The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

HOUSE BILL NO. 86 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

SENATE BILL NO. 61 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

SENATE BILL NO. 61 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

SENATE BILL NO. 61 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

SENATE BILL NO. 61 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-

Mr. Heatly moved that the House do not concur in the Senate Amendments, and that a Conference Committee be requested to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

SENATE BILL NO. 61 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 61, A bill to be entitled "An Act clarifying, revising, and amending laws relating to general, special, and primary elections held by the State, by counties, cities, and other political subdivisions of the State, and by political parties; amending certain existing sections of the Election Code of the State of Texas, repealing certain sections, and adding new sections thereto, as follows: adding Section 19, relating to the qualifications and disqualifications of election judges, clerks, and watchers (supervisors); amending Section 21, relating to appointment and service of watchers (supervisors); adding Section 22, relating to pay of election judges and clerks, and making its provisions apply to all elections; amending Section 33, relating to classes of persons not qualified to vote; amend-
ing Section 34, relating to qualifications and requirements for voting; amending Section 37, relating to absentee voting, by amending Subdivision 1, setting out requirements and conditions for voting by personal appearance and by mail; by adding Subdivision 1a, stating the elections to which Section 37 applies and the officer to conduct absentee voting in each type of election; by amending Subdivision 2, setting out requirements for an application to vote absentee; by amending Subdivisions 3 and 4, and adding Subdivisions 3a and 3b, relating to period for absentee voting by personal appearance, procedures for absentee voting by personal appearance in county-wide elections and in certain elections less than county-wide, and period and procedures for absentee voting by mail; etc., and declaring an emergency.

The bill was read second time.

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

Committee Amendment No. 2
Amend Paragraph 1 of Section 1 of Senate Bill No. 234 by striking in the 12th and 13th lines the words "permanent" and "perpetually."

The amendment was adopted without objection.

Mr. Adams, by unanimous consent, offered the following committee amendment to the bill:

Committee Amendment No. 1
Amend Senate Bill No. 234 by striking the caption and substituting in lieu thereof the following:

"A Bill To Be Entitled

An Act providing for the conveyance by the Chairman of the Board of Directors of Texas Technological College, on behalf of the State of Texas, to the City of Lubbock, of an easement for street and road purposes in order to construct and maintain additional traffic lanes and flare corners at College Avenue and Broadway Street at the main entrance to Texas Technological College out of Section 1, Block E2, being a part of the land of Texas Technological College; authorizing the Chairman of the Board of Directors of Texas Technological College to execute and to deliver on behalf of the said Board of Directors and the State of Texas a proper conveyance granting such easement to the City of Lubbock; and declaring an emergency."

The amendment was adopted without objection.

S. B. No. 234 was passed to third reading.

SENATE BILL NO. 235 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 235, A bill to be entitled, "A Bill To Be Entitled

An Act providing for the conveyance by the Chairman of the Board of Directors of Texas Technological College, on behalf of the State of Texas, to the City of Lubbock, of a proper conveyance granting such easement to the City of Lubbock; and declaring an emergency."

The bill was read second time.

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

Committee Amendment No. 2
Amend Paragraph 1 of Section 1 of Senate Bill No. 234 by striking in the 12th and 13th lines the words "permanent" and "perpetually."

The amendment was adopted without objection.

Mr. Adams, by unanimous consent, offered the following committee amendment to the bill:

Committee Amendment No. 1
Amend Senate Bill No. 234 by striking the caption and substituting in lieu thereof the following:

"A Bill To Be Entitled

An Act providing for the conveyance by the Chairman of the Board of Directors of Texas Technological College, on behalf of the State of Texas, to the City of Lubbock, of an easement for street and road purposes in order to construct and maintain additional traffic lanes and flare corners at College Avenue and Broadway Street at the main entrance to Texas Technological College out of Section 1, Block E2, being a part of the land of Texas Technological College; authorizing the Chairman of the Board of Directors of Texas Technological College to execute and to deliver on behalf of the said Board of Directors and the State of Texas a proper conveyance granting such easement to the City of Lubbock; and declaring an emergency."

The amendment was adopted without objection.

S. B. No. 235 was passed to third reading.

SENATE BILL NO. 235 ON SECOND READING

The Speaker laid before the House on its second reading and passage to third reading, S. B. No. 235, A bill to be en-
An Act providing for the conveyance by the Chairman of the Board of Directors of Texas Technological College, on behalf of the State of Texas, to the City of Lubbock, of a permanent easement for street, road and sewer line purposes in order to reconstruct, widen and improve and perpetually maintain, and construct a sanitary sewer line force main under Indiana Avenue between Fourth Street and Erskine Road in the City of Lubbock, Lubbock County, Texas, out of Section 21, Block A, being a part of the lands of Texas Technological College; authorizing the Chairman of the Board of Directors of Texas Technological College, on behalf of the said Board of Directors and the State of Texas, to the City of Lubbock, Lubbock County, Texas, out of Section 31, Block A, being a part of the lands of Texas Technological College; authorizing the Chairman of the Board of Directors of Texas Technological College to execute and deliver on behalf of the said Board of Directors of Texas Technological College, an instrument conveying such easement to the City of Lubbock; and declaring an emergency.

The bill was read second time.

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

Committee Amendment No. 2

Amend Section 1 of Senate Bill No. 235 by striking from the 13th and 14th lines of Paragraph 1 the words "permanent" and "perpetually."

The amendment was adopted without objection.

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

Committee Amendment No. 3

Amend S. B. 235 by adding the following section after Section 1:

Section 1a. In consideration of the benefits which will accrue to the State of Texas and Texas Technological College from the construction, operation, and maintenance by the City of Lubbock, a municipal corporation of Lubbock County, Texas, of a permanent drainage channel beginning at a point on the East line of Quaker Avenue located a distance of 1540.94 feet North of the Southwest corner of Section 21, Block A, Lubbock County, Texas and extending in a Northeasterly direction to and across said Section 21, Block A, for an approximate distance of 1200.00 feet, which described land is owned by the State of Texas and constitutes a portion of the lands of Texas Technological College, in order to prevent the accumulation of water on lands of said college lying to the West of Quaker Avenue, the Chairman of the Board of Directors of Texas Technological College is hereby authorized to execute and deliver on behalf of the State of Texas and Texas Technological College to the City of Lubbock, a proper instrument conveying said City of Lubbock a permanent drainage easement with the right of ingress and egress to construct, reconstruct, operate and maintain a permanent drainage channel facility to be constructed and the said Chairman of the Board of Directors of Texas Technological College is hereby authorized for and on behalf of said Board of Directors to execute and deliver such conveyance to carry out the purposes of this act to the City of Lubbock, Lubbock County, Texas.

The amendment was adopted without objection.

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

Committee Amendment No. 1

Amend Senate Bill No. 235 by striking the caption and substituting in lieu thereof the following:

"A BILL
To Be Entitled
An Act providing for the conveyance by the Chairman of the Board of Directors of Texas Technological College, on behalf of the State of Texas, to the City of Lubbock, of an easement for street, road and sewer line purposes in order to reconstruct, widen and improve and maintain, and construct a sanitary sewer line force main under Indiana Avenue between Fourth Street and Erskine Road in the City of Lubbock, Lubbock County, Texas, out of Section 21, Block A, being a part of the lands of Texas Technological College; authorizing the Chairman of the Board of Directors of Texas Technological
College to execute and to deliver on behalf of the said Board of Directors and the State of Texas a proper conveyance granting such easement to the City of Lubbock, and declaring an emergency."

The amendment was adopted without objection.

S. B. No. 235 was then passed to third reading.

**Pages Excused**

Mr. Ward moved that the Pages be excused for the Easter Holidays upon adjournment today.

The motion prevailed without objection.

**Bills and a Resolution Signed by the Speaker**

The Speaker signed in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bills and a resolution:

**S. B. No. 248**, "An Act amending Article 2095 of the Revised Civil Statutes of Texas, 1925, as amended; relating to procedure for the selection of juries in certain counties and changing the population bracket from one hundred and fifty thousand (150,000) to one hundred and forty thousand (140,000) and providing for the employment of typists and payment of other expenses; and declaring an emergency."

**S. B. No. 52**, "An Act amending Sections 2 and 9 of Acts, 53rd Legislature, Regular Session, Chapter 209, as amended (and codified as Sections 2 and 9 of Article 6701c-1 of Vernon's Civil Statutes); and declaring an emergency."

**S. B. No. 293**, "An Act providing that Brown County Water Improvement District No. 1 may collect delinquent taxes and bring suit for the collection of such taxes, by foreclosure and otherwise, after the bonds and the interest on said bonds, for which taxes have been levied and assessed have been paid; providing for the use of funds so collected and the use of any surplus in the 'Interest and Sinking Fund;' and declaring an emergency."

**S. C. R. No. 43**, Arranging for a portrait of Governor Price Daniel to be placed in the rotunda of the Capitol.

**House Bill No. 106 on Second Reading**

The Speaker laid before the House, as a special order, on its second reading and passage to engrossment, H. B. No. 106, A bill to be entitled "An Act amending Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, being Section 1, Article 1, Chapter 21, Acts 57th Legislature, First Called Session, 1961; imposing a limited sales, excise and use tax on the sale or use of certain tangible personal property in this State and providing for the administration and enforcement of such tax and the allocation of revenues therefrom; repealing Chapter 6 of Title 122A, Taxation-General, of the Revised Civil Statutes of Texas, being Chapter 6 of Chapter 1, Acts 56th Legislature, Third Called Session, 1959 (Motor Vehicle Retail Sales and Use Act); providing a savings clause; providing a severability clause; providing for an effective date; repealing laws in conflict; and declaring an emergency."

The bill was read second time.

Mr. Cory offered the following Committee Amendment No. 1 to H. B. No. 106:

**Committee Amendment No. 1**

Amend H. B. No. 106 by striking all below the enacting clause and substituting therefore the following:

"Section 1. Chapter 20, Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 14, Acts of the 57th Legislature, First Called Session, 1961, is amended to read as follows: 'Chapter 20 Limited Sales, Excise and Use Tax Article 20.01. Title—Definitions. This Chapter is known and may be cited as the "Limited Sales, Excise and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context: (A) Person. "Person" shall mean and include any individual, firm, partnership, joint venture, association, social club, fraternal organization-
tion, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, syndicate, cooperative, association, 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 thereof, or any city, county, special district, or other political subdivision of this State to the extent engaged in the selling of tangible personal property taxable under this Chapter.

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

(C) Business. "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(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 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 tangible personal property 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.

(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.

(c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the tangible personal property sold.

(d) 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.

(e) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.

(f) 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.

(g) Charges for transportation of tangible personal property after sale.

(E) In this State or Within the State. "In this State" or "Within the State" means within the exterior limits of the State of Texas and includes all territory within those limits owned by or ceded to the United States of America.

(F) Occasional Sale. "Occasional Sale" means:

(1) One (1) or two (2) sales of tangible personal property at retail during any twelve-month period by a person who does not habitually engage in the business of selling such tangible personal property 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 subsec-
tion 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.

(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.

(H) Rental Price or Lease Price. (1) "Rental Price" or "Lease Price" means the total amount for which tangible personal property is rented or leased.

(2) The total amount for which tangible personal property is rented or leased includes all of the following:

(a) The cost of the tangible personal property rented or leased.

(b) The cost of material used, labor or service cost, interest charged, loss or any other expenses.

(c) The cost of transportation of the tangible personal property at any time.

(2) The total amount for which tangible personal property is rented or leased includes all of the following:

(a) Any services which are a part of the lease or rental.

(b) Any amount for which credit is given to the lessee or renter by the lessor or renter.

(1) Retail Sale or Sale at Retail. "Retail Sale" or "Sale at Retail" means:

(3) Any sale of tangible personal property.

(4) 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.

(J) Retailer. (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 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, except that persons engaged in the leasing or licensing of motion picture films of any kind or character to motion picture theatre owners, television stations and others shall be liable for the tax levied under the provisions of this law, and they shall not pass said tax along to the person or persons to whom they lease or license said motion picture films.

(2) When the Comptroller determines that it is necessary for the efficient administration of this Chapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, suppliers, or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of
such dealers, distributors, supervisors or employers, the Comptroller may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this Chapter.

(K) Sale.

(1) "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.

(2) "Sale" includes:
(a) The producing, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish, either directly or indirectly, the materials, used in the producing, fabricating, processing, printing or imprinting.
(b) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.
(c) The furnishing, preparing or serving for a consideration of food, meals, or drinks.
(d) 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.
(e) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer.

(L) Sales Price.

(1) "Sales Price" means the total amount for which tangible personal property is 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 tangible personal property 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) Any services which are a part of the sale.
(e) The amount for which credit is given to the purchaser by the seller.
(f) "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.
(c) The amount charged for labor or services rendered in installing, applying, remodeling or repairing the tangible personal property sold.
(d) 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.
(e) The amount charged for finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price.
(f) 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.
(g) Charges for transportation of tangible personal property after sale.

(M) Seller. "Seller" includes every person engaged in the business of selling, leasing or renting tangible personal property 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.

(N) Storage. "Storage" includes any keeping or retention in this State for any purpose except sale in the regular course of business or subsequent use solely outside this State of tangible personal property purchased from a retailer.

(O) Storage and Use Exclusion. "Storage" and "Use" do not include the keeping, retaining, or exercising...
of any right or power over tangible personal property for the purpose of subsequently transporting it outside the State for use thereafter solely outside the State, or for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the State, and thereafter used solely outside the State.

(P) Tangible Personal Property. "Tangible Personal Property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(Q) Taxpayer. "Taxpayer" means any person liable for tax under this Chapter.

(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. "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 20.021 (T).

(S) Sale for Resale. "Sale for Resale" shall mean a sale of tangible personal property to any purchaser who is purchasing said tangible personal property for the purpose of reselling it 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, any other tangible personal property. A sale for resale shall include a sale of tangible personal property in a purchase for the sole purpose of that purchaser's reselling or leasing said tangible personal property to another person, but not if incidental to the renting or leasing of real estate.

(T) Contractor or Repairman. "Contractor" or "Repairman" shall mean any person who performs any repair services upon tangible personal property or who performs any improvement upon real estate, and who, as a necessary and incidental part of performing such services, incorporates tangible personal property belonging to him into the property being so repaired or improved. Contractor or repairman shall be considered to be the consumer of such tangible personal property furnished by him and incorporated into the property of his customer, for all of the purposes of this Chapter.

(1) The above provision shall apply only if the contract between the person performing the services and the person receiving them contains a lump sum price covering both the performance of the services and the furnishing of the necessary incidental material.

(2) If the contract between the person providing the services and the person receiving them contains separate amounts applicable to the performance of the services and the furnishing of the material then the above Section shall not apply, and the person furnishing the material shall be liable for the limited sales tax upon the agreed price of the materials as thus set forth in the contract. Provided, however, that the agreed price of the materials shall not be less than the actual cost of such materials to the person so providing them.

(5) In any case where the person so providing such materials has paid the limited sales tax to his supplier when purchasing the tangible personal property, he shall be entitled to credit the tax so paid to his supplier against any tax imposed by this Chapter with respect to his subsequent sale of that tangible personal property.

(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.


(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. When the sale price shall involve a fraction of a dollar, the tax shall be added to the sale price upon the following schedule:

<table>
<thead>
<tr>
<th>Amount of Sale</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ .01 to $ .24</td>
<td>No Tax</td>
</tr>
<tr>
<td>.25 to .74</td>
<td>.01</td>
</tr>
<tr>
<td>.75 to 1.24</td>
<td>.02</td>
</tr>
<tr>
<td>1.25 to 1.74</td>
<td>.03</td>
</tr>
<tr>
<td>1.75 to 2.24</td>
<td>.04</td>
</tr>
</tbody>
</table>

Provided, further, that for each additional fifty cents (50¢) of purchase, or fraction thereof, one cent (1¢) limited sales tax shall be collected thereon.

When several articles or items of tangible personal property 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.

(B) Assumption or Absorption of Tax by Retailer; Unlawful Advertisement.

(1) It is unlawful for any retailer to advertise or to hold out 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 it will not be added to the selling price of the tangible personal property sold or that it or any part of it will be refunded. Provided, however, that this paragraph 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.

(2) Every person violating any provision of this paragraph is guilty of a misdemeanor.

(C) Limited Sales Tax Permit Application.

(1) Every person desiring to engage in or to conduct business as a seller within this State shall file with the Comptroller an application for a permit for each place of business. (2) Every application for a permit shall:

(a) Be made upon a form prescribed by the Comptroller.

(b) Be made upon a form prescribed by the Comptroller.

(c) Be made upon a form prescribed by the Comptroller.

(d) The application shall be signed by the owner if he is a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(D) Limited Sales Permit Issuance. After compliance with paragraph (C) of this Article by the applicant, the Comptroller shall grant and issue to each applicant without charge a separate permit for each place of business within the State. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which it is issued.

(E) Revocation, Suspension of Permit; Procedure.

(1) Whenever any person fails to comply with any provision of this Chapter relating to the limited sales tax or with any rule or regulation of the Comptroller relating to such tax prescribed and adopted under this Chapter, the Comptroller upon hearing, after giving the person twenty (20) days notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person.
to the person written notice of the suspension or revocation of any of his permits.

(3) The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(4) The Comptroller shall not issue any new permit unless he is satisfied that the former holder of the permit will comply with the provisions of this Chapter relating to the limited sales tax and the regulations of the Comptroller. The Comptroller may prescribe the terms under which a suspended permit may be reissued.

(5) The action of the Comptroller may be appealed by the taxpayer in the same manner as a final deficiency determination.

(6) 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.

(7) 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 tangible personal property. 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 or is unable to ascertain at the time of purchase whether the tangible personal property will be resold, leased or rented in the regular course of business or will be used for some other purpose.

(8) Form and Contents of Resale Certificate.

(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.

(2) The certificate shall be substantially in such form as the Comptroller may prescribe.

(a) Liability of Purchaser Giving Resale Certificate. If a purchaser who gives a resale certificate makes any use of the tangible personal property other than for the purpose of resale, lease or rental 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.

(b) Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for tangible personal property which he knows, at the time of purchase, is not purchased for the purpose of resale but rather for his own use, is guilty of a misdemeanor and shall upon conviction suffer the penalties set forth in Article 20.12(B) of this Chapter.

(c) 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 goods covered by the resale certificate until a quantity of such goods equal to the quantity of goods so commingled has been sold.

(d) Bad Debts. Credit shall be allowed to the retailer for taxes paid on sales represented by that portion of an account determined
to be worthless and actually charged off for federal income tax purposes or on the portion of the purchase price remaining unpaid at the time of a repossession made under the terms of a conditional sales contract.

(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 tangible personal property previously sold by him to the person with whom said agreement is made.

Article 20.03 Imposition and rate of use tax. 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 or after September 1, 1961, for storage, use, or other consumption in this State, at the rate of two percent (2%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental price.

(A) Liability for Use Tax: Extinguishment of Liability. Every person storing, using or otherwise consuming in this State tangible personal property purchased from a retailer or leased or rented from any other person for such purpose is liable for the tax. His liability is not extinguished until the tax has been paid to the Comptroller. Except, that a receipt from a retailer engaged in business in this State or from a retailer authorized by the Comptroller, under such rates 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 tangible personal property 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 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 tangible personal property.

(C) Assumption, Absorption of Tax by Retailer, 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 tangible personal property 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 tangible personal property 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 person to whom he sells, leases or rents the property 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 tangible personal property. 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 or is unable to ascertain at the time of purchase whether the tangible personal property will be so sold, leased or rented or will be used for some other purpose.

(H) Forum 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.

(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 purchased other than retention, demonstration or display while holding it for sale, lease or rental, 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 property to him shall be deemed the measure of the tax.

(J) Improper Use of Resale Certificate. 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 is guilty of a misdemeanor and shall upon conviction suffer the penalties 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 a similarity that the identity of the constituent goods in the commingled mass can not be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods covered by the resale certificate 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 into 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.

Article 20.04. Exemptions. "Exempt from taxes imposed by this Chapter," as used herein, means exempted from the computation of the amount of the taxes imposed.

Exemption Certificates. If a purchaser certifies in writing to a seller that the tangible personal property 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 tangible per-
sonal property in some other man-
ner or for some other purpose, the
purchaser shall be liable for pay-
ment of the limited sales tax as if
he were a retailer making a retail
sale of the tangible personal prop-
erty at the time of such use, and the
cost of the tangible personal pro-
erty to him shall be deemed the re-
ceipts 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 tangible
personal property which he knows,
at the time of purchase, will be used
in a manner other than that ex-
pressed in the exemption certificate
is guilty of a misdemeanor and shall
upon conviction suffer the penalties
set forth in Article 66.12 (B) of
this Chapter.

(A) Constitution and Statutory
Exemptions. There are exempted
from the taxes imposed by this Chap-
ter the receipts from the sale, lease
or rental of and the storage, use or
other consumption in this State of
tangible personal property 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 Con-
stitution or laws of the United
States or under the Constitution of
this State.

(B) Items Taxed Under Existing
Statutes.

(1) There are exempted from the
taxes imposed by this Chapter the
receipts from the sale, lease or rent-
al, production, distribution or the
storage, use or other consumption in
this State of (a) oil as taxed
under the provisions of Chapter 6
of this Title; (b) sulphur as taxed
under the provisions of Chapter 5
of this Title; (c) cigarettes as de-
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 Chap-
ter 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 provi-
sions of Chapter 10 of this Title; (g)
cement as taxed under the provisions
of Chapter 13 of this Title; and (h)
mobile homes, trailers and semi-

trailer as defined and taxed 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 rent-
al of, production, distribution or
the storage, use or other consump-
tion in this State of alcoholic bev-
erages, including distilled spirits, beer, ale
and wine, subject to a tax imposed
by the Texas Liquor Control Act, as
amended; except that any such al-
coholic beverage 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, lease, production,
distribution, lease or rental of and
the storage, use or other consump-
tion in this State of water.

(4) 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 consump-
tion in this State of telephone and
telegraph service.

(C) 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 stor-
age, 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 manufac-
tured, 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 consump-
tion of such tangible personal pro-
erty is necessary or essential to the
performance of such operations.

Chemical, catalysts, and other ma-
terials which are used during such
operations and which are used for
the purpose of producing or induc-
ing 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 months;

(ii) Machinery, equipment, materials 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 operations 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 re-use. All other containers are "nonreturnable containers."

(4) 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.

(5) 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 common carrier.
(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 of 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.

(F) 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 tangible personal property to, or the storage, use or other consumption of tangible personal property 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.

(G) Occasional Sales. There are exempted from the taxes imposed by this Chapter the receipts from the occasional sales of tangible personal property and the storage, use or other consumption in this State of tangible personal property the transfer of which to the consumer constitutes an occasional sale or the transfer of which to the consumer is made by way of an occasional sale.

(H) Written Contracts and Bids Executed Prior to the Effective Date of this Chapter. There are exempted from the taxes imposed by this Chapter the receipts from the execution of a written contract entered into prior to September 1, 1961 or (ii) pursuant to the obligation of a bid or bids submitted prior to September 1, 1961 which bid or bids could not be altered or withdrawn on or after that date and which bid or bids and contract entered-
ed into pursuant thereto are at a fixed price not subject to change or modification by reason of a tax imposed by this Chapter. The exemption provided by this Section shall have no effect on the receipts and sugar products; coffee and coffee products, including ice cream; cereal products; milk and milk products; including ice cream; cereals; 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.

Provided, however, that notice of such contract or bid by reason of which an exclusion is claimed under this Section (B) must be given by the taxpayer to the Comptroller on or before the lapse of one hundred and twenty (120) days from August 16, 1961.

(1) 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 tangible personal property, 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 such property; provided that such other states, territories, or possession provide for a similar tax credit for taxpayers of this State.

(2) Use Tax Inapplicable When Limited Sales Tax Applies or When Use Tax Previously Paid. The storage, use or other consumption in this State of tangible personal property, the receipts from the sale, lease or rental of which are required to be included in the measure of the limited sales tax, or tangible personal property upon which a use tax has been paid by the taxpayer using said tangible personal property, is exempted from the use tax imposed by this Chapter.

(K) 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; cereals; 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) Medicine, 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, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetables, juices, ice cream in cones or small cups) served, prepared or sold ready for immediate consumption in or by restaurants, drug stores, lunch counters, cafes, theaters, 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.

(L) 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 human 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.

(M) 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 similar work animals used on farms and ranches.
(2) Feed for farm and ranch animals and for animals which are held for sale in the regular course of business.

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) Pesticides, insecticides, herbicides, defoliants 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) Farm machinery or equipment 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.

(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 for oil exploitation or production when such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

(9) Certain Aircraft. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease, storage, use or other consumption of aircraft sold to persons using such aircraft as certificated or licensed carriers of persons or property, or used by any foreign government or sold to persons who are not residents of this State.

(10) Gas and Electricity. There are exempted from the taxes imposed by this Chapter the 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.
April 11, 1963

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 portion 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 electrolyzing, electrolysis and cathodic protection.

(R) Rolling Stock. There are exempted from the taxes imposed by this Chapter receipts from any sale, use, storage or other consumption of locomotives and rolling stock, including fuel or supplies essential to the operation of locomotives and trains.

(S) 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 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.

Article 20.05. Return And Payments.

(A) Due Date of Taxes. The taxes imposed by this Chapter are due and payable to the Comptroller quarterly on or before the last day of the month next succeeding each quarterly period.

(B) Method Retailer is to Use in Computing Tax. The limited sales tax levied under Article 20.02 hereof shall be computed and paid to the Comptroller on the basis of two percent (2%) of all receipts from the total sales of taxable tangible personal property sold by such retailer; provided 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 arise from individual transactions where the total sales price is twenty-four cents (24¢) or less may exclude the receipts from such sales when reporting and paying the tax imposed by Art. 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.

(C) Returns; Time for Filing; Persons Required to File; Signatures; Accounting Basis.

(1) On or before the last day of
the month following each quarterly period of three (3) months, a return for said quarterly period shall be filed with the Comptroller in such form as the Comptroller may prescribe.

(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 tangible personal property, 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.

(3) Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

(4) A taxpayer who keeps his regular books and records on a cash basis or on an accrual basis, or on any generally recognized accounting basis which correctly reflects the operation of the business, may file the tax returns required by this Chapter on the same accounting basis that is used for the regular books and records.

(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.

(5) Reimbursement to Taxpayer for Collection of Tax; Prepayments. The taxpayer shall deduct and withhold from the taxes otherwise due from him on his quarterly tax return, one per cent (1%) thereof to reimburse himself for the cost of collecting the tax. Provided, however, an additional two per cent (2%) deduction shall be allowed a taxpayer who makes prepayments of his tax liability based upon a reasonable estimate of his tax liability for the quarter in which the prepayment is made, in order for the taxpayer to be entitled to the additional two per cent (2%) discount, the prepayment must be made on or before the fifteenth day of the second month of the calendar quarter for which the payment is made.

A taxpayer making a prepayment of his tax as provided for in this paragraph is not relieved from the filing of quarterly returns as provided for elsewhere in this Chapter. At the time the taxpayer files his quarterly return showing his actual tax liability any prepayments made by the taxpayer shall be credited against his tax liability. In the event that there is tax liability owed by the taxpayer in excess of the prepayment, the taxpayer shall remit such excess at the time of filing his quarterly return and from such excess shall deduct and withhold one per cent (1%) of the amount of the excess. If the tax liability of the taxpayer is less than the prepayment of taxes, the excess of the payment shall be recorded as a credit against future tax liability or refunded to the taxpayer as provided for in Article 20.10.

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 to any discount, including any discount that might have been taken by a taxpayer at the time of making a prepayment.
(F) Return Periods: Quarterly Periods other than Calendar Quarters. The Comptroller, if he deems it necessary in order to insure payment to or facilitate the collection by the State of the amount of taxes due, may require returns and payment of the amount of said taxes for quarterly periods other than calendar quarters, in the case of a particular seller, retailer or purchaser, as the case may be, or for other than quarterly periods.

(G) Delivery of Return: Remittance. The person required to file the return shall deliver the quarterly return together with a remittance of the net amount of the tax due to the office of the Comptroller.

(H) Penalties for Failure to Pay or Report. If any person shall fail to file a return as required herein or shall fail to pay to the Comptroller the tax as imposed herein when said report or payment is due, he shall forfeit five per cent (5%) of the amount due as a penalty, and after the first thirty (30) days he shall forfeit an additional five per cent (5%). Provided, however, that the penalty shall never be less than One Dollar ($1). Delinquent taxes shall draw interest at the rate of six per cent (6%) per annum, beginning sixty (60) days from the date due.

(I) Optional Reporting Methods for Certain Vendors.

(a) Any retail grocer or any vendor who maintains a separate grocery department with separate records which may be audited by the State, as applies to the grocery department only, may determine his taxable receipts from the sale of tangible personal property in the following manner:

(i) Add all invoices for merchandise purchased during the next preceding calendar or fiscal year to obtain a total of such purchases.

(ii) Add all invoices for exempt merchandise purchased during the next preceding calendar or fiscal year to obtain a total of such purchases.

(iii) Divide the total amount of exempt merchandise purchases (item i) by the amount of total purchases (item ii) to obtain a percentage relationship.

(iv) Multiply the total receipts from all sales during the reporting period by the percentage thus obtained (item iii).

(v) Deduct the figure obtained by this multiplication (item iv) from total receipts for the reporting period. The remaining amount will be the taxable receipts from the sale of tangible personal property. To this amount any purchases upon which the use tax is imposed by Art. 20.02 of this Chapter.

This method of calculating taxable receipts from the sale of tangible personal property is available for reporting purposes only and is subject to such audits as the Comptroller may require. If such audit indicates that the actual tax liability differs from the tax reported and paid, then the Comptroller shall assess additional tax or grant a refund or credit. No penalties or interest shall be assessed on additional taxes disclosed to be due by audit unless said audit discloses fraud or willful evasion of the tax. No interest shall be paid by the State on any overpayment of tax that may be disclosed upon audit.

(b) Any retail grocer whose total receipts do not exceed One Hundred Thousand Dollars ($100,000.00) per annum may elect to report and pay the taxes imposed by this Chapter on the basis that his taxable receipts from the sale of tangible personal property are equal to fifteen per cent (15%) of his total receipts.

State audits covering the period during which this method of reporting is being or has been used shall be limited to a determination of the eligibility of the grocer to exercise this option. No additional taxes shall be assessed or refunds or credits allowed because of any showing that the amount of tax paid the State under this method of reporting differs from the amount that would have been paid under any other reporting method.

Grocers electing to use this method of reporting shall be required to
continue in the manner prescribed for a period of three (3) years follow-
ing such election provided the total receipts of such grocers con-
tinue to be $100,000 or less. At such time as the gross receipts of any
grocer exceed $100,000, such grocer shall, upon the next succeeding cal-
endar month, be ineligible to use this optional method and he shall
promptly inform the Comptroller of this fact and shall cease to use
such basis immediately. Any retail

grocer who fails to inform the Com-
troller of his insolvency shall lose
the immunity from audit assessment
provided by this subsection and shall
be liable for all back assessment,
penalties and interest prescribed by
this Chapter.

(c) For the purpose of this sec-
tion (1), the term "retail grocer"
shall mean a retail vendor selling
food for human consumption off
the premises where sold together with
household supplies and nondurable
household goods.

(2) Notwithstanding any other
provision of this Chapter, any vendor
whose taxable receipts from the sale
of tangible personal property are
less than ten per cent (10%) of
his total receipts may elect to re-
port his taxable receipts from the
sale of tangible personal property
by the method set forth by para-
graph (a) of subsection (1) of this
section (1) 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 (1).

(3) This section (1) does no-
change either the reporting periods
or the reporting dates as provided
in Art. 20.05(A) and elsewhere in
this Chapter. The waiver of penal-
ties and interest provided by this
section (1) does not apply to any
penalty and interest which may be
assessed as a result of failure to file
a return on the proper reporting
date or failure to remit with the re-
turn the correct amount of the tax
due.

(K) Direct Payment Procedure
Authorized. The Comptroller shall
establish a system of direct payment
which shall be applicable to those
consumers who meet the qualifica-
tions set forth in this section and
who, after approval by the Com-
troller, are issued a direct payment
permit. The holder of a direct pay-
ment permit ma.y be liable for all of
the vendors or sellers from whom pur-
chases of tangible personal property
are made a blanket exemption cer-

tificate covering all future purchases
made by the direct payment permit
holder and such certificate shall
show the number of the direct pay-
ment 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
tangible personal property pur-
chased pursuant to exemption cer-

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 tangible personal property having a value when purchased equal to or in excess of Two Hundred Thousand Dollars ($200,000.00) 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 to demand 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 tangible personal property 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 tangible personal property 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 relinquishment 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 notify all of the vendors or sellers from whom purchases of tangible personal property 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 tangible personal property 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.

Article 20.06. Deficiency Determination.

(A) Recomputation of Tax; Determination on Discontinuance of Business.

(1) If the Comptroller is not satisfied with the return or returns of the tax or the amount of tax re-
required to be paid to the State by any person, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or which may come into his possession. Nothing in this or any other section of this Act shall be construed to preclude the Comptroller from proceeding against the consumer for any tax which the consumer should have paid but failed to pay.

(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 property 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 10.07. 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 property 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 10.07 and to subparagraph 1 of this paragraph.

(3) If, before the expiration of the time prescribed in this Article for the mailing of a notice of deficiency determination, the taxpayer has consented in writing to the mailing of the notice after such time, the notice may be mailed any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(4) Determination If No Return Made: Estimate and Computation; Discontinuance of Business.

(1) If any person fails to make a return, the Comptroller shall make an estimate of the receipt of the person, or, as the case may be, of the amount of the total sales, rent or lease price of tangible personal property 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.

(2) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in paragraph (D) of this Article as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this Chapter.

(F) Offsets; Computation; Interest.

(1) In making a determination, the Comptroller may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

(2) The interest on underpayments shall be computed in the manner set forth in paragraph (G) of Article 20.08.

(G) Notice of Estimate, Determination, and Penalty. Service. Promptly after making his determination, the Comptroller shall give to the person written notice of the estimate, determination and penalty, the notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.


(A) Jeopardy Determination; When Made, Due Date. If the Comptroller believes that the collection of any tax or any amount of tax required to be collected and paid to the State or the amount of any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is due and payable immediately.

(B) Nonpayments: Finality of Determination. If the amount specified in the determination is not paid within twenty (20) days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the twenty (20) days unless a petition for redetermination is filed within the twenty (20) days, a delinquency penalty of ten per cent (10%) of the tax or amount of the tax and the interest provided in paragraph (G) of Article 20.08 shall attach to the amount of the tax or the amount of the tax required to be collected.

(C) Petition for Redetermination; Deposit of Security. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to paragraphs (A) through (G) of Article 20.08. He shall, however, file the petition for determination with the Comptroller within twenty (20) days after the service upon him of notice of determination. The petition shall also within the twenty-day period, deposit with the Comptroller such security as the Comptroller may deem necessary to insure compliance with this Chapter. The security may be sold by the Comptroller in the manner prescribed by paragraph (A), Article 20.09.

Article 20.08. Petition for Redetermination.

(A) Time to File. (1) Any person against whom a determination is made under paragraphs (A) through (G) of Article 20.06, or any person directly interested, may petition for redetermination within thirty (30) days after service upon the person of notice thereof.

(2) If a petition for redetermination is not filed within the thirty-day period, the determination becomes final at the expiration of the period.

(B) Oral Hearing; Notice; Continuations.

(1) If a petition for redetermination is filed within the thirty-day period, the Comptroller shall reconsider the determination and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him twenty (20) days' notice of the time and place of the hearing.
(2) The Comptroller may continue the hearing from time to time as may be necessary.

(3) Increase, Decrease and Amount of Determination. The Comptroller may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the Comptroller at or before the hearing, upon which the petitioner shall be entitled to a thirty-day continuance of the hearing in order to allow him to obtain and produce further evidence applicable to the items upon which the increase is based.

(4) Order of Comptroller on Petition for Redetermination; Finality of Order. The order or decision of the Comptroller upon a petition for redetermination becomes final thirty (30) days after service upon the petitioner of notice thereof.

(5) Due Date of Determination. Penalties. All determinations made by the Comptroller under paragraphs (A) through (G) of Article 20.06 are due and payable twenty (20) days after the time they become final. If they are not paid when due and payable, a penalty of ten percent (10%) of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

(6) Service of Notice. Any notice required by paragraphs (A) through (E) of this Article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(7) Interest for Failure to Pay Tax: Amount: Rates. Any person who fails to pay any tax to the State or any amount of tax required to be collected and paid to the State within the time required, shall pay, in addition to the tax or amount of tax, interest at the rate of six percent (6%) per annum, beginning sixty (60) days from the date on which the tax or the amount of tax required to be collected became due and payable to the State until the date of payment.

Article 20.08: Collection of Tax

(1) Notice of Delinquency to Person Holding Credits or Property of Delinquent; Transfer or Disposition of Property or Debt after Notice: Bank Deposits. If any person is delinquent in the payment of the amount required to be paid by him or in the event a determination has been made against him which remains unpaid, the Comptroller may, not later than three (3) years after the payment becomes delinquent or within three (3) years after the last recording of a lien, give notice thereof personally or by registered mail to all persons, including any officer or department of the State or any political subdivision or agency of the State, having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent, or persons owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any State officer, department or agency, the notice shall be given to such officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the State Comptroller.

(2) After receiving the notice, the persons so notified shall either make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they received the notice, unless the Comptroller consents to a transfer or disposition, or until sixty (60) days elapse, after receipt of the notice, whichever period expires earlier.

(3) All persons so notified shall, within twenty (20) days after receipt of the notice, advise the Comptroller of all such credits, other personal property or debts in their possession, under their control, or owing by them.

(4) If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credit or personal property in the possession or under the control of a bank, the notice, in order to be effective, shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held.

(5) If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld here-
April 11, 1963  HOUSE JOURNAL  1081

under, to the extent of the value of the property or the amount of the debts thus transferred or paid, he shall be liable to the State for any indebtedness due under this Chapter from the person with respect to whose obligation the notice was given.

(B) Action for Collection of Tax, Penalties, Interest; Limitation At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three (3) years after the delinquency of any tax or any amount required to be collected, or within three (3) years after the last recording of a lien, the Comptroller may bring an action in the courts of this State, or any other State, or of the United States, in the name of the people of the State of Texas, to collect the amount delinquent together with penalties and interest.

(C) Attorney General to Prosecute Action. The Attorney General shall prosecute the action, and the Rules of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals shall be applicable to the proceedings.

(D) Issuance of Writ of Attachment Without Bond, Affidavit. In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment is required.

(E) Evidentiary Effect of Delinquency Certificate. In the action a certificate by the Comptroller showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of the tax, of the delinquency of the amount set forth, and of the compliance by the Comptroller with all the provisions of this Chapter in relation to the computation and determination of the amounts.

(F) Action for Use Tax; Manner of Service of Process. In any action relating to the use tax brought under this Chapter, process may be served according to the Rules of Civil Procedure or may be served upon any agent or clerk in this State employed by any retailer in a place of business maintained by the retailer in this State. In the latter case, a copy of the process shall forthwith be sent by registered mail to the retailer at his principal or home office.

(G) Judgment for Taxes.

(1) Comptroller May Sue. If any amount required to be paid to the State under this Chapter is not paid when due, the Comptroller may, within three (3) years after the amount is due, file in a court of competent jurisdiction in Travis County, Texas, or any county where the person owing the tax may be a resident or have a place of business, an action for recovery of such tax, together with any penalties and interest. Such action shall be in the form of an action for debt, and the certificate of the Comptroller or his duly authorized agent that the tax is due, specifying the amount due together with penalty and interest, shall be prima facie evidence of the justness and correctness of such claim by the State. Service may be had according to the provisions of Article 20.09, paragraph (F) of this Chapter.

(2) Judgment may be Abstracted. Any judgment obtained in favor of the State by an action brought under this Article may be filed for record with the county clerk of any county in this State and when so filed, shall constitute a lien upon all of the real property in the county owned by the person named as defendant in the judgment or thereafter acquired by him. Such lien shall have the force and effect of a judgment lien for ten (10) years from the date of judgment unless sooner released or discharged.

(3) Release. Upon payment in full of the amount of any judgment obtained under this Article, the Comptroller may issue a release of any such judgment lien. Prior judgment for taxes and penalties shall not bar subsequent suit by the Comptroller for additional taxes, or penalties or interest accruing after any such prior judgment, provided such suits are instituted within three (3) years after such taxes are due.

(4) Execution. Execution may issue upon any judgment obtained under this Article in the same manner as execution may issue in other judgments for debt, and sale shall be held under such execution as pre-
(H) Seizure and Sale.

(1) Seizure and Sale. At any time within three (3) years after any person is delinquent in the payment of any amount, the Comptroller may forthwith collect the amount in the following manner: The Comptroller shall seize any property real or personal, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties on account of the seizure and sale. Any seizure made to collect a sales tax due shall be only of property of the vendor not exempt from execution under the laws of this State.

(2) Notice of Sale. Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least twenty (20) days before the date set for the sale in the following manner: The notice shall be enclosed in an envelope addressed to the person, in case of a sale for limited sales tax due, at his last known address or place of business, and in case of a sale for use taxes due, at his last known residence or place of business in this State. It shall be deposited in the United States mail postage prepaid. The notice shall also be published for at least ten (10) days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three (3) public places in the county twenty (20) days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due including interest, penalties, and cost, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and cost are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be necessary, will be sold in accordance with the law and the notice.

(3) Bill of Sale; Deed. At the sale, the Comptroller shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

(4) Disposition of Proceeds. If upon the sale the monies received exceed the total of all amounts, including interest, penalties, and costs due the State, the Comptroller shall return the excess to the person liable for the amounts and obtain his receipt. If any person having an interest in or lien upon the property files with the Comptroller prior to the sale notice of his interest or lien, the Comptroller shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Comptroller shall deposit the excess moneys with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors, or assigns.

(1) Payment on Termination of Business and Successor's Liability.

(1) Withholding by Purchaser. If any vendor liable for any amount under this Chapter sells out his business or stock of goods or quits the business, his assignee or successor shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Comptroller showing that it has been paid or a certificate stating that no amount is due.

(2) Liability of Purchaser; Release. If the purchaser of a business or stock of goods fails to withhold purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within sixty (60) days after receiving a written request from the purchaser for a certificate, or within sixty (60) days from the date the former owner's records are made available for audit, whichever period expires the later, but in any event
not later than ninety (90) days after receiving the request, the Comptroller shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Comptroller of the amount that must be paid as a condition of issuing the certificate. Failure of the Comptroller to mail the notice will release the purchaser from any further obligation to withhold purchase price as above provided. The time within which the obligors of the successor may be enforced shall start to run at the time the vendor sells out his business or stock of goods or at the time that the determination against the vendor becomes final, whichever event occurs the later.

(3) Security for Tax May be Required. In all cases where he deems that it is necessary to insure compliance with the provisions of this Chapter the Comptroller may require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a permit under this Chapter. Such security shall be in the form and such amount as the Comptroller deems appropriate under the particular circumstances but shall not be in an amount in excess of four times the estimated average quarterly liability for taxes imposed by this Chapter or Fifty Thousand Dollars ($50,000), whichever is the lesser. Any security required to be deposited may be sold by the Comptroller at public sale. If it becomes necessary so to do in order to recover any tax, interest, or penalty due, notice of such sale may be served upon the person who deposited such security personally or by mail. If by mail, notice sent to the last known address, as the same appears in the records of the Comptroller's office shall be sufficient for the purpose of this requirement. Upon such sale the surplus, if any, above the amount due under this Chapter, shall be returned to the person who deposited the security.

Article 20.05. Overpayments and Refunds.

(A) Certification of Excess Amount Collected: Credit and Refund. If the Comptroller determines that any amount, penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Comptroller shall set forth that fact in his records, and the excess amount collected or paid may be credited on any account then due and payable from the person under this Chapter. Any balance may be refunded to the person by whom it was paid, or his successor, administrators or executors.

(B) Claims for Refund, Credit: Limitation.

(1) No refund shall be allowed unless a claim therefor is filed with the Comptroller by the person who overpaid the tax or his attorney, assignee, executor, or administrator within three (3) years from the last day of the month following the close of the quarterly period for which the overpayment was made, or within six (6) months after any determination becomes final under paragraphs (A) through (G) of Article 20.06 or within six (6) months from the date of overpayment with respect to such determinations, whichever of those three (3) periods expires the later.

(2) No credit shall be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Comptroller within such period, or unless the credit relates to a period for which a waiver is given pursuant to paragraph (D) under Article 20.06.

(C) Claims for Refund, Credit: Form: Goums. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

(D) Effect of Failure to File Claim: Waiver. Failure to file a claim within the time prescribed in paragraph (B) of this Article constitutes a waiver of any demand against the State on account of overpayment.

(E) Notice of Disallowance of Claim: Service. Within thirty (30) days after disallowing any claim in whole or in part, the Comptroller shall serve notice of his action on the claimant in the manner prescribed for service of notice of a deficiency determination.

(F) Injunction: Other Processes to Prevent Tax Collection Prohibited. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this State
or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected.

(G) Action for Refund: Claim as Condition Precedent. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed.

(H) Action for Refund; Time to Sue; Venue of Action; Waiver.

(1) Within ninety (90) days after the mailing of the notice of the Comptroller action upon a claim filed pursuant to this Chapter, the claimant may bring an action against the Comptroller on the grounds set forth in the claim in a court of competent jurisdiction in Travis County, Texas, for recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

(2) Failure to bring action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayment.

(I) Right of Action on Failure to Mail Notice. If the Comptroller fails to mail notice of action on a claim within six (6) months after the claim is filed the claimant may, prior to the mailing of notice by the Comptroller of his action on the claim, consider the claim disallowed and bring an action against the Comptroller on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(J) Judgment for Plaintiff; Credit, Refund of Balance.

(1) If judgment is rendered for the plaintiff the amount of the judgment shall be credited on any limited sales tax, use tax, penalties or interest due from the plaintiff and the balance of the judgment shall be refunded to the plaintiff.

(K) Allowance of Interest. In any judgment, interest shall be allowed at the rate of six per cent (6%) per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than thirty (30) days, the date to be determined by the Comptroller.

(L) Recovery of Erroneous Refunds: Action; Jurisdiction and Venue. The Comptroller may recover any refund or part thereof which is erroneously made and any credit or part thereof which is erroneously allowed in an action brought, within one year from the date of refund or credit, in the name of the State, in a court of competent jurisdiction in the county in which the person involved is located.

(M) Change of Venue in Action to recover Erroneous Refund. The action shall be tried in the county in which the person involved is a resident unless the court with the consent of the Attorney General orders a change of place of trial.

(N) Attorney General to Prosecute Action for Recovery of Erroneous Refund. The Attorney General shall prosecute the action, and the provisions of State law and the Rules of Civil Procedure relating to the service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings.

Article 20.11. Administration.

(A) Enforcement by Comptroller: Rules and Regulations.

(1) The Comptroller shall enforce the provisions of this Chapter and may prescribe, adopt and enforce rules and regulations relating to the service of summons, pleadings, proofs, trials and appeals as applicable to the proceedings.

(B) Employment of Accountants, Investigators and other Persons; Delegation of Authority. The Comptroller may employ accountants, auditors, investigators, assistants and clerks necessary for the efficient administration of this Chapter and may delegate authority to his representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by this Chapter.

(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 tangible personal property 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 tangible personal property 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.

(E) Taxpayer's Right to Keep Records Out of State. The taxpayer shall have the right to keep or store his records at a point outside this State, but, if the Comptroller wishes to examine said records, the taxpayer shall either bring the records into the State for such examination or reimburse the Comptroller for the increased expense of making the investigation at the out-of-state location.

(F) Reports for Administering the 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 her possession or control any information relating to sales of tangible personal property, 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.

(G) Disclosure of Information Unlawful; Examination of Records. It shall be a misdemeanor for any officer or employee of the Comptroller to make known in any manner whatsoever the business affairs, operations or information obtained by an investigation of records or activities of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Comptroller.

However, the Comptroller may, by general or special order, authorize examination by other State officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person of the records maintained by the Comptroller under this Chapter.

Nothing herein contained shall be construed to prevent: The delivery to a taxpayer, or his duly authorized representative, of a copy of any report or other paper filed by him pursuant to the provisions of this Chapter; the publication of statistics so classified as to prevent the identification of a particular report and the items thereof; the use of such records, reports, or information secured, derived, or obtained by the Attorney General or the Comptroller under the terms of this Chapter in any action against the same taxpayer for a penalty or any tax due under any provision of this Chapter.

(2) Successors, executors, administrators, assigns and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.


(1) Penalty for Engaging in Business as Seller Without Permit. A person who engages in business as a retailer in this State without a permit or permits or after a permit has been suspended, and each officer of any corporation which so engages in business, is guilty of a misdemeanor, and such person shall upon conviction be fined not more than Five Hundred Dollars ($500) for each conviction. Each day of such operation shall constitute a separate offense.
(B) Penalty for Improper Use of Resale Certificate. Any person who gives a resale certificate to the seller for property with which he knows, at the time of purchase, is purchased for the purpose of resale rather than the purpose of resale, lease or rental by him 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.

(C) Penalty for Failure to Make Return, Furnish Data. Any retailer or other person who refuses to furnish any return required to be made, or who refuses to furnish a supplemental return or other data required by the Comptroller, shall be guilty of a misdemeanor, and shall upon conviction be fined not more than Five Hundred Dollars ($500) for each conviction.

(D) Penalty for Other Violations. Any violation of this Chapter, except as otherwise provided, is a misdemeanor, and any person shall, when found guilty of such violation, be fined not more than Five Hundred Dollars ($500) for each violation.

(5) Statute of Limitations. Any prosecution for violation of any of the penal provisions of this Chapter shall be instituted within four (4) years after the commission of the offense.


All fees, taxes, interest and penalties imposed, and all amounts of tax required to be paid to the State under this chapter shall be paid to the Comptroller in the form of remittances payable to the Comptroller of Public Accounts of Texas. The Comptroller shall remit all fees, taxes, interest and penalties collected to the State Treasurer to be deposited in the State Treasury in the following manner:

(1) The State Treasurer shall deposit all proceeds from the taxes imposed by this Chapter to the credit of the General Revenue Fund except that portion of the proceeds which the Comptroller of Public Accounts shall certify arises from the application of the taxes imposed by this Chapter to the sale and use of lubricating oils and motor oils consumed on the public roads, streets and highways of this State.

(2) The State Treasurer shall deposit to the credit of the State Highway Fund so much of the proceeds of the taxes imposed by this Chapter as the Comptroller shall certify arises from the application of the taxes imposed by this Chapter to the sale and use of lubricating oils and motor oils used to propel motor vehicles over the public roadways.

The amount to be deposited to the credit of the State Highway Fund shall be determined by the Comptroller based on available statistical data indicating the estimated average or actual consumption or sales of lubricants used to propel motor vehicles over the public roadways. In the event that satisfactory statistical data as to such consumption or use of lubricants is not available the Comptroller may, at his discretion, require that taxpayers making taxable sales or use of such lubricants in this state furnish such information to the Comptroller as is necessary to make the appropriate allocations required under this Article.


The remedies of the State provided for in this Chapter are cumulative and no action taken by the Comptroller or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy from which provision is made in this Chapter.

Article 20.15. Comptroller's Authority.

In all proceedings under this Chapter the Comptroller may act for and on behalf of the people of the State of Texas.


In the determination of any case arising under this Chapter the rule of res judicata is applicable only if the liability involved is for the same quarterly period as was involved in another case previously determined.

Article 20.17. Tax Suit Comity.

The courts of this State shall recognize and enforce liabilities for sales and use taxes lawfully imposed by any other state, provided that such other state extends a like comity to this State.
April 11, 1963   HOUSE JOURNAL  1087

"Sec. 2. Chapter 6 of Title 122A, Taxation-General, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Chapter 6
Motor Vehicle Retail Sales and Use Tax

Article 6.01. Imposition of Taxes.
(1) There is hereby levied a tax upon every retail sale of every motor vehicle sold in this State, such tax to be equal to two per cent (2%) of the total consideration paid or to be paid for said motor vehicle.
(2) There is hereby levied a use tax upon every motor vehicle purchased at retail sale outside this State and brought into this State for use upon the public highways by any person, firm or corporation who is a resident of this State or who is domiciled or doing business in this State. The tax imposed by this subsection shall be equal to two percent (2%) of the total consideration paid or to be paid for said vehicle at said retail sale. The tax shall be the obligation of and be paid by the person, firm or corporation operating said motor vehicle upon the public highways of this State.
(3) There is hereby levied a use tax in the sum of Fifteen Dollars ($15) upon any person making application for the initial certificate of title on a motor vehicle which was previously registered in his name in any other State or foreign country. It is the purpose of this subsection to impose a use tax upon motor vehicles brought into this State by new residents of this State.
(4) There is hereby levied a tax in the sum of Five Dollars ($5) upon any transaction involving the even exchange of two (2) motor vehicles which tax shall be paid by each party to the transaction.
(5) There is hereby levied a tax in the sum of Ten Dollars ($10) upon any person who makes a gift of a motor vehicle to another person which tax shall be paid by the donee.

The taxes levied by or under this Chapter shall be in addition to any and all license tax and taxes levied by or under any other law of this State.

Article 6.02. Duties of Comptroller of Public Accounts.
The Comptroller of Public Accounts shall have general supervision over the collection of the taxes imposed by this Chapter. He may establish rules and regulations for the determination of taxable value of motor vehicles and for the efficient administration of this Chapter. All County Tax Collectors and Assessors shall be furnished with such rules and regulations, and such rules and regulations shall be consistently applied to the determination of taxable value of each motor vehicle purchased in this State or taxable under the use tax levied by Article 6.01 of this Chapter.

Article 6.03. Title Definitions.
The following words shall have the following meanings unless a different meaning clearly appears from the context.
(A) Sale. The term "sale" as herein used shall include installment and credit sales, and the exchange of property as well as the sale thereof for money, every closed transaction constituting a sale. The transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.
(B) Retail Sale. The term "retail sale" as herein used shall include all sales of motor vehicles except those whereby the purchaser acquires a motor vehicle for the exclusive purpose of resale and not for use.
(C) Motor Vehicle. The term "motor vehicle" as herein used shall mean every self-propelled vehicle in or by which any person or property is or may be transported upon a public highway, including trailers and semi-trailers. It shall not mean any device moved only by human power or used exclusively upon stationary rails or tracks and shall not include farm machinery or farm trailers or road building machinery or any self-propelled vehicle used exclusively to move any of the three (3) immediately preceding vehicles.
(D) Total Consideration. The term "total consideration" as herein used shall mean the amount paid or to be paid for said motor vehicle and all accessories at-
The taxes levied in this Chapter shall be collected by the Assessor and Collector of Taxes of the county in which any such motor vehicle is first registered or first transferred to the Tax Collector of the county in which such motor vehicle is to be registered. The tax shall be paid at the time application is made for registration of said motor vehicle, and the Tax Collector shall refuse to issue the registration license until the tax is paid.

Article 6.05. Affidavits and Sales Records.

1. The purchaser and seller shall make a joint affidavit setting forth the total consideration, whether in money or other things of value, received or to be received by the seller or his nominee in a retail sale. Where a transfer of title to a motor vehicle is made either as the result of an even exchange or of a gift, the two (2) principal parties to such a transaction shall make a joint affidavit setting forth the facts describing the nature of the transaction. In an even exchange no transfer of title shall be accomplished until the two (2) principal parties have paid a tax of Five Dollars ($5) each to the Tax Assessor and Collector. Where any transfer of title is made either as the result of an even exchange or of a gift, the two (2) principal parties to such a transaction shall make a joint affidavit setting forth the facts describing the nature of the transaction. In an even exchange no transfer of title shall be accomplished until the two (2) principal parties have paid a tax of Five Dollars ($5) each to the Tax Assessor and Collector. Where any party to a sale, exchange, even exchange or gift is a corporation, the president, vice president, secretary, manager or other authorized officer of the corporation shall make the affidavit for the corporation. When any tax imposed by this Chapter is paid to the Tax Assessor and Collector, the person upon whom the tax is imposed by this Act shall file with the Tax Assessor and Collector the joint affidavit required by this Article. The Tax Assessor and Collector shall keep copies of the affidavit until they are called for by the Comptroller of Public Accounts or his representative for auditing.

2. The seller shall keep complete records of each motor vehicle transferred by him at a retail sale including a true and complete copy of the invoice pertaining to the transaction described by such affidavit. Said invoice shall show the full price of the motor vehicle plus the itemized price of all accessories attached thereto. The record shall be retained by the seller at his principal office for at least four (4) years from the date of the transfer of the motor vehicle. All sales and supporting records of each seller shall be kept for at least four (4) years after the date of the transfer of the motor vehicle. All supporting records of each seller shall be kept for at least four (4) years after the date of the transfer of the motor vehicle.
be open to inspection and audit by the Comptroller of Public Accounts or his authorized representative.

Article 6.06. Penalties and Interest. Redetermination and Hearings.

(1) If the Comptroller upon audit of the records of the seller shall determine that the amount of tax due on any transaction was incorrectly reported on the joint affidavit so that the tax actually paid was less than that actually due, the seller shall then be liable for the full amount of tax determined to be due plus a penalty of ten per cent (10%) of the amount of tax due and interest on the amount of tax due computed at the rate of six per cent (6%) per annum beginning sixty (60) days from the date on which the joint affidavit was executed. The Comptroller shall notify the seller in writing of his determination and the seller shall, within ten (10) days following the receipt of such notice, pay to the Comptroller the amount of back taxes, penalty and interest. The Comptroller shall promulgate rules and regulations under which the seller may petition for a redetermination of liability and shall grant the seller an oral hearing. The Comptroller may decrease or increase the amount of his determination. If the increase is based upon which the increase is based, the seller shall, within ten (10) days from the date on which the joint affidavit was executed, the Comptroller may decrease or increase the amount of his determination. If the increase is based upon which the increase is based, the seller shall, within ten (10) days following the receipt of such notice, pay to the Comptroller the amount of back taxes, penalty and interest.

(2) If any seller shall not keep and retain complete records for the space of four (4) years as provided in Article 6.05 (2) he shall be deemed guilty of a misdemeanor and punished by a fine of not less than Twenty-five Dollars ($25) nor more than Five Hundred Dollars ($500).


The Tax Assessor and Collector shall issue a receipt to the person paying the taxes imposed by this Chapter, making two (2) duplicate copies of the said receipt. The Comptroller of Public Accounts shall prescribe the form of the receipt. On the tenth day of each month, the Tax Assessor and Collector shall forward ninety-six and one-half percent (96.5%) of the money collected from the taxes imposed by this Chapter to the Comptroller of Public Accounts, together with one duplicate copy of each receipt issued by him to persons paying the tax or fee imposed by this Chapter. The Tax Assessor and Collector shall retain one duplicate receipt as a permanent record in his office and shall retain three and one-half percent (3.5%) of the taxes collected as fees of office, or to be paid into the officers' salary fund of the county as provided by General Law.

Article 6.08. Operation Without Payment of Tax.

If any person shall knowingly operate any motor vehicle, such as defined in this Chapter, upon the highways of this State, without the tax thereon having been paid as herein levied and provided, he shall be deemed guilty of a misdemeanor and punished by a fine of not less than Ten Dollars ($10) nor more than Five Hundred Dollars ($500), or confined in the county jail for not less than one day nor more than thirty (30) days or by both such fine and imprisonment.

'Sec. 3. Article 12.21 of Title 132A, Taxation-General or the Revised Civil Statutes of Texas, 1925, be amended to read as follows:


(1) In addition to the franchise tax due and payable under Article 12.01 of this Chapter, there is hereby levied on all corporations paying a franchise tax under the provisions of Article 12.01 of this Chapter an additional franchise tax for the privilege of doing business in Texas in corporate form in the periods from May 1, 1959, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, and from May 1, 1962, to and including April 30, 1963, and from May 1, 1963, to and including April 30, 1964, and from May 1, 1964, to and including April 30, 1965, which additional franchise tax shall be computed by multiplying the tax due and...
(2) Corporations eligible to and electing to compute the franchise tax for which they are liable under the provisions of Article 12.10 of this Chapter shall, for the privilege of doing business in Texas in corporate form in the periods from May 1, 1960, to and including April 30, 1961, and from May 1, 1961, to and including April 30, 1962, and from May 1, 1962, to and including April 30, 1963, and from May 1, 1963, to and including April 30, 1964, and from May 1, 1964, to and including April 30, 1965, pay an additional franchise tax in accordance with the following schedule:

| Total Assets | Additional Tax Shall Be Paid | Per Cent
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$ 0.00 - $ 20,000.00</td>
<td>$ 7.50</td>
<td>37.50</td>
</tr>
<tr>
<td>$ 20,000.00 - $ 40,000.00</td>
<td>12.00</td>
<td>30.00</td>
</tr>
<tr>
<td>$ 40,000.00 - $ 60,000.00</td>
<td>20.00</td>
<td>20.00</td>
</tr>
<tr>
<td>$ 60,000.00 - $ 80,000.00</td>
<td>30.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 80,000.00 - $ 100,000.00</td>
<td>40.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 100,000.00 - $ 120,000.00</td>
<td>45.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 120,000.00 - $ 140,000.00</td>
<td>50.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 140,000.00 - $ 160,000.00</td>
<td>55.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 160,000.00 - $ 180,000.00</td>
<td>60.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 180,000.00 - $ 200,000.00</td>
<td>65.00</td>
<td>18.75</td>
</tr>
<tr>
<td>$ 200,000.00 - $ 220,000.00</td>
<td>70.00</td>
<td>18.75</td>
</tr>
</tbody>
</table>

(3) The additional franchise tax levied by this Article shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due and payable in the same periods under the provisions of this Chapter.

(4) The State Comptroller of Public Accounts shall have the right to make and promulgate such rules and regulations and to prescribe such forms as he deems necessary for the efficient and effective administration of the additional franchise tax levied by this Article.

(5) The additional franchise tax levied by this Article shall be cumulative with all other taxes imposed by this State.

(6) The additional franchise tax levied by this Article shall expire on April 30, 1965.

The repeal of any law by this Act shall not affect or impair any act done or obligation, right, li-
several days in each House be sus­
pended, and said Rule is hereby sus­
pended, and that this Act shall take
and be in force from and
after July 1, 1963, and it is so en­
acted.”

Mr. Atwell moved that H. B. No.
106 be considered Section by Section
in consecutive numerical order, and
that any amendments to Sections
be offered at the time the Section
is under consideration.

There was no objection
offered, and it was so ordered.

The House then proceeded to the
consideration of Section 1 of the
Committee Amendment No. 1.

Mr. Shannon offered the following
amendment to Committee Amend­
ment No. 1:

Amend Committee Amendment No.
1 to House Bill 106 by striking out
Item (5) under Paragraph (F) of
Article 20.04
and substituting in lieu
thereof the following:

“Any
organisation created for
religious, educational, charitable or
eleemosynary purposes (including
Young Men’s Christian Associations
and Young Women’s Christian As­
sociations acting under the approval
and cooperation of the State and
International Young Men’s Christian
Association Committees and the
Young Women’s Christian Associa­
tion Committees), provided that no
part of the net earnings of any such
organisation inures to the benefit of
any private shareholder or individ­
ual.”

Signed: Shannon and Cole.

Mr. Cory moved to table the
amendment offered by Mr. Shannon.

A record vote was requested on
the motion to table.

The motion to table the amend­
ment offered by Mr. Shannon pre­
vailed by the following vote:

Yea—112

Mr. Byron
Mr. Brown
Mr. Brown
Mr. Brown
Mr. Bynum
Mr. Byrom
Mr. Byrom

Nay—32

Mr. Adams
Mr. Allen
Mr. Alredge
Mr. Atwell
Mr. Ball
Mr. Banfield
Mr. Barnes

Mr. Allard
Mr. Allen
Mr. Arredge
Mr. Atwell
Mr. Ball
Mr. Banfield
Mr. Barnes

Buller
Cain
Caldwell
Canales
Cavness
Chapman
Clayton
Collins
Cook
Cory
Cotten
Coughran
Cowden
Cowles
Crazi
Crews
Davis
da la Garza
Dole
Duggan
Richard
Edwards
Esquivel
Fairchild
Floyd
Forden
Foreman
Garrison
Gibbens
Glenn
Grover
Haines of Brown
Halkmark
Harding
Harris of Dallas
Healy
Helton
Hendryx
Hinson
Hollowell
Houston
Hurbos
Jamison
Jarvis
Johnson of Dallas
Kilpatrick
Klager
Knap
Kethmann
Lack

Ligarde
McClinton
McDonald
of Hidalgo
McDonald of Rusk
McInany
McLaughlin
McNutt
Mactee
Mann
Markgraf
Miller
Morgan
Moyer
Murray
Mutchner

Niemeyer
Nugent
Parley
Pearsy
Peeler
Pendleton
Pett
Pipkin
Price
Quilliam
Rapp
Ritter
Satterwhite
Schiller
Segret
Shiplay
Slack
Smith
of Bexar
Smith
of Bexar
Stewart
Stollenwerck
Thompson
Thurmond
Townsend
Traeger
Walker
Whatley
Whitney
Wilson
Woods

Wilson
Woods
Wilson
Woods
Woods
Woods
Woods
Woods
Woods
Woods
Mr. Nugent offered the following amendment to Committee Amendment No. 1:

Amend H. B. 106, Committee Amendment No. One, by adding a new section appropriately numbered on page 9 at line 48:

There are exempted from the taxes imposed by this chapter the receipts from the sale, production, distribution of all livestock and veterinary medicines.

Mr. Wilson moved to table the amendment offered by Mr. Nugent, and the motion to table prevailed.

Mr. Richardson offered the following amendment to Article 20.04, Exemptions, of Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill 106 by striking all of lines 6, 7, 8 and 9 on page 13 of the printed Committee Amendment.

Mr. Atwell moved to table the amendment offered by Mr. Richardson and the motion to table prevailed.

Mr. Petty offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill No. 106 by adding thereto a new section on page 9, line 34 to read as follows and renumber the following sub-sections accordingly:

"Sec. 3a. Section 23 of Article II of the Texas Liquor Control Act as last amended by Chapter 404, Article III, Acts of the 48th Legislature, 1956, is amended to read as follows:

'Section 23. There is hereby levied and assessed a tax at the rate of Six Dollars and Sixty Cents ($6.60) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this state.'"

Mr. Atwell moved to table the amendment offered by Mr. Petty.

A record vote was requested.

The motion to table the amendment offered by Mr. Petty prevailed by the following vote:

Yea &—93

Alaniz
Allen
Atwell
Ball
Bass of Harris
Beckham
Berry
Blaine
Boyman
Bridge
Brooks
Brown
of Galveston
Buck
of Hidalgo
Butler
Cain
Canales
Cannon
Cook
Cory
Coughran
Cowles
Crews
Davis
de la Garza
Duggan
Eckhardt
Esquivel
Floyd
Ford
Foordren
Foreman
Garrison
Greene
Grover
Guinea
Haines of Brazos
Haines of Brown
Hallmark
Harding
Herring
Herrin
Herrin
of Galveston
Hibbitt
of Orange
Simpson

Absent—Excused
Carpenter
Isaacks
McGregor

(The above record vote was requested by Mr. Shannon, Mr. Cole, Mr. Ward and Mr. Gladden.)
April 11, 1963  HOUSE JOURNAL  1093

Slack  Tragner
Smith of Bexar  Walker
Smith of Jefferson  Veldon
Stollenwerck  Whatley
Thompson  Wheeler
Thurmond  Woods

Nays—49

Adams  Glenn
Arledge  Hefton
Banfield  Hinson
Barres  Hollowell
Bass of Bowie  Jamison
Birkner  Jarvis
Brown of Taylor  Lack
Caldwell  McClurken
Carriker  McLibany
Chapman  Markgraf
Chevey  Parmer
Clayton  Petty
Collins  Roberts
Cotten  Roesen
Cowden  Satterwhite
Cook  Slider
Doke  Stewart
Edwards  Townsend
Fairchild  Ward
Fleischer  Wells
Gibbens  Winter
Gladney  Wilson

Absent

Dungan  Whitfield
Healy 

Absent—Excused

Carpenter  McGregor
Lissack  

(The above record vote was requested by Mr. Collins, Mr. Hollowell and Mr. Wilson.)

REASON FOR VOTE

I voted to table this amendment because I am voting against all amendments to this bill.
Nelson Cowley.

REASON FOR VOTE

I voted to table an amendment to H. B. 106 which would have placed an additional tax on beer because of my solemn pledge to the people of Lubbock County to vote and work against any new taxes or increases in present taxes.
Bill J. Parsley.

Mr. Carriker offered the following amendment to Committee Amendment Number 1:

Amend Committee Amendment Number 1 to House Bill 106 by striking line 6 on page 13 of the printed bill and substituting in lieu thereof the following:

"(6) Agricultural machinery, equipment and replacement parts and accessories exclusively used or employed on farms."

Mr. Wilson moved to table the amendment offered by Mr. Carriker, and the motion to table prevailed.

Mr. Nugent offered the following amendment to the Committee Amendment Number 1:

Amend H. B. 106 by adding at page 12 on line 48 after the words healing arts, the following:

"and all livestock medicines whether dispensed by a licensed practitioner or not"

Mr. de la Garza moved to table the amendment offered by Mr. Nugent.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Nugent prevailed by the following vote:

Yea—81

Adams  Finney
Alanis  Floyd
Allen  Fondren
Ball  Foreman
Banfield  Garrison
Barres  Gibbons
Base of Harris  Green
Blaire  Grover
Brown of Taylor  Hallmark
Butler  Harding
Cain  Harris of Dallas
Cavness  Harris of Orange
Clayton  Healy
Cook  Hollowell
Cowden  Houston
Cowles  Jarris
Crews  Johnson of Dallas
Davis  Johnson of Bexar
De la Garza  Kilpatrick
Doke  Knapp
Duggan  Koliba
Esquivel  Ligarde
Mr. Haynes of Orange offered the following amendment to Committee Amendment No. 1:

Amendment to page 12, Committee Amendment No. 1 of House Bill 106.

Amend Subsection (3) of Section (M) of Art. 20.04 of Committee Amendment No. 1 to H. B. 106 to read as follows: Feed for farm and ranch animals, guide dogs for the blind, and for animals which are held for sale in the regular course of business.

Mr. Atwell moved to table the amendment offered by Mr. Haynes of Orange, and the motion to table prevailed.

Mr. Carriker offered the following amendment to Article 20.04, Farm Machinery, of Committee Amendment No. 1:

Amend Committee Amendment Number 1 to House Bill 106 by striking the word "Farm" on line 6 of page 13 of the printed bill and substituting in lieu thereof the word "Agricultural."

Mr. Wilson moved to table the amendment offered by Mr. Carriker, and the motion to table prevailed.

Mr. Carriker offered the following amendment to Committee Amendment No. 1:

Amend Article 20.01 of Section 1 of Committee Amendment Number 1 to House Bill 106 by adding a new appropriately lettered section following section "(U)" to read as follows:

"Farm Machinery or Equipment. "Farm Machinery or Equipment shall mean any manufactured item used in the production of food for human consumption, food for any form of animal life, or other agricultural products to be sold in the regular course of business, including all machinery or equipment used in every operation commencing with the first production stage of any article of tangible personal property, including but not limited to annual and periodic preparation and tillage of soil and pasture land and ending..."
with the completion of tangible personal property having the physical properties (including packaging if any) which it has when transferred by the agricultural producer to another.

Mr. Wilson moved to table the amendment offered by Mr. Carriker, and the motion to table prevailed.

Mr. Carriker offered the following amendment to Article 3.94, (C), (1), (b), of Committee Amendment No. 1:

Amend Committee Amendment Number 1 to House Bill 106 by striking everything after the word "impurities" on line 62 of page 9 of the printed bill through the word "operations" on line 3 of page 10 of the printed bill and by inserting in lieu thereof the following words, "are exempted."

Mr. Cory moved to table the amendment offered by Mr. Carriker.

A record vote was requested on Bridges the motion to table. Brooks The motion to table the amendment offered by Mr. Carriker prevailed by the following vote:

Yeas--103

Absents--29

Yea—103

Adams de la Garza
Allen Dugger
Arlidge Edwards
Ball Ebel
Banfield Fairchild
Barnes Finney
Bass of Bowie Floyd
Base of Harris Fondren
Berry Persman
Birnkr Cargton
Bilbo Gibbens
Bosson Green
Brown of Taylor Grover
Butler Haines of Brazos
Cain Hallmark
Caldwell Harding
Canales Harris of Dallas
Carrillo Haynes of Orange
Clayton Heath
Cole Heflin
Cook Hendrix
Corry Hollowell
Cox Thomason
Cowie Hughes
Cowles Jarvis
Crews Johnson of Dallas
Davis Johnson of Bexar

Kilpatrick Ritter
Klager Ross
Knapp Satterwhite
Kothmann Sargent
Ligard Shannon
McEllistow Skipley
McDonald Shutt
of Hidalgo McLaughlin

McNutt Slager
Macatee Smith of Bexar
Mann Smith of Jefferson
Miller Stewart
Morgan Stollewerck
Moyer Thompson
Mutscher Thurmond
Nge in Townsend
Parker Traeger
Pastrey Walker
Peeler Weldon
Pendleton Whatley
Petty Wiest
Price Wilson
Quilliam Woods

Nay—29

Beckham Jamison
Brooks Koliba
Brown Mcdonald of Rusk
Brown of Galveston McBhan
Cannon Markgraf
Carriker Murray
Chapman Niemeyer
Cherry Farmer
Collins Peary
Cotner Pipkin
Dungan Rapp
Dickard Richards
Dill Fletcher Richardson
Gla dden Roberts
Glenn Rodriguez
Guffey Schiller
Haring Ward
Harris Wells
of Galveston Wheeler
Hinsman

Absent

Atwell Whitfield
Crain

Absent—Excused

Carpenter McGregor
Isacks

(The above record vote was requested by Mr. Cherry, Mr. Peary and Mr. Jamison.)

Mr. Weldon offered the following amendment to Committee Amendment No. 1:
Amend Art. 20.04 of Committee Amendment to H. B. 106 by adding a new section appropriately numbered to read as follows:

Work Clothes.

(1) There are exempted from the taxes imposed by this bill the receipts from the sale, storage, use or other consumption in this state of any single article of outer wearing apparel, the retail price of which is less than Ten Dollars ($10).

(2) For the purpose of this section the term "article of outer wearing apparel" shall not be construed to include clothing accessories.

(3) For the purpose of this section any components of outer wearing apparel ordinarily sold or offered for sale as a pair, suit, or ensemble shall be when sold deemed to be the sale of a single article.

Signed: Weldon and Parker.

Mr. Wilson moved to table the amendment offered by Mr. Weldon and the motion to table prevailed.

RECORD OF VOTE

Mr. Hugh Farmer requested to be recorded as voting No on motion to table the amendment by Mr. Weldon to H. B. 106.

Mr. Carriker offered the following amendment to the Committee Amendment No. 1:

Amend Committee Amendment Number 1 to House Bill 106 by striking the whole of Section "M" of Article 20.04 starting on line 53 of page 12 of the printed bill and ending on line 9 of page 13 of the printed bill and by inserting in lieu thereof the following:

(M) Property Used in agricultural production.

(1) Tangible Personal Property Used in agricultural production. 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 used in agricultural production 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 agricultural production, provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operations. Fertilizers, insecticides, and other materials which are used during such operations and which are used for the purpose of producing or inducing a chemical, biological, 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 actual agricultural production. The exemption provided herein does not include the following:

(i) Replacement parts and accessories having a useful life when new in excess of six months;

(ii) Machinery, equipment, materials and supplies used in a manner that is merely incidental to agricultural production such as intrastate transportation equipment, and maintenance supplies.

(iii) Hand tools such as hammers, wrenches, saws, etc., and

(iv) Tangible personal property used by an agricultural producer in any activities other than actual agricultural production 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.

Mr. Wilson moved to table the amendment offered by Mr. Carriker, and the motion to table prevailed.

BILLS SIGNED BY THE SPEAKER

The Speaker signed in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bills:

H. B. No. 16, "An Act amending Chapter II, Article 4; Chapter III, Article 4; Chapter III, Article 6; Chapter V, Article 4; Chapter IX, Article 3; and Chapter IX, Article
8 of The Texas Banking Code of 1943, same being Chapter 97, Acts of the Forty-eighth Legislature, Regular Session, 1943, and amending Chapter V of The Texas Banking Code of 1943, same being Chapter 97, Acts of the Forty-eighth Legislature, Regular Session, 1943, by adding a new Article designated as Article 9a; providing for the appointment of bank examiners; for perpetual corporate existence for state banks for preparation and filing of applications for charter and providing for removal from office for violation; for the investigation of charter applications for the State Banking Board and payment of expenses thereof; for real estate loans, limitations and exceptions; authorizing bank stockholders and employees to take acknowledgments of instruments in which the bank is interested; defining 'banking house;' providing for equal application of state law to state and national banks; providing for severability; providing that all laws or parts of laws, including specifically the provisions of Chapter 24, Article 1. Section 1. Acts of the Fifty-seventh Legislature, First Called Session, 1961, and the provisions of Chapter 1. Section 1. Acts of the Fifty-sixth Legislature, Third Called Session, 1959, as amended, which are in conflict with this Act are repealed or modified to the extent of such conflict only; and declaring an emergency.

H. B. No. 230, By Cain: Providing that the Criminal District Court of Travis County shall be designated as the 147th Judicial District Court, and declaring an emergency.

Respectfully,
CHARLES A. SCHNABEL, Secretary of the Senate.

MESSAGE FROM THE SENATE
Austln, Texas, April 10, 1963
Hon. Byron Tunnell, 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. B. No. 450, By Carnes: Creating a County Court at Law No. 1 of Travis County, Texas; and declaring an emergency.

H. B. No. 429, By Cain: Providing that the Criminal District Court of Travis County shall be designated as the 147th Judicial District Court; and declaring an emergency.

Respectfully,
CHARLES A. SCHNABEL, Secretary of the Senate.

PROVIDING FOR LOCAL AND UNCONTENDED BILL CALENDAR
Mr. Johnson of Dallas moved to suspend the necessary rules in order that the House may set a local and uncontested bill calendar for next Wednesday, April 17, at 9:00 o'clock a.m.

There was no objection offered and it was so ordered.

RECESS
Mr. Mann moved that the House recess until 2:00 o'clock p.m. today.

The motion prevailed.

In accordance with the motion to recess, the House, at 12:18 o'clock p.m., took recess until 2:00 o'clock p.m. today.

AFTERNOON SESSION
The House met at 2:00 o'clock p.m. and was called to order by the Speaker.

HOUSE BILL NO. 106 ON PASSAGE TO ENGROSSMENT
The House resumed consideration of pending business, same being H. B. No. 106, relative to imposing a limited sales, use and use tax on the sale of certain tangible property.

The bill was read second time this morning, with Committee Amendment No. 1 under consideration at this time.

Mr. Carriker offered the following amendments to Committee Amendment No. 1:

Amend Article 20.05, Section "(B)" of Section 1 of Committee Amendment Number 1 to House Bill 106 by inserting the following words at the end of the section on line 64, page 14 to read as follows:
"Any retailer, over fifty per cent (50%) of whose gross sales derive from the sale of newspapers, shall not be required to get approval of the Comptroller to avail himself of the provisions of this section."

Mr. Atwell moved to table the amendment offered by Mr. Carriker, and the motion to table prevailed.

Mr. Carriker offered the following amendment to Article 20.04, (K), (1), Exemptions, of Committee Amendment No. 1:

Amend Committee Amendment Number 1 to House Bill 106 by striking everything after the word "vehicle" on line 4 of page 12 of the printed bill through line 44 of page 12 of the printed bill.

(Mr. Cory In The Chair)

Mr. de la Garza moved to table the amendment offered by Mr. Carriker, and the motion to table prevailed.

Mr. Haynes of Orange offered the following amendment to Article 20.05, Return and Payments, of Committee Amendment No. 1:

Amend line 51, page 14 of Committee Amendment No. 1 to H. B. 106 by adding the following: Provided however that operators or vending stands meeting the definition of legal blindness be exempt from the record keeping as required under this section to establish justification of exclusion as herein authorized.

(Speaker In The Chair)

Mr. de la Garza moved to table the amendment offered by Mr. Haynes of Orange.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Haynes of Orange prevailed by the following vote:

Year--88

Adams Becker Bilkley
Allen Blaine
Arledge Boyse
Ball Brown of Taylor
Baufield Butler
Barnes Cain
Canales McLaughlin
Clayton McNutt
Cory Macatee
Cotten Miller
Coughran Morgan
Cowden Morgan
Cowles Murray
Craik Matson
Crews Niemeyer
Davis Parsley
de la Garza Peary
Dike Peeler
Dugan Pendleton
Dungan Petty
Edwards Pipkin
Fairchild Quilliam
Foreman Richards
Garrison Rosson
Gibbens Satterwhite
Glenn Schiller
Green Sears
Grover Shannon
Haines of Brazos Shipley
Hallmark Shutt
Harding Simpson
Harris of Dallas Black
Healy Slder
Heflin Smith of Brazos
Hendrix Hollemwerk
Houston Thompson
Hughes Tharmond
Jamison Townsend
Jarvis Trager
Johnson of Dallas Walker
Knapp Whaley
Kochmann Wheeler
McClintock Wilson
McDonald Woods
of Hidalgo

Nays--53

Alans Pondren
Bass of Bowie Gladden
Bass of Harris Guetary
Beckham Haring
Berry Harris
Bridges of Galveston
Brooks Haynes of Orange
Brown Hines
of Galveston Johnson of Bexar
Caldwell Hollowell
Cannon Kilpatrick
Carriker Koger
Carrone Koliba
Champan Lack
Cerry Lizarraga
Cote McDonald of Rusk
Collins McNelly
Eckhardt Mann
Erequisel Markgraf
Finney Nagel
Fletcher Parker
Floyd Farmer
April 11, 1963

Price
Richardson
Ritter
Roberts
Rodriguez
Stewart

Absent
Atwell
Rapp
Cook
Ward
Weldon
Wells
Wheeler
Whitfield

Absent-Excused
Carpenter
Isaacks
McGregor

Mr. Haring offered the following amendment to Article 20.04, (A), Exemptions, of Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill 106 by adding a new sentence following the period on line 21 of page 9, reading as follows:

"It is expressly provided, however, that nothing herein shall be held to exempt from the taxes imposed by this Chapter the receipts from the sale, lease or rental of tangible personal property to state or national banks or the storage, use or other consumption in this State of tangible personal property by state or national banks."

Mr. Atwell moved to table the amendment offered by Mr. Haring.

A record vote was requested on the motion to table.

The motion to table prevailed by the following vote:

Yeas-81
Adams
Arledge
Atwell
Banfield
Barnes
Beals of Bowie
Berry
Bridges
Brown
Caldwell
Cannon
Carriker
Chapman
Cherry
Cole
Collins
Cran
Davis
Dickard
Eckhardt
Esquivel
Gladden
Glenn
Haines of Brazos
Haring
Hayes of Orange
Hefner

Nays-57
Alaniz
Allen
Ball
Beals of Houston
Bent
Brooks
Brow
Brown of Galveston
Caldwell
Caenen
Carriere
Chapman
Cherry
Cole
Collins
Colten
Crain
Davis
Dickard
Eckhardt
Esquivel
Gladden
Glenn
Haines of Brazos
Haring
Harr
Hayes of Orange
Hefner

Present-Not Voting
Thompson

Absent:
Cory
Hinson
Pearcy

Price
Ward
Welford
Wells
Wheeler
Whitfield

Parsley
Pipkin
Rapp
Richard
Ritter
Rossen
Satterwhite
Segrest
Shannon
Shipley
Simpson
Slater
Smith of Bexar
Smith of Bexar
Stewart
Thurmond
Thurmond
Touurk
Walker
Wells
Whaley
Whitfield
Wielig
Woods

Alaniz
Hollowell
Ball
Jamison
Beals of Bowie
Johnson of Bexar
Berry
Espinal
Brown
LaGarde
Brown
McLaughlin
Brown
McNutt
Brown
Macates
Carriere
Carr
Carriere
Nugent
Parker
Parmer
Peele
Pendleton
Petty
Price
Quilliam
Richardson
Rodriguez
Rodriguez
Schiller
Shutt
Stobswereck
Weldon
Wheeler
Wilson
Absent—Excused
Carpenter McGregor
Isaacks
(The above record vote was requested by Mr. Cherry, Mr. Parker, Mr. Harling, Mr. Eckhardt, and Mr. Carriker.)

Mr. Richardson offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment No. 1 to House Bill 106 by striking the period after the words healing arts on page 12 line 48 and inserting therefor a comma and inserting the words thereafter "all medicines and drugs for human consumption."

Mr. de la Garza moved to table the amendment offered by Mr. Richardson, and the motion to table prevailed.

RECORD OF VOTE

Mr. Esquivel requested to be recorded as voting Nay on Mr. de la Garza's motion to table Mr. Richardson's amendment to H. B. 106 seeking to exempt all sales of drugs and medicines.

Mr. Carriker offered the following amendment to Committee Amendment No. 1:

Amend Committee Amendment Number 1 to House Bill 106 by adding the following words after the word "business" on line 9 of page 13 of the printed bill:

Replacement Parts and Accessories with a life of six months or less are also exempted.

Mr. Atwell moved to table the amendment offered by Mr. Carriker.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Carriker prevailed by the following vote:

Yea—99
Adams Allen Aitkens Atwell Ball Bandfield Barnes Bass Harris Birkner Blaine Boyden Brown of Taylor

Nay—43
Alaniz Bass of Bowie Beckham Berry Bridges Brooks Brown of Galveston Caldwell Cannon Carriker Cherry Cole Collins Cotten Crane Edwards Fletcher Haines of Brazos Harling Harris of Galveston Hinson Hollowell Jameson Johnson of Bexar Koliba Lack McDonald of Haskell McNabney Markgraf Murray Nugent Farmer

1100 HOUSE JOURNAL
April 11, 1963  HOUSE JOURNAL  1101

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pearcy</td>
<td>Rodriguez</td>
</tr>
<tr>
<td>Peeler</td>
<td>Rosen</td>
</tr>
<tr>
<td>Pipkin</td>
<td>Schiller</td>
</tr>
<tr>
<td>Rapp</td>
<td>Ward</td>
</tr>
<tr>
<td>Richards</td>
<td>Wells</td>
</tr>
<tr>
<td>Roberts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Absent</td>
</tr>
<tr>
<td>Chapman</td>
<td>Townsend</td>
</tr>
<tr>
<td>Smith of Jefferson</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Absent—Excused</td>
</tr>
<tr>
<td>Carpenter</td>
<td>McGregor</td>
</tr>
<tr>
<td>Isaacks</td>
<td></td>
</tr>
</tbody>
</table>

(The above record vote was requested by Mr. Parmer, Mr. Johnson of Bexar and Mr. Carriker.)

CONSIDERATION OF SECTION 3 OF H. B. NO. 106

There being no amendments offered to Section 2 of Committee Amendment No. 1 of H. B. No. 106, the House proceeded to the consideration of Section 3.

Mr. Davis offered the following amendment to Section 3 of Committee Amendment No. 1 to H. B. No. 106 by striking all of Section 3 therefrom.

Mr. de la Garza moved to table the amendment offered by Mr. Davis.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Davis prevailed by the following vote:

Yea—116

Adams  Cannon  Enquivel  Moyer
Akins  Carriker  Fairchid  Murray
Allen  Cavness  Forney  Muschter
Arlene  Clayton  Fletcher  Nugent
Arnold  Collins  Floyd  Parker
Bass of Bowie  Cook  Fondren  Parmer
Bass of Harris  Cory  Foreman  Parsley
Beckham  Cotton  Garrison  Peery
Berry  Coughegan  Gibbens  Peeler
Bicknor  Cowden  Gladden  Pendleton
Blake  Crain  Grover  Petty
Bridge  Crews  Guiff  Price
Brown of Taylor  de la Garza  Haines of Brazos  Quilliam
Cain  Dobe  Hallmark  Rapp
Caldwell  Duggan  Harding  Richards
Canales  Eckhardt  Harding  Ritter

Nay—27

Ball  Houston  Handley  Whaley
Boyesen  Jarvis  Brown of Galveston  Johnson of Dallas
Brown of Taylor  Knapp  Kipling  Stache
Butler  Macatee  Kiplinger  Steil
Chapman  Morgan  Klenger  Steineck
Cherry  Niemeyer  Klop  Stewart
Davis  Pipkin  Lard  Thompson
Davis of Galveston  Rodriguez  McClintock  Traeger
Edwards  Rosson  McDonald  Walker
Elmore  Schnepf  of Hidalgo  Weldon
Eskridge  Sherman  McDonald of Rock Wells
Estes  Silver  McIlhany  Wheeler
Fairchild  Smith of Bexar  McLaughlin  Whitley
Farrar  Smith of Jefferson  McNutt  Whitefield
Fernald  Smith  of Kinderhook  Mann  Wieting
Ferrell  Smith of Jellerson  Markgraf  Wilson
Fleming  Smith of Jellerson  Miller  Woods
Hallock  Stewart  Nays—27

Atwell  Houston  Handley  Whaley
Boyesen  Jarvis  Brown of Galveston  Johnson of Dallas
Brown of Taylor  Knapp  Kipling  Stache
Butler  Macatee  Kiplinger  Steil
Chapman  Morgan  Klenger  Steineck
Cherry  Niemeyer  Klop  Stewart
Davis  Pipkin  Lard  Thompson
Davis of Galveston  Rodriguez  McClintock  Traeger
Edwards  Rosson  McDonald  Walker
Elmore  Schnepf  of Hidalgo  Weldon
Eskridge  Sherman  McDonald of Rock Wells
Estes  Silver  McIlhany  Wheeler
Fairchild  Smith of Bexar  McLaughlin  Whitley
Farrar  Smith of Jefferson  McNutt  Whitefield
Fernald  Smith of Jellerson  Markgraf  Wilson
Fleming  Smith of Jellerson  Miller  Woods
Hallock  Stewart  Nays—27

Absent

Atwell  Green

Absent—Excused

Carpenter  McGregor

Isaacks  1101
Mr. Johnson of Bexar offered the following amendment to Section 3 of Committee Amendment No. 1:

Amend Committee Amendment No. 1 to H. B. 106, by inserting on line 40 of page 39 of said Committee Amendment after the words "April 30, 1966," and before the word "which" the following words:

"from May 1, 1966, to April 30, 1966."

Mr. de la Garza moved to table the amendment offered by Mr. Johnson of Bexar.

A record vote was requested on the motion to table.

The motion to table the amendment offered by Mr. Johnson of Bexar prevailed by the following vote:

<table>
<thead>
<tr>
<th>Yes</th>
<th>116</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams</td>
<td></td>
</tr>
<tr>
<td>Allen</td>
<td></td>
</tr>
<tr>
<td>Alfreda</td>
<td></td>
</tr>
<tr>
<td>Ball</td>
<td></td>
</tr>
<tr>
<td>Barnes</td>
<td></td>
</tr>
<tr>
<td>Bass of Bowie</td>
<td></td>
</tr>
<tr>
<td>Bass of Harris</td>
<td></td>
</tr>
<tr>
<td>Beckham</td>
<td></td>
</tr>
<tr>
<td>Sink</td>
<td></td>
</tr>
<tr>
<td>Blake</td>
<td></td>
</tr>
<tr>
<td>Borden</td>
<td></td>
</tr>
<tr>
<td>Brooks</td>
<td></td>
</tr>
<tr>
<td>Brown of Taylor</td>
<td></td>
</tr>
<tr>
<td>Butler</td>
<td></td>
</tr>
<tr>
<td>Cala</td>
<td></td>
</tr>
<tr>
<td>Canales</td>
<td></td>
</tr>
<tr>
<td>Cavness</td>
<td></td>
</tr>
<tr>
<td>Chapman</td>
<td></td>
</tr>
<tr>
<td>Clayton</td>
<td></td>
</tr>
<tr>
<td>Cole</td>
<td></td>
</tr>
<tr>
<td>Cook</td>
<td></td>
</tr>
<tr>
<td>Cory</td>
<td></td>
</tr>
<tr>
<td>Cotten</td>
<td></td>
</tr>
<tr>
<td>Coughran</td>
<td></td>
</tr>
<tr>
<td>Cowden</td>
<td></td>
</tr>
<tr>
<td>Cowles</td>
<td></td>
</tr>
<tr>
<td>Crews</td>
<td></td>
</tr>
<tr>
<td>Davis</td>
<td></td>
</tr>
<tr>
<td>de la Garza</td>
<td></td>
</tr>
<tr>
<td>Doke</td>
<td></td>
</tr>
<tr>
<td>Dugan</td>
<td></td>
</tr>
</tbody>
</table>

Mr. Shannon (present), who would vote Yes, with Mr. McGregor (absent) who would vote Nay.

(The above record vote was requested by Mr. Johnson of Bexar, Mr. Farmar and Mr. Parker.)
Committee Amendment No. 1 was then adopted.

A record vote was requested on the passage to engrossment of H. B. No. 106.

H. B. No. 106 was then passed to engrossment by the following vote:

Yeas—131

Alaniz
Arledge
Atwell
Ball
Banfield
Barnes
Bass of Brazos
Bass of Harris
Berkner
Blaine
Boyle
Bridges
Brown
Brown of Galveston
Browne
Browne of Galveston
Brown of Taylor
Butler
Cain
Caldwell
Canales
Carr
Carriker
Carrasco
Carr
Cavness
Cherry
Clayton
Cole
Collins
Collins
Cook
Cory
Coughran
Cowden
Cox
Crow
Crow
Davis
de la Garza
Doke
Duggan
Duggan
Dodd
Eckhardt
Edwards
Equivel
Fairchild
Finney
Fletcher
Floyd
Ford
Foreman
Garrett
Gibbons
Gladden
Glen
Green

Nays—14

Adams
Allen
Allen
Allen
Ballenger
Barden
Barker
Barnes
Beard
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennett
Bennet
some or all personal property at the wholesale level. Present law defines "Retail Sale" or "Sale at Retail" as follows: "A sale for any purpose other than for resale in the regular course of business of tangible personal property." Under H. B. 106 the definition is changed to read as follows: "Any sale of tangible personal property." Wholesale sales of tangible personal property certainly fall within the definition in HB 106 but do not under the present law.

C. W. Pearcy.

BILL ORDERED NOT PRINTED

Mr. Hughes moved to suspend all necessary rules for the purpose of not printing Senate Bill No. 270, but that the amendments to the bill be printed.

The motion prevailed, and it was so ordered.

ADJOURNMENT

Mr. Mann moved that the House adjourn until 3:20 o'clock p.m. today.

The motion prevailed.

In accordance with the motion to adjourn, the House, at 3:09 o'clock p.m., adjourned until 3:20 o'clock p.m. today.

FIFTY-FOURTH DAY

(Thursday, April 11, 1963)

The House met at 3:20 o'clock p.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 Adam Adams
Allen Alinal Allen Arledge Atwell Ball Bankfield Barnes Bass of Bowie Bass of Harris Beckham Berry