

such office, and the compensation of such deputy or clerk shall be charged to and be paid out of the fund provided for carrying on each such county office.

Sec. 3. **Disposition of fees.**—That said board of county commissioners shall have authority to provide that all fees collected by any of said county officers shall be paid over to the county treasurer and be credited to the revenue fund of said county, or to provide that such fees may be retained by each of such county officers and be applied as part payment of the salary of each of such officers.

Sec. 4. **To be paid in monthly installments.**—That the salaries of such county officials and the salary allowance for deputy and clerk hire in each of said offices for which the same shall be allowed by said county board, shall be paid in equal monthly or semi monthly installments in the same manner as the salary and clerk hire of other county officers and employes are paid, to the persons actually rendering such service as such officers and employes, all as shall be provided and determined by said board of county commissioners.

Sec. 5. **Inconsistent acts repealed.**—That all Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed:

Sec. 6. **Effective: May 1, 1933.**—This Act shall take effect and be in force from and after May 1, 1933.

Filed without approval April 11, 1933.

CHAPTER 213—H. F. No. 816

An act raising revenues, imposing a tax on conducting business by the system of chain stores for selling or otherwise disposing of goods, wares, articles or commodities at retail, with certain exceptions providing for the assessment and collection thereof, and for the distribution of the proceeds therefrom, providing penalties for failure to pay such tax, defining certain crimes in connection with the enforcement of such tax, and appropriating money for the administration of this Act.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Definitions.**—(a) The term "person", when used in this Act, shall include individuals, partnerships, trusts, associations, joint stock companies, corporations, and firms however organized or whatever be the plan of operation.

(b) There is hereby imposed upon every person engaged within the State of Minnesota in conducting a business by the system of chain stores from any of which are sold or otherwise disposed of at retail any goods, wares or merchandise, excepting any person selling at retail one or more of the following—fuel, lumber, building material, gasoline and oils, and grain, if the gross sales of any such person from such produce or products shall, during any year for which the tax is imposed, equal or exceed 95 per centum of the total gross sales from all sources of any such person, and excepting cooperative associations organized under the laws of this State in good faith and not for the purpose or with the intent of evading the tax hereby imposed, an annual tax for each calendar year during any part of which such taxpayers shall be so engaged, which tax shall be computed as hereinafter provided for.

Sec. 2. Rate of Tax.—The tax imposed by Section 1 shall be equal to the sum of the amount due under the provisions of subdivision (a) and the amount due under the provisions of subdivision (b) of this section 2, as follows:

(a) A specific amount to be determined as follows:

(1) \$5.00 for each store in excess of one and not in excess of 10 if said business is conducted at not in excess of 10 stores or mercantile establishments within this state under a single or common ownership, supervision or management.

(2) \$15.00 for each store in excess of 10 and not in excess of 20 if said business is conducted at in excess of 10 but not in excess of 20 stores or mercantile establishments within this state under a single or common ownership, supervision or management.

(3) \$35.00 for each store in excess of 20 and not in excess of 30 if said business is conducted at in excess of 20 but not in excess of 30 stores or mercantile establishments within this state under a single or common ownership, supervision or management.

(4) \$65.00 for each store in excess of 30 and not in excess of 40 if said business is conducted at in excess of 30 but not in excess of 40 stores or mercantile establishments within this state under a single or common ownership, supervision or management.

(5) \$105.00 for each store in excess of 40 and not in excess of 50 if said business is conducted at in excess of 40 but not in excess of 50 stores, or mercantile establishments within this state under a single or common ownership, supervision or management.

(6) \$155.00 for each store in excess of 50 if said business is conducted at in excess of 50 stores or mercantile establishments

within this state under a single or common ownership, supervision or management.

(b) An amount based on the combined gross sales in excess of the exemption set forth in Section 4, of said business at all stores or mercantile establishments within this state under a single or common ownership, supervision or management, but which shall be computed by applying the following rates to the specified portions of such entire or combined gross sales in excess of said exemption.

(1) 1/20th of one per cent on that portion of the gross sales not in excess of \$100,000.00.

(2) 2/20ths of one per cent on that portion of the gross sales in excess of \$100,000.00 but not in excess of \$200,000.00.

(3) 3/20ths of one per cent on that portion of the gross sales in excess of \$200,000.00 and not in excess of \$300,000.00.

(4) 4/20ths of one per cent on that portion of the gross sales in excess of \$300,000.00 and not in excess of \$400,000.00.

(5) 5/20ths of one per cent on that portion of the gross sales in excess of \$400,000.00 and not in excess of \$500,000.00.

(6) 6/20ths of one per cent on that portion of the gross sales in excess of \$500,000.00 and not in excess of \$600,000.00.

(7) 8/20ths of one per cent on that portion of the gross sales in excess of \$600,000.00 and not in excess of \$700,000.00.

(8) 10/20ths of one per cent on that portion of the gross sales in excess of \$700,000.00 and not in excess of \$800,000.00.

(9) 12/20ths of one per cent on that portion of the gross sales in excess of \$800,000.00 and not in excess of \$900,000.00.

(10) 15/20ths of one per cent on that portion of the gross sales in excess of \$900,000.00 and not in excess of \$1,000,000.00.

(11) One per cent on that portion of the gross sales in excess of \$1,000,000.00.

Sec. 3. Definitions.—The terms “store” and “mercantile establishment” shall mean any fixed place at which said business is conducted even if said place is at the same time being used for other purposes. Conducting a business by the system of Chain Stores shall mean conducting such business from two or more stores under a single or common ownership, supervision or management. Two or more stores or mercantile establishments shall, for the purposes of this Act, be treated as being under a single or

common ownership, supervision or management if directly or indirectly owned or controlled by a single person or any group of persons *having a common interest in such stores or mercantile establishments*, or if any part of the gross revenues, net revenues, or profits from any such stores or mercantile establishments shall directly or indirectly be required to be immediately or ultimately made available for the beneficial uses, or shall directly or indirectly inure to the immediate or ultimate benefit, of any single person, or any group of persons having a common interest therein.

Sec. 4. What are gross sales.—The term “gross sales” shall mean the money value of the consideration received or receivable by the vendor or transferror from the vendee or transferee from every retail sale or transfer made in connection with the business upon which the tax levied by Section 1 is imposed, excepting gross sales of goods, the sale of which at retail is excepted from the tax as provided in Section 1 (b), even when sold at stores, sales from which are subject to the tax hereby imposed. The amount thereof shall be determined in accordance with the method employed by the taxpayer in keeping his accounts. A taxpayer keeping his account on an accrual basis shall be permitted in each year to deduct a reasonable amount to care for bad debts attributable to the business for such year, subject to correction by including recoveries in gross sales for the year of recovery. A taxpayer keeping his accounts on the cash receipts and disbursements basis shall include the gross receipts from sales in the gross sales of the year of their receipt regardless of the year in which the sale was made. A taxpayer may, with the consent of the State Tax Commission, keep his accounts on the installment basis if such method properly reflects the gross sales of his business for any year, and said Commission may prescribe rules to insure that such taxpayers shall properly allocate gross sales as between successive tax years. Gross sales shall not include the consideration received by a vendor from a purchaser if the sale is made from a store or mercantile establishments in this state to a purchaser residing without this state unless the purchaser is present within this state at the time of such sale and purchase. The tax imposed by Section 1, so far as measured by gross sales, shall be measured by the gross sales of the year for which the tax is imposed; provided, however, there shall be exempted from the total aggregate gross sales of any such business in each tax year the gross sales from that one of all the stores or mercantile establishments within this State under a single or common ownership, supervision or management, which the person on whom the tax is imposed shall select if the State Tax Commission is notified thereof prior to the first day of February of the year for which the tax is imposed, provided, further that as to the tax for 1933, such notification may be made on or before July 1st, 1933.

Sec. 5. Computation of tax.—The tax imposed hereby so far as measured by Section 2-(a) shall be computed on the basis of the number of stores under a single or common ownership, supervision or management on July 1st of each tax year.

Sec. 6. Tax period to begin July 1, 1933.—The first year for which this tax is hereby imposed shall be the period commencing with July 1st, 1933, and ending with December 31st, 1933. The tax imposed, so far as measured in accordance with Section 2-(a) shall for that period be due and payable on or before July 1st, 1933, and that portion of such tax so far as measured by Section 2-(b) shall be due and payable on or before January 20th, 1934.

Sec. 7. Date payable.—The tax imposed by Section 1 shall be payable as follows:

(a) That portion thereof measured by Section 2-(a) shall be paid on or before January 20th of each year.

(b) That portion thereof measured in accordance with Section 2-(b) shall be paid on or before January 20th of the year succeeding that for which imposed or within 30 days after any person liable for such tax shall cease entirely to do business within this state of the kind on which the tax is imposed.

Sec. 8. Return to Tax Commission.—Every person on whom a tax is imposed by Section 1 shall make a return of his gross sales for the year for which the tax is imposed to the State Tax Commission on forms to be prepared by the Commission, and to be furnished him by said Commission. Said return shall be filed with the State Tax Commission on or before January 20th of the year following the year for which the tax is imposed or within 30 days after any such person shall cease entirely to do business within this state of the kind on which the tax is imposed. The Minnesota Tax Commission shall enter on its records, the amount of taxes found and determined by it to be due from any person, as hereinbefore provided, and on or before January 30th following, shall certify such amount to the State Auditor, who thereupon shall make his draft upon such person for the amount of taxes thus certified and place the same in the hands of the State Treasurer for collection. When such drafts have been placed by the State Auditor in the hands of the State Treasurer for collection, the State Treasurer shall mail, within 10 days, to the person from whom the tax is due, a written notice of the amount thereof and demand for its payment. The taxes shall be collected by and paid to the State Treasurer.

Sec. 9. Tax Commission may make assessment.—If any person required by this Act to file any return shall fail to do so within

the time prescribed by this Act, or shall make, wilfully or otherwise, an incorrect, false or fraudulent return, he shall on the written demand of the Tax Commission file such return, or corrected return, within 30 days after the mailing to him of such written demand. If any person shall fail within said time to file such return, or corrected return, the Tax Commission shall make for him a return, or corrected return, from its own knowledge and from such information as it can obtain through testimony or otherwise, and assess a tax on the basis thereof, the amount of which tax (less payment theretofore made on account of such tax) shall be certified to the State Auditor.

Sec. 10. Unpaid tax to be collected by sheriff.—If any such draft remains unpaid for more than 60 days after demand has been made by the Treasurer for its payment, recovery may be had thereon in an action in the name of the State in the same manner as if it were a debt due the State. Such tax may also be collected by having the State Auditor issue his warrant to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the taxpayer within the county, and to return such warrant to the State Auditor and pay to him the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the taxpayer within his county, and shall sell so much thereof as is required to satisfy such taxes and his costs, but such sales shall as to their manner be governed by the laws applicable to sales of like property on execution issued against property upon a judgment of a court of record. The sheriff shall make a return to the State Auditor and the proceeds of such sale less the sheriff's costs shall be turned over by the State Auditor to the State Treasurer who shall retain such part thereof as is required to satisfy the tax and costs and pay over any balance to the taxpayer. No suit shall lie to enjoin the collection of the taxes imposed by this Act.

Sec. 11. May recover back illegal tax.—A taxpayer who has paid, voluntarily or otherwise, or from whom there has been collected (other than by the method provided for in the first sentence of Section 10) an amount of tax for any year in excess of that legally due for such year, may recover the excess by an action of law against the state in any court of record, but such action shall be commenced within 2 years after the tax claimed to be excessive has been paid.

Sec. 12. Interest on unpaid taxes.—Taxes shall bear interest at the rate of one per cent per month during the period during which they remain unpaid. Said interest shall be collected in the

same manner as hereinbefore provided for the collection of the taxes imposed by this Act.

Sec. 13. Violations a misdemeanor.—Any person liable to a tax imposed by this Act who shall fail to pay the same when payable, or who shall violate any other provision of this Act, imposing duties on him, shall be guilty of a misdemeanor.

Sec. 14. Tax Commission to administer act.—The Minnesota Tax Commission shall administer and enforce the assessment of the tax imposed by this Act. It may make and publish such rules and regulations, not inconsistent with this Act, as it may deem necessary in enforcing its provisions. It shall cause to be prepared blank forms for the returns required by this Act, and shall distribute the same throughout the State and furnish them on application, but failure to receive or secure them shall not relieve any person from the obligation of making any return required of him by this Act.

Sec. 15. Tax Commission may examine books.—For the purpose of determining the correctness of any return, or of determining whether or not any person should have made a return or paid tax hereunder, the Tax Commission shall have the power to examine or cause to be examined any books, papers, records, or memoranda relevant to making such determinations, whether such books, papers, records or memoranda are the property of or in the possession of the taxpayer or any other person. It shall further have the power to require the attendance of any taxpayer or other person having knowledge or information relevant to such determinations aforementioned, to compel the production of books, papers, records or memoranda by persons so required to attend, to take testimony on matters material to such determinations, and to administer oaths or affirmations in any such connection. The Tax Commission is empowered at any time and from time to time to require any owner or manager of any store in the State of Minnesota to file with the Tax Commission, a statement under oath, showing the ownership, management and control of such store for the purpose of determining whether or not such store is subject to the tax hereby imposed. Such statement shall be in such form as the Tax Commission shall prescribe.

Sec. 16. Appropriation for expense.—There is hereby appropriated out of the moneys in the State Treasury, not otherwise appropriated, the sum of \$10,000 for each of the fiscal years ending June 30, 1934, and June 30, 1935, respectively, which appropriation is hereby made to the State Tax Commission to be used by it for the purposes of collecting the tax provided for by this Act.

Sec. 17. **Disposition of tax.**—The revenue derived from taxes, interest, and fines provided for in this Act when collected is hereby appropriated for the purpose of being credited to the appropriation now annually made for aid to state high, graded, semi-graded, consolidated, industrial, and rural schools, as now provided by law, to be distributed by the Department of Education in accordance with existing laws.

Sec. 18. **Provisions separable.**—If any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate any other part or provision in the remainder of the Act; and, if any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction constitutionally inapplicable to any case or situation within the terms of such part or provision, such judgment shall not impair or invalidate such part or provision as applied to any other case or situation within their terms; and, if any exception from the tax hereby imposed shall for any reason be adjudged by any court of competent jurisdiction invalid, the tax shall be imposed upon the taxable subject as to whom or which such exception has thus been held invalid.

Approved April 12, 1933.

CHAPTER 214—S. F. No. 1027

An act to provide for a convention to pass on the proposed amendment to the Constitution of the United States which has been proposed by the Congress of the United States for ratification by conventions in the several states.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Constitutional convention to be held September 12, 1933.**—The Congress of the United States, having proposed an amendment to the Constitution of the United States, and having proposed that it be ratified by conventions in several states, an election shall be held for the purpose of electing delegates to such a convention in this state. Such election shall be a special election, for that purpose only, to be held on September 12, 1933.

Sec. 2. **Persons entitled to vote.**—At such election all persons qualified to vote for members of the Legislature shall be entitled to vote.