these halls, while at the Stephen F. Austin Hotel it argues for a 33 1/3% increase for its own private coffers.

Lone Star lobbyists are fighting what amounts to about a half-cent

for Texas while Lone Star lawyers are asking a State agency to approve a 10 cent increase in its price—20 times what the State would receive from the severance beneficiary tax I have recommended.

Natural gas is an irreplaceable resource of this State. When it is gone, it can be taxed no more. And, yet, in this State we raise more tax money each year from cigarettes than we do from gas. More tobacco can be grown and more cigarettes can be made, but when the pipelines take away our natural gas, it is gone forever.

In 1958 from natural gas valued in excess of $500 million, Texas collected only $40 million, while in the same year it collected nearly $50 million on cigarettes valued at less than $250 million. The $50 million in cigarette taxes was paid mostly by the people of this State and very little of it was ever deducted from the federal income tax. On the other hand, you can be sure that every dollar of natural gas taxes was deducted from federal income taxes and that more than half of it was paid by corporations and consumers outside of Texas.

Obviously, the time has come for natural gas to bear a fairer share of the tax load—at a rate at least half of that charged in our neighboring and competitor State of Louisiana.

Three-Factor Formula For Interstate Corporations

2. I recommend adoption of the three-factor formula for determining the corporation franchise tax on companies engaged in interstate business, in accordance with the terms set out in the report of the State Tax Study Commission, Report No. 5, page 15 (Final Report, p. C-113).

It is too late for this change to become effective for the present year, and therefore it would not apply during the one-year temporary increase in corporate franchise taxes. However, it could apply on May 1, 1960, and May 1, 1961, and bring $15 million into the State Treasury for each of these years of the next biennium.

The change in this formula is necessary not only to raise the additional $15 million per year to which Texas would be entitled if interstate corporations are taxed in the same proportion as our wholly domestic companies, but this change is necessary to eliminate the discrimination which now exists in favor of the foreign corporations and against our own domestic companies.

As you know, corporations wholly engaged in business within this State pay a corporation franchise tax on 100% of their capital, long term debt, etc., at the rate of $2.25 per $1000 of capital. There are 33,000 of these domestic companies, most of them chartered under the laws of Texas, which pay on this 100% ratio. They would not be affected at all by this proposal.

The recommendation would affect only the 7,000 corporations engaged in interstate business and sales, which do not now pay on any ratio of their actual capital and operations in this State. They pay solely on their percentage of receipts received from Texas sales as compared with receipts from outside the State. Thus, under the present law some foreign corporations have property and operations in this State 100 times as large as some of your hometown wholly-domestic companies, and still pay less in corporate franchise tax than your own local companies. That is because they sell most of the products from their capital and business in Texas outside the State. They have a tax haven here and a discrimination in their favor which exists in no other States except Texas and Washington.

For instance, one interstate gas pipeline company which has $7 million of capital operating in this State pays no corporate franchise tax, because it does not and will not sell any of its products in this State. Another interstate corporation has $1,787,000 of capital operating in the State and pays only $313 in corporate franchise tax. That is less than 1/100 of what Texas corporations engaged wholly in Texas business would pay on the same amount of capital. In other words, this interstate corporation with $1,787,000 of capital is paying about the same tax that your corner grocery store or any other Texas corporation would pay on $150,000 of capital. (See Chart on 12 interstate gas companies, Exhibit IV, attached hereto).

How long will we permit our corporate tax structure to discriminate in favor of the 7,000 foreign and

interstate corporations and against our own 33,000 companies doing business wholly within this State? Should the property and operations of New York, Pennsylvania, Delaware, New Jersey and Oklahoma corporations inside the State of Texas be favored over our own Texas corporations when their own home States do not permit the same tax favoritism either for them or for Texas companies operating in those States?

All of the States except Texas and Washington, have awakened to this discrimination and have applied tax formulas on both their franchise and corporate income taxes, based more nearly upon the actual capital and business operations of interstate companies within the borders of their States.

The Texas Research League and your own Tax Study Commission pointed out this Texas inequity. I was not conscious of it until I read their report, in which it was said:

"As previously noted, the Texas formula for allocating interstate business to the State for franchise tax purposes does not usually reach as large a percentage of such business as the formulas in use by many other states."

The Tax Study Commission points out that this proposed change to a three-factor formula which takes into consideration the percentage of Texas property and operations, as well as receipts, is a recognized formula "widely used by other States and has been recommended by a Study Committee of the National Tax Association for use by corporations where separate accounting is not possible."

Every neighboring State assesses property and capital within the State as part of its formula for both franchise and corporate income taxes, and no corporate representative can truthfully say to this Legislature that his company would have a better tax advantage by moving to an adjoining State if we add property invested in Texas as part of the basis for figuring franchise taxes on interstate corporations. I remind you that the corporate income tax alone is 4% in Oklahoma and Louisiana, based on this three-factor formula, and that corporate income taxes in Arkansas run as high as 5% based on the property formula alone.

Here is another tax that will not be passed to Texas consumers alone. Affecting only the 7,000 interstate corporations, it will be shared by stockholders and consumers throughout the land, and 52% of it will be shared with us by Uncle Sam. 52% of every dollar that we collect from these interstate corporations would be paid to the Federal Government in income taxes if we fail to collect it here in Texas, as other States are doing.

I know that some of our smaller Texas manufacturers which sell outside the State have protested this tax, because they would have to pay a few hundred dollars more each year to this State. It is regrettable to see Texas manufacturers who would pay such a small part of this increase add their prestige and influence against a tax formula which is so long overdue. However, if this becomes of vital concern, manufacturers could be exempted from this formula as is done in the State of Pennsylvania, without a substantial reduction in the total amount which this amendment would yield.

I urge you to adopt the principle and purpose of this proposal, with any amendments or changes that you deem necessary to treat our foreign and interstate corporations on the same proportionate basis that we treat our wholly domestic Texas corporations.

Utility Gross Receipts

3. I recommend that the Gross Receipts Tax now levied on public utilities be set at the effective rate now being levied on telephone companies, which is 2.3% (See Tax Study Commission Report C-120). This change would raise $8 million of new revenue per year.

Selective Sales or Occupation Taxes

In the field of selective sales or occupation taxes, I make the following recommendations (See Exhibit III attached hereto):

1. An increase in the cigarette tax of 1¢ per pack, to a total of 6¢, which will be in line with the average tax of our neighboring States, and a tax at the same rate on cigars and other tobacco products, except snuff.

2. An increase in the tax on distilled liquor to the Arkansas rate of $2.50 per gallon. The House of Representatives in Oklahoma has passed a bill providing for this same rate, and it is now in the Senate.

3. An increase on motor vehicle sales from 1.1% to 1.5%. As far as I can determine, this will still leave Texas with the lowest motor vehicle sales tax of any State. It could be raised to 2% without exceeding the rates of the adjoining States or any other States.

If you prefer some other product there are several on which the taxes of adjoining States are higher than ours. Exhibit V shows a comparison with adjoining States, each of which has also a State income tax and general sales tax. For instance a one cent increase in our gasoline tax would be lower than all three of these adjoining States and would raise $69 million, two-thirds of which would be available to the General Fund and the public schools, if farm-to-market roads are paid out of the new tax instead of the General Fund. A one cent per bottle or $3.30 per barrel tax on beer would leave our rates below Oklahoma and Louisiana and yield $13 million per year.

In fact, this chart clearly shows that by merely fixing our rates on five selective items at the average rate of these adjoining States, we would collect more each year than necessary to meet the present needs of our State.

Rather than recommend this procedure, I have proposed to you that we meet our present needs equally from this field and the field of natural resources and corporations. Again, I repeat that this is somewhat near the balance which has been maintained in our State in the past, and this balance can meet the present and future needs of Texas with out exceeding the rates charged by comparable States. This is the formula which will maintain a healthy climate for business as well as a healthy climate for individual human beings.

To those who want to place the entire burden of the new tax program on general or selective sales, directly or indirectly, I respectfully remind you that the family budgets of the individual citizens of this State are already hard pressed. According to the Texas Almanac, a majority of the families in 205 of your counties have total earnings of less than $3500 per year. In 96 of your counties the average family earnings are less than $3000 per year. There are nearly 200,000 people without any jobs at all, and 225,000 old-age pensioners who receive not more than $60 per month.

Family incomes are not going up in the same proportion as corporate incomes and profits from natural gas. Families in these low income brackets constitute a great majority of the people of this State. They have no paid lobbyists to constantly look after their interests and defend themselves against an unequal distribution of the tax burden. We in public office are the only persons here to look after their interests and to see that they are treated fairly in the assessment of the tax burdens of this State.

All I ask is that you keep in mind the financial conditions of the average families of Texas, who have less of the material things of life, in reaching your final decision as to what portion of the new tax burden they should bear.

In conclusion, I remind you again of the emergency which we face in order to open our schools and colleges in September and to continue the hospital, public welfare and other services of government. Again, according to the State Comptroller, we must raise $7 million in additional taxes for each month (over $200,000 for each day) that we delay the effective date of a tax measure sufficient to meet the estimated appropriations for the next biennium.

I have presented my suggestions and will be pleased to receive yours. I assure you of my availability and cooperation, day and night, during the next 30 days, for the purpose of discharging the burden and responsibility which we face within this 30-day session. By working together continuously every day, and maybe some of the nights, and with proper understanding and support from the people of this State, I have faith that we can be successful in the task which lies ahead.

EXHIBIT I

REVENUE MEASURE TO RETIRE DEFICIT

1.	Law clarifying procedures of the Comptroller in determining the financial condition of the State, on a cash accrual basis as of August 31 of each fiscal year.	$28,000,000
2.	Escheat Act on money and intangible property abandoned for more than 7 years.	25,000,000
3.	Increase for one year in Franchise Tax rate, 75¢ per $1,000. (Increasing present rate from $2.25 to $3.00.)	13,300,000
	Total Revenue	$66,300,000
	Comptroller's revised estimate deficit August 31, 1959. (See Schedule A, Comptroller's Report, May 14, 1959.)	65,889,592
	Balance Available	$ 410,408

EXHIBIT II

GOVERNOR'S BUDGET RECOMMENDATIONS AS REVISED FOR 1ST CALLED SESSION

GENERAL REVENUE

	Original Document		Additions		Revised Total	
	1960	1961	1960	1961	1960	1961
ARTICLE I—JUDICIARY	$4,593,327	$4,567,942	$	$	$	$
New Courts			63,750	71,750		
Total Article I					4,657,077	4,639,692
ARTICLE II—HOSPITALS AND SPECIAL SCHOOLS	48,540,330	43,860,471	—0—	—0—	48,540,330	43,860,471
ARTICLE III—DEPARTMENTS AND AGENCIES	36,339,837	35,263,394				
Industrial Development			100,000	100,000		
Tourist Development			100,000	100,000		
Board of Water Engineers			454,494	461,621		
Reorganization (Comptroller's Department)			350,000	350,000		
Livestock Sanitary Commission (Brucellosis Eradication)			400,000	400,000		
Total Article III					37,744,331	36,675,015
ARTICLE IV—JUNIOR COLLEGES	4,600,289	4,600,289	—0—	—0—	4,600,289	4,600,289

EXHIBT II (Con't)

ARTICLE V—HIGHER EDUCATION	61,229,543	66,626,341				
Teaching Salaries			4,329,878	489,120		
Libraries			411,378	513,667		
Arlington State College (4 year status)			300,000	600,000		
Total Article V					66,270,799	68,229,128
State Employees Salary Increases			3,314,880	3,314,880	3,314,880	3,314,880
TOTAL	$155,303,326	$154,918,437	$9,824,380	$6,401,038	$165,127,706	$161,319,475
TOTAL—BIENNIAL	$310,221,763		$16,225,418		$326,447,181	

EXHIBIT III

REVENUE MEASURES FOR FINANCING NEEDS 1960-61 BIENNIUM

New Revenue from Natural Resources and Corporations

	1960	1961	Biennium
1. Increase from Severance Beneficiary Tax on Natural Gas, 5% of value, and a 2% reduction of present 7% Production Tax to 5%. (This total tax on Natural Gas would be less than 1/2 of Louisiana's average production rate of 2.3¢ per MCF)	17,811,753	18,702,342	36,514,095
2. Corporation Franchise Tax, 3 Factor Formula for interstate corporations. (See Tax Study Commission Report, C-113)	15,000,000	15,000,000	30,000,000
3. Public Utility Gross Receipts, Electric, telephone, telegraph, gas, water, all fixed at 2.3%, the present effective rate on telephone companies. (See Tax Study Commission Report, C-120,)	8,000,000	8,000,000	16,000,000
Total Natural Resources and Corporations	40,811,753	41,702,342	82,514,095

New Revenue from Occupations and Selective Sales

4. Cigarettes — Increase 1¢ per pack, from 5¢ to 6¢. (Below average rate of adjoining states.)	10,348,339	10,736,402	21,084,741
5. Cigars and other tobacco products. (Levying approximately same rate as cigarettes.)	11,800,000	11,800,000	23,600,000
6. Distilled Liquor—Increase rate from $1.408 to $2.50 per gallon. (Arkansas rate.)	9,511,266	9,749,047	19,260,313
7. Motor Vehicle Sales—Increase rate from 1.1% to 1.5%, (This is .5% lower than rates of any adjoining states.)	7,337,454	7,681,360	15,018,814
Total Occupation and Selective Sales	38,997,059	39,966,809	78,963,868
Total New Revenues for 1960-61 Biennium			161,477,963
Comptroller's Revised Estimate Revenue present taxes		182,275,570	
Less Tax Credits, H. B. 320, 55th Legislature (Comptroller's report 5-14-59)		3,675,631	178,599,939
Additional Revenue collections by Comptroller under reorganization laws and ap-			

EXHIBIT III (Con't)

	1960	1961	Biennium
propriations contained in both House and Senate Appropriation Bills of 55th Regular Session.			5,000,000
Total Revenue for 1960-61 Biennium			345,077,902
Less Revenue required by H. B. 216 (Appropriations)			337,520,593
Balance revenue available			7,557,309

EXHIBIT IV

NATURAL GAS PIPELINE CORPORATIONS

Present Franchise Tax Allocation

Company	Tax Ratio 1958	Net Profit	Franchise Tax Paid
A	1.009	$ 15,151,839	$ 12,793
B	.05	6,091,851	16,123
C	3.36	3,669,131	16,542
D	.87	24,918,376	22,864
E	8.80	38,168,545	147,984
F	10.67	34,506,238	212,240
G	.00	4,012,175	0
H	.57	18,943,793	8,813
I	.31	15,213,786	7,891
J	1.24	7,086,037	3,159
K	.07	10,651,621	1,530
L	.00	6,669,080	313
TOTAL		$185,082,472	$450,252

Texas' 33,000 wholly domestic corporations pay franchise taxes on 100% of their capital. Compare this to the small ratios which apply to the above and all of the other 7000 corporations, mostly foreign, which conduct interstate business.

The proposed 3-factor formula for interstate corporations would remove the discrimination which now exists in their favor only in the States of Texas and Washington. Paying upon capital actually used in this State, like wholly domestic concerns are now required to do, would yield $15 million more per year.

EXHIBIT V

HOW TEXAS COMPARES WITH NEIGHBOR STATES

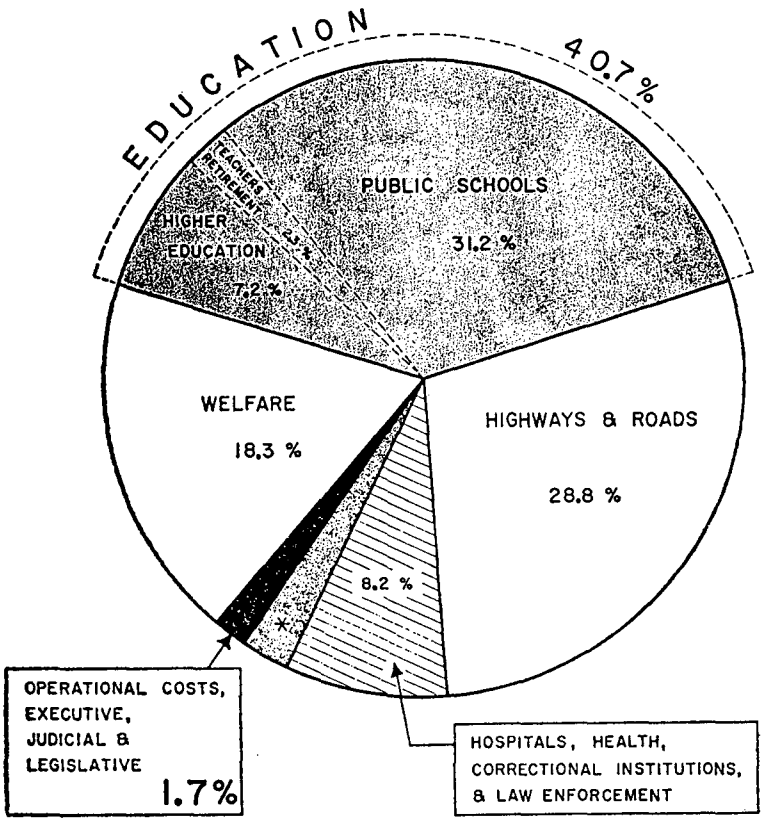
	Texas	Louisiana	Oklahoma	Arkansas
Cigarettes	5¢	8¢	5¢	6¢
Gasoline	5¢	7¢	6.58	6.5
Motor Vehicles	1.1%	2%	2%	3%
Liquor	$1.408	1.68	Dry	2.50
Beer	$ 4.30	10.00	10.00	4.84

Increase In Texas Revenue From Above Sources:

At Oklahoma Rates	$ 85,100,000
At Arkansas Rates	108,800,000
At Louisiana Rates	135,400,000

EXHIBIT VI

WHERE YOUR STATE TAX DOLLAR GOES



* ALL OTHERS

REGULATION OF BUSINESS & INDUSTRY	.2
DEVELOPMENT & CONSERVATION OF NATURAL RESOURCES	1.0
PARKS, MONUMENTS & MUSEUMS	.1
PAYMENT OF PUBLIC DEBT	.3
STATE EMPLOYEE RETIREMENT – GENERAL REVENUE ONLY	.3
MISCELLANEOUS & GENERAL REVENUE OASI	.4
TOTAL	2.3 %

MESSAGE FROM THE GOVERNOR

The Speaker laid before the House and had read the following message from the Governor:

To The Members of The 56th Legislature, First Called Session:

The ownership of the bed and shore of the Gulf of Mexico within the boundaries of Texas, including all of the beaches and seashore washed with frequency by the highest waves of the Gulf, has been held by the State in trust for the people since the days of the Republic of Texas. Such ownership has its origin in the laws of Spain and Mexico. In addition to the title and ownership, the State and its people have held and exercised prescriptive rights to the free and public use of that portion of the seashore fronting on the open waters of the Gulf of Mexico, which is uncovered at low tide but is washed with such frequency by the highest waves as to prevent vegetation, and form sandy beaches. These public rights and uses should be preserved for travel, public beaches, bathing, fishing, recreation and other State and public uses. Such public rights and uses are now being threatened and interfered with by persons who have built fences and other obstructions across the beaches.

Some of the recent adverse claimants below the line of vegetation which separate the private upland from the public beaches are basing their claims on an erroneous interpretation of the opinion of the Supreme Court of Texas in the case of J. W. Luttes et al v. The State of Texas. I have carefully studied all of the opinions in this case and find that they relate solely to the area of land in the Laguna Madre. The Luttes case did not involve a single acre of land fronting on the Gulf or a single foot of the beaches which are washed by the waves of the open sea. It is inconceivable that the dicta of that case with respect to the line of State ownership on the shores of Laguna Madre would be applied to the beaches along the Gulf, which are so clearly and frequently washed by the surf and waves as to leave them well-defined and marked by Nature's vegetation line as separate and distinct from the privately owned uplands.

While the Luttes decision is no excuse for new interferences with the public rights and uses of our Gulf beaches, it is being so used and to such an extent that the Legislature should take prompt action to prohibit obstructions and to protect public rights and uses of the beaches along the Gulf of Mexico.

Therefore, I submit to you as an emergency matter and urge enactment of legislation which will adequately protect State and public rights and uses of the property and prevent further obstructions and interferences therewith.

Respectfully submitted,
PRICE DANIEL,
Governor.

MESSAGE FROM THE GOVERNOR

The Speaker laid before the House and had read the following message from the Governor:

Austin, Texas, June 12, 1959

To Members of the Fifty-sixth Legislature, First Called Session:

I hereby submit as additional subjects for consideration in this First Called Session the following legislation:

1. Requirement of approval by the State Banking Commissioner before sale is made of majority control of any State Bank.
2. Emergency appropriation from funds donated to the Texas Industrial Commission, and any other emergency appropriations for other State agencies.
3. Approval of the Southern Interstate Nuclear Compact.
4. Transfer of funds due from the State Highway Department to A&M College for an agricultural experiment station in Smith County.
5. Authorizing State Board of Insurance additional time to move into new quarters.
6. Any local or general bills relating to game and fish laws; courts and district attorneys; water control and improvement districts; river authorities; school districts, including creation of new districts and elections; purchase of fire fighting equipment; rural fire prevention districts; regulation of small loans, corporate sureties and marriage licenses; dependent children; search warrants and procedures relating to private residences.

Respectfully submitted,
PRICE DANIEL,
Governor.