1971

Session Law 71-984

Florida Senate & House of Representatives

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**LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT**

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Report To The House

On Proposed Corporate Income Tax Legislation

Prepared by:

Special Tax Counsel
November 3, 1971
November 3, 1971

TO: All Members of the House of Representatives, and other interested parties.

On November 2, 1971, the people of Florida approved an amendment to the Florida Constitution which authorizes the imposition of a tax on the net income of corporations and other artificial entities. Governor Reubin Askew has indicated he will call the Legislature into special session in November for the express purpose of considering and enacting a corporate net income tax. This report has been prepared to assist the House in developing such legislation. All references to "income tax" in this report mean only that type of income taxation which was authorized by the Florida voters, even where the references do not specifically use the word "corporate".

BACKGROUND

Commencing in January 1971, I began to study the income tax statutes of several states and to analyze the problems and complexities of state income taxation. By the end of February I had enough basic information to formulate a draft corporate income tax statute for the
State of Florida. A draft statute (labeled Staff Draft No. 1) was developed in order to assimilate into one working document the major concepts of taxation which Florida would have to consider if a constitutional amendment were adopted. This draft was circulated for criticism and comment, on a limited basis, to industry and business representatives, to legislators, to certified public accountants, and to attorneys. As I had hoped, numerous comments were received both as to the technical aspects of the draft bill and as to the policy considerations therein. As a result of the dissemination of this draft, meetings were held with persons who were interested in seeing Florida have (if eventually the voters gave their approval) a technically correct, readable, workable and fair income tax statute. The first draft statute was reworked during March and April in order to reflect my additional research into problem areas, to correct the technical defects and difficulties exposed by interested analysts, and to simplify and clarify the draft legislation.
On May 3, 1971, a revised draft statute (labeled Staff Draft No. 2) was published and distributed, again on a selective basis, for further comment and criticism. Thereafter, further technical input was received and further changes were made in the draft bill. On July 16, 1971, a further revised draft (labeled Staff Draft No. 3) was broadly circulated to business and to industry groups, to lobbyists, to legislators, to public organizations interested in the proposed form of legislation, to technical review committees of accountants and attorneys, and to all other persons who requested a copy of the draft. Following the release of Staff Draft No. 3, numerous meetings were held with chambers of commerce, with attorneys, with businessmen, with industry groups, and with tax administrators and attorneys in other states, at which the effects of the proposed legislation were discussed and analyzed in considerable depth.

At all times since the release of Staff Draft No. 1, I have stressed in personal discussions regarding the drafts and by express written statements attached to each draft:

(1) that each of the draft income tax statutes was
not a legislative product, in that it did not emanate from or purport to be a work product of the House, any House committee, or any House member; and

(2) that each of these drafts was designed to expose, but not to pre-determine, the many policy questions inherent in an income tax statute.

LIMITATIONS OF THIS REPORT

Staff Draft No. 3 in its present form, or even after the adoption of any proposed amendments, will not resolve all of the problems connected with the enactment and administration of a corporate income tax system in Florida. It is inevitable that there will have to be future revisions to any Florida income tax statute, both to resolve unforeseen problems and cope with new ones. It can be said with assurance, however, that the major problem areas have been exposed for analysis,
that all interested parties (both in industry and in state
government) have had an opportunity to comment in writing
and in person on a draft form of legislation, and that
everyone who wanted to discuss draft legislation was
given the opportunity to send me their comments, to confer
with me and other staff people, and to submit precise
amendatory language to achieve their objectives.

ACKNOWLEDGEMENT

I am indebted to the entire staff of the House Finance
and Taxation Committee for their cooperation and assistance
in the development of three draft statutes and this report.
I am particularly indebted to Jim Tait, staff director of
the committee, both for his review and analysis of the
drafts and for his participation in the entire process which
led to this report.

CONTENTS OF THIS REPORT

This report contains 6 parts.

1. Part One contains the last draft income tax statute -
Staff Draft No. 3 - in the form it was circulated for public
comment commencing on July 16, 1971. This draft statute will sometimes be referred to in this report as "the staff draft."

2. Part Two contains a discussion of the major policy questions which the legislature must consider when adopting any corporate income tax statute. Space and time limitations preclude commentary on all policy matters. Where appropriate to deal with differing policies, this Part also contains draft amendments to the staff draft.

3. Part Three contains a discussion of certain amendments to chapter 214 of the Florida Statutes, "the tax administration act of 1971", which I consider appropriate for legislative consideration. That chapter, which was enacted during the second special session of the 1971 legislature as a part of chapter 71-359, Laws of Florida, contains apportionment rules which are applicable under the corporate privilege tax and which will be applicable under the income tax statute unless revised. The text of the apportionment provisions of chapter 214 are included in
this Part, along with draft legislation to deal with the suggested changes.

4. Part Four contains a draft bill to implement section 220.03(3) of the draft income tax statute. That provision authorizes the legislature to adopt future changes to the federal Internal Revenue Code by adopting a separate enabling act. Along with the draft bill is an explanation of the considerations, both practical and constitutional, which are related to the adoption of future federal changes in the Internal Revenue Code.

5. Part Five contains draft legislation to amend the corporation laws of Florida as amended in June 1971 (chapter 71-359, Laws of Florida). These amendments attempt to correct certain defects in that legislation which are explained in this Part.

6. Part Six contains material relating to the Multi-state Tax Compact, chapter 213 of the Florida Statutes, including draft legislation to implement one of the policy alternatives discussed in this Part.

7. Part Seven contains miscellaneous technical amendments and a locator index to the staff draft income tax statute.
PART ONE

Staff Draft No. 3 Income Tax Code
To whom it may concern:

Attached to this letter is a staff draft of an income tax statute for the State of Florida. This draft has been prepared for the review and consideration of legislators and other interested parties, and nothing in this draft should be considered an attempt to predetermine the many policy matters which are presented throughout. As of the date of this draft, no public or private meetings of committees of the Legislature have been held to review or consider the provisions of this draft, and no member of the House has reviewed or approved any provision of this draft.

This draft should be considered in conjunction with chapter 214 of the Florida Statutes, a tax administration act adopted by the Florida Legislature on June 24, 1971 and signed by the Governor on June 30, 1971.

[Signature]
Special Tax Counsel

AJE,Jr:sla
A bill to be entitled
An Act relating to taxation and finance;
amending Title XIII, Florida Statutes,
to provide for the imposition, collection
and administration of an income tax on
corporations and other artificial persons;
amending subsection 323.15(6), Florida
Statutes, to remove the income tax
exemption of motor carriers; amending
sections 624.0307 and 624.0308, Florida
Statutes, to provide a credit for in-
surers against insurance premium taxes
for the amount of income taxes paid;
providing an effective date.

Be It Enacted by the Legislature of the State of
Florida:

Section 1. Title XIII, Florida Statutes, is
amended by adding a new Chapter 220 to read:

CHAPTER 220
INCOME TAX CODE

PART ONE TITLE, DECLARATIONS OF INTENT, DEFINITIONS
(§§220.01-220.03)

PART TWO TAX IMPOSED, APPORTIONMENT
(§§220.11-220.16)

PART THREE RETURNS, DECLARATIONS, RECORDS
(§§220.21-220.242)

PART FOUR PAYMENTS (§§220.31-220.34)

PART FIVE ACCOUNTING (§§220.41-220.44)

PART SIX MISCELLANEOUS (§§220.51-220.53)

PART ONE TITLE, DECLARATIONS OF INTENT, DEFINITIONS
220.01 Short Title
220.02 Declarations of Intent
220.03 Definitions

PART TWO TAX IMPOSED, APPORTIONMENT
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220.31 Payments; Due Date
220.32 Payments of Tentative Tax
220.13 Payments of Estimated Tax
220.34 Special Rules Relating to Estimated Tax

This draft has been prepared by the
staff of the House Committee on Finance
and Taxation. It has not been approved
by any House member or Committee.
PART FIVE ACCOUNTING

220.41 Taxable Year
220.42 Methods of Accounting
220.43 Reference to Federal Determinations
220.44 Adjustments

PART SIX MISCELLANEOUS

220.51 Promulgation of Rules and Regulations
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PART ONE

TITLE, DECLARATIONS OF INTENT, DEFINITIONS

220.01 Short Title
220.02 Declarations of Intent
220.03 Definitions

220.01 Short Title.-- This chapter shall be known and may be cited as the "Florida Income Tax Code".

220.02 Declarations of Intent.--
(1) It is the intent of the legislature in enacting this Code to impose a tax upon all corporations, organizations, associations and other artificial entities which derive from this state or from any other jurisdiction permanent and inherent attributes not inherent in or available to natural persons, such as perpetual life, transferable ownership represented by shares or certificates, and limited liability for all owners. It is the intent of the legislature to subject such corporations and entities to taxation hereunder for the privilege of conducting business, deriving income or existing within the state. This Code is not intended to tax, and shall not be construed so as to tax, natural persons who engage in a trade or business or profession in this state under their own or any fictitious name, whether individually as proprietorships or in partnerships with others. However, corporations or other taxable entities which are or which become partners with one or more natural persons shall not, merely by reason of being a partner, exclude from their net income subject to tax their respective share of partnership net income. This statement of intent shall be given preeminent consideration in any construction or interpretation of this Code, in order to avoid any conflict between this Code and the mandate in Article VII, Section 5 of the Constitution that no income tax shall be levied upon natural persons who are residents and citizens of this state.

(2) It is the intent of the legislature that the tax levied by this Code shall be construed to be an excise or privilege tax measured by net income, and that said tax shall not be deemed or construed to be a property tax or a tax on property or a tax measured by the value of property for any purpose.

(3) It is the intent of the legislature that the income tax imposed by this Code shall utilize, to the greatest extent possible, concepts of law

STAFF DRAFT NO. 3

This draft has been prepared by the staff of the House Committee on Finance and Taxation. It has not been approved by any House member or Committee.
which have been developed in connection with the income tax laws of the United States, in order (i) to minimize the department's expenses and difficulties in administering this Code, (ii) to minimize the costs and difficulties of taxpayer compliance, and (iii) to maximize for both revenue and statistical purposes the sharing of information between the state and the federal government.

(4) It is the intent of the legislature that the tax imposed by this Code shall be prospective in effect only. Consistent with this intention and the intent expressed in subsection (3), it is hereby declared to be the intent of the legislature:

(a) that "income" for purposes of this Code, including gains from the sale, exchange or other disposition of property, shall be deemed to be created for Florida income tax purposes at such time as said income is realized for federal income tax purposes, without regard to when such income is or may be recognized for such purposes;

(b) that no accretion of value, no accrual of gain and no acquisition of a right to receive or accrue income which has occurred or been generated prior to November 2, 1971 shall be deemed to be "property", or an interest in property, for any purpose under this Code; and

(c) that all income realized for federal income tax purposes after November 2, 1971 shall be subject to taxation in full by this state, and shall be taxed in the manner and to the extent provided in this Code.

220.03 Definitions.--

(1) Specific Terms. When used in this Code, and where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(a) "Affiliated group of corporations" shall mean two or more corporations which constitute an affiliated group of corporations as defined in section 1504(a) of the Internal Revenue Code.

(b) "Corporation" includes all domestic corporations, foreign corporations qualified to do business in this state or actually doing business in this state, joint-stock companies, common law declarations of trust under chapter 609, corporations not for profit under chapter 617, agricultural cooperative marketing associations under chapter 619, professional service corporations under chapter 621, foreign unincorporated associations under chapter 622, private school corporations under chapter 623, foreign corporations not for profit which are carrying on their activities in this state, and all other organizations, associations, legal entities and artificial persons which are...
created by or pursuant to the statutes of this state, the United States or any other state, territory, possession or jurisdiction. The term "corporation" shall not include proprietorships, whether or not using a fictitious name, limited or general partnerships as such, state or public fairs or expositions under chapters 615 and 616, or private trusts.

(c) "Department" means the Department of Revenue of this state.

(d) "Director" means the Executive Director of the Department of Revenue, and where there has been an appropriate delegation of authority, his delegate.

(e) "Earned", "accrued", "paid", and "incurred" shall be construed according to the method of accounting upon the basis of which a taxpayer's income is computed under this Code.

(f) "Fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(g) "Includes" and "including" when used in a definition contained in this Code shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(h) "Internal Revenue Code" means the United States Internal Revenue Code of 1954 as amended and in effect on November 2, 1971, except as provided in subsection (j).

(i) "Partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, financial operation or venture is carried on, and which is not a corporation within the meaning of this Code; and the term "partner" includes a member having a capital or a profits interest in a partnership.

(j) "Regulations" includes rules promulgated and forms prescribed by the department.

(k) "Returns" includes declarations of estimated tax required under this Code.

(l) "State" when applied to a jurisdiction other than Florida means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any foreign country, or any political subdivision of any of the foregoing.

(m) "Taxable year" means the calendar or the fiscal year upon the basis of which net income is computed under this Code, including in the case of a return made for a fractional part of a year, the period for which such return is made.

(n) "Taxpayer" means any corporation subject to the tax imposed by this Code, and shall include all corporations for whom a combined return is filed under section 220.131.

(2) Definitional Rules. When used in this Code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:
(a) The word "corporation" or "taxpayer" shall be deemed to include the words "and its successors and assigns" as if these last-named words, or words of similar import, were expressed;

(b) Any term used in any section of this Code with respect to the application of, or in connection with, the provisions of any other section of this Code shall have the same meaning as in such other section; and

(c) Any term used in this Code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such Code and statutes are in effect on November 2, 1971; provided however that if subsection (3) implemented the meaning of any term shall be taken at the time the term is applied under this Code.

(3) Future Federal Amendments. On or after the effective date of this Code, when expressly authorized by law, any amendment to the Internal Revenue Code shall be given effect under this Code in such manner and for such periods as are prescribed in the Internal Revenue Code, to the same extent as if such amendment had been adopted by the legislature of this state; provided, however that any such amendment shall have effect under this Code only to the extent that the amended provision of the Internal Revenue Code shall be taken into account in the computation of net income subject to tax hereunder.

PART TWO
TAX IMPOSED, APPORTIONMENT
220.11 Tax Imposed
220.12 Net Income Defined
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220.131 Adjusted Federal Income; Affiliated Groups
220.14 Exemption
220.15 Apportionment of Adjusted Federal Income
220.16 Credits Against Tax

220.11 Tax Imposed.--
(1) A tax measured by net income is hereby imposed on every taxpayer for each taxable year commencing on or after January 1, 1972, and for each taxable year which begins before and ends after January 1, 1972, for the privilege of conducting business, earning or receiving income in this state or being a resident or citizen of this state. Such tax shall be in addition to all other occupation, excise, privilege and property taxes imposed by this state, by any political subdivision thereof, by any municipality, or by any other district, jurisdiction or authority of this state.

(2) The tax imposed by this section shall be an amount equal to 5% of the taxpayer's net income for the taxable year.

220.12 Net Income Defined.--
(1) For purposes of this Code, a taxpayer's net income for a taxable year which commences on or after January 1, 1972 shall be that share of its adjusted federal income for such year which is apportioned to this state under section 220.15,
(2) For purposes of this Code, a taxpayer's net income for a taxable year which begins before and ends after January 1, 1972 shall be that amount which bears the same ratio to the taxpayer's share of adjusted federal income which is apportioned to this state for the entire year as the number of days in such year after December 31, 1971 bears to the total number of days in such year, less a like proportion of the exemption allowed by section 220.14, unless the taxpayer elects to compute net income for such taxable year in the manner and under the conditions provided in subsection (3).

(3) (a) If the taxpayer so elects, in the case of a taxable year beginning before and ending after January 1, 1972, there shall be taken into account in computing adjusted federal income (before apportionment) only those items earned, received, paid, incurred or accrued after December 31, 1971, and the exemption provided by section 220.14 shall be limited to that amount which bears the same ratio to the total exemption allowable under such section (determined without regard to this subsection) as the number of days in such year after December 31, 1971 bears to the total number of days in such year.

(b) The election provided by this subsection shall be made not later than the due date (including any extensions thereof) for filing taxpayer's return for the taxable year, in such manner as the department may by regulation prescribe; provided however, that no such election shall be valid unless the director has given his written approval at the time of such filing or unless the director fails to object to said election in writing within 30 days after such filing.

(c) The method of computing adjusted federal income under this subsection (3) shall be considered extraordinary, and shall only be allowed by the director in special situations where the taxpayer has demonstrated that the method for determining net income which is prescribed in subsection (2) will not reasonably reflect that portion of the taxpayer's income attributable to the period after December 31, 1971.

220.13 Adjusted Federal Income Defined.--

(1) Adjusted federal income shall mean an amount equal to the taxpayer's taxable income as defined in subsection (2), or said taxable income of more than one taxpayer as provided in section 220.131, for the taxable year, adjusted as follows:

(a) Additions. There shall be added to such taxable income:

(i) The amount of income tax paid to this state under this Code which is deductible from gross income in the computation of taxable income for the taxable year; and

(ii) In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year,
(b) Subtractions.

(i) There shall be subtracted from such taxable income to the limited extent provided in paragraph (ii) the net operating loss deduction allowable for federal income tax purposes under section 172 of the Internal Revenue Code for the taxable year.

(ii) In computing the net operating loss deduction allowed to be subtracted from taxable income to arrive at adjusted federal income:

a. No deduction shall be allowed for net operating losses carried forward from taxable years ending prior to January 1, 1972;

b. The net operating loss allowable for any taxable year beginning before and ending after January 1, 1972 shall be limited to an amount which bears the same ratio to the taxpayer's net operating loss for the entire taxable year as the number of days in such year after December 31, 1971 bears to the total number of days in such year, unless the taxpayer elects to account separately for income under subsection 220.12 (3) of this Code, in which case the net operating loss allowable for such year shall be determined on the basis of the items actually earned, received, paid, incurred or accrued after December 31, 1971; and

c. A net operating loss shall never be carried back as a deduction to a prior taxable year, but all deductions attributable to such losses shall be deemed net operating loss carryovers and treated in the same manner, to the same extent and for the same time periods as are prescribed for such carryovers in section 172 of the Internal Revenue Code.

(c) Capital gains.

(i) At the election of any taxpayer, and upon compliance with all of the requirements of subparagraph (ii), the gain or loss to be taken into account in the computation of gross income or taxable income for any taxable year with respect to any capital asset which has been acquired before November 2, 1971 shall be limited to the gain or loss which would have been taken into account if the taxpayer's basis for such capital asset, as determined for federal income tax purposes, had been the fair market value of the capital asset on November 2, 1971.

(ii) An election under subparagraph (i) for any taxable year shall be made not later than the due date (including any extensions thereof) for filing the taxpayer's return for the taxable year, in such manner as the department may by regulation prescribe, and shall be accompanied by appropriate market quotations, appraisals or other valuation data which reliably establish the fair market values of the assets as to which the election applies. If an election hereunder is made, then said election shall apply to all of the taxpayer's capital assets and the fair market value of all capital assets shall be determined by appropriate record data and shall thereafter be used for the computation of depreciation deductions, for basis and for all other Code purposes.

(d) Installment sales.

(i) Unless there has been an election under subparagraph (ii), any taxpayer which returns any
portion of its income for federal income tax purposes under section 453 of the Internal Revenue Code (whether or not as a dealer) shall file its return under this Code, and shall compute its adjusted taxable income (including income derived from transactions treated for federal tax purposes as installment sales) in accordance with the regular method by which the taxpayer accounts under section 446(c) of the Internal Revenue Code for transactions which are not installment sales. In preparing its return under this Code, the taxpayer shall adjust taxable income (as defined in subsection (2)) by excluding therefrom all installment sale income reported in the taxable year with respect to income realized prior to November 2, 1971 and by including therein the full amount of all income realized from installment sales on or after said date; provided, however, that for a taxable year which begins before and ends after January 1, 1972 the ratio set forth in subsection 220.12(2) shall not be applied to the taxpayers' apportioned share of installment sale income in computing net income.

(iii) Any taxpayer which has elected for federal income tax purposes to report any portion of its income on the installment basis under section 453 of the Internal Revenue Code may elect to so return income from installment sales for purposes of this Code; provided, however, that the election provided by this subparagraph (ii) shall only be allowed if:

a. Said election is made not later than the due date (including any extensions thereof) for filing said taxpayer's return under this Code, in such manner as the department may prescribe; and

b. the taxpayer consents in writing, at the time of its election, to the filing of its return without the adjustments to taxable income which are described in subparagraph (i).

(iii) If the taxpayer is a dealer or otherwise regularly returns a portion of its income under section 453 of the Internal Revenue Code, an election under subparagraph (ii) must be made for the taxpayer's first taxable year under this Code in which a portion of its income is so returned for federal tax purposes, and said election shall apply to all subsequent taxable years for which installment sale treatment is available for federal income tax purposes, unless the department consents in writing to the revocation of such election prior to the first taxable year for which such revocation would apply.

(2) For purposes of this section, a taxpayer's taxable income for the taxable year shall mean taxable income as defined in section 63 of the Internal Revenue Code and properly reportable for federal income tax purposes for the taxable year, but without the deductions provided by sections 172 (relating to net operating losses), 243 and 244 (relating to certain dividends received) and 922 (relating to Western Hemisphere trade corporations) of the Internal Revenue Code, except that:

(a) taxable income in the case of a life insurance company subject to the tax imposed by section 802 of the Internal Revenue Code shall mean
(b) taxable income in the case of a mutual insurance company subject to the tax imposed by section 821(a) or (c) of the Internal Revenue Code shall mean mutual insurance company taxable income or taxable investment income, as the case may be;

(c) taxable income in the case of an insurance company subject to the tax imposed by section 831(a) of the Internal Revenue Code shall mean insurance company taxable income;

(d) taxable income in the case of a regulated investment company subject to the tax imposed by section 852 of the Internal Revenue Code shall mean investment company taxable income;

(e) taxable income in the case of a real estate investment company subject to the tax imposed by section 857 of the Internal Revenue Code shall mean real estate investment trust taxable income;

(f) taxable income in the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes shall mean taxable income of such corporation for federal income tax purposes as if such corporation had filed a separate federal income tax return for the taxable year and each preceding taxable year for which it was a member of an affiliated group, unless a combined return for the taxpayer and others is required or elected under section 220.131;

(g) taxable income in the case of a cooperative corporation or association shall mean the taxable income of such organization determined in accordance with the provisions of section 1381 through 1388 of the Internal Revenue Code;

(h) taxable income in the case of an organization which is exempt from the federal income tax by reason of section 501(a) of the Internal Revenue Code shall mean its unrelated business taxable income as determined under section 512 of the Internal Revenue Code; and

(i) taxable income in the case of a corporation for which there is in effect for the taxable year an election under section 1372 of the Internal Revenue Code shall mean its undistributed taxable income as determined under section 1373(c) of the Internal Revenue Code.
judgment, the filing of separate returns for such corporations would improperly reflect the taxable incomes of said corporations or of said group.

3. The filing of a combined return for any taxable year shall require the filing of combined returns for all subsequent taxable years so long as the filing taxpayers remain members of the affiliated group, unless the director consents to the filing of separate returns.

4. The computation of combined taxable income for the members of an affiliated group of corporations subject to tax hereunder shall be made in the same manner and under the same procedures as are required for consolidating the incomes of affiliated corporations for the taxable year for federal income tax purposes.

220.14 Exemption.——

1. In computing a taxpayer's liability for tax under this Code, there shall be exempt from tax $5,000 of net income as defined in section 220.12, or such lesser amount as will, without increasing the taxpayer's federal income tax liability, provide the state with an amount under this Code which is equal to the maximum federal income tax credit which may be available from time to time under federal law.

2. In the case of a taxable year for a period of less than 12 months, the exemption allowed by this section shall be prorated on the basis of the number of days in such year to 365.

3. Only one exemption shall be allowed to taxpayers filing a combined return under this Code.

220.15 Apportionment of Adjusted Federal Income.— Adjusted federal income as defined in section 220.13 shall be apportioned to this state in accordance with Part IV of the tax administration act of 1971, chapter 214, Florida Statutes, and for the purpose of applying said act to this Code:

1. The term "sales" in paragraph 214.71(3)(a) shall mean all gross receipts of the taxpayer except interest, dividends, rents, royalties and gross receipts from the sale, exchange, maturity, redemption or other disposition of securities; and

2. The term "financial organization" in paragraph 214.71(3)(b) shall include any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, or investment company.

220.16 Credits Against Tax.——

1. The gross receipts tax imposed by section 203.01, Florida Statutes, which is paid by any public service corporation in the taxable year shall be credited against and to the extent thereof discharge the taxpayer's liability for tax under this Code.

2. [Reserved for Federal Credit Absorption Tax]

PART THREE

RETURNS, DECLARATIONS, RECORDS

220.21 Returns and Records; Regulations to Prescribe

220.22 Returns; Filing Requirement

This draft has been prepared by the staff of the House Committee on Finance and Taxation. It has not been approved by any House member or Committee.
220.21 Returns and Records; Regulations to Prescribe.-- Every taxpayer liable for the tax imposed by this Code shall keep such records, render such statements, make such returns and notices, and comply with such rules and regulations as the department may from time to time prescribe. The director may require any taxpayer or class of taxpayers, by notice or by regulation, to make such returns and notices, render such statements, and keep such records as the director deems necessary to determine whether or not such taxpayer or taxpayers are liable for tax under this Code.

220.22 Returns; Filing Requirement.--

(1) A return with respect to the tax imposed by this Code shall be made by every taxpayer for each taxable year in which such taxpayer either is liable for tax under this Code or is required to make a federal income tax return, regardless of whether such taxpayer is liable for tax under this Code.

220.221 Returns; Signing and Verification.--

(1) A return or notice required of a taxpayer shall be signed by an officer duly authorized so to act or, in the case of a return or notice made by a fiduciary under section 220.22(3), by the fiduciary. The fact that an officer or fiduciary has signed a return or notice shall be prima facie evidence that...
the individual was authorized to sign such document on behalf of the taxpayer.

(2) A return or notice for a partnership shall be signed by any one of the general partners, and the fact that a partner has signed a return or notice shall be prima facie evidence that such partner was authorized to sign such document on behalf of the partnership.

(3) Each return or notice required to be filed under this Code shall be verified by a written declaration that it is made under the penalties of perjury, and if prepared by someone other than the taxpayer the return shall also contain a declaration by the preparer that it was prepared on the basis of all information of which the preparer had knowledge.

220.222 Returns; Time and Place for Filing.—

(1) Returns required by this Code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns shall be filed on or before the first day of fourth month following the close of the taxable year, unless under subsection (2) one or more extensions of time (but not to exceed 6 months in the aggregate) for such filing are granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of section 220.32 are met, the filing of a copy of such extension or extensions with the department shall automatically extend the due date of the return required under this Code until 15 days after the expiration of the federal extension or until the expiration of 6 months from the original due date, whichever first occurs.

(b) The department may grant an extension of time for the filing of any return required under this Code upon receiving a prior written request therefor if good cause for an extension is shown; provided however, that the aggregate extensions of time under paragraphs (a) and (b) shall not exceed 6 months.

220.23 Federal Returns.—

(1) Any taxpayer required to make a return for a taxable year under this Code may, at any time that a deficiency could be assessed or a refund claimed under this Code in respect of any item reported or properly reportable on such return or any amendment thereof, be required to furnish to the department a true and correct copy of any return which may pertain to such item and which was filed by such taxpayer under the provisions of the Internal Revenue Code.

(2) In the event that the taxable income, any item of income or deduction, or the income tax liability reported in a federal income tax return of any taxpayer for any taxable year is adjusted by
amendment of such return or as a result of any other recomputation or redetermination of federal taxable income or loss, if such adjustment would affect any item or items entering into the computation of such taxpayer's net income subject to tax for any taxable year under this Code, the following special rules shall apply:

(a) The taxpayer shall notify the department of such adjustment by filing either an amended return or such other report as the department may by regulation prescribe, which return or report (i) shall show the taxpayer's name, address and employer identification number, the adjustments, the taxpayer's revised net income subject to tax and revised tax liability under this Code, and such other information as the department may by regulation prescribe,

(ii) shall be signed by a person required to sign the original return or by a duly authorized representative, and

(iii) shall be filed not later than 60 days after such adjustment has been agreed to or finally determined for federal income tax purposes, or after any federal income tax deficiency or refund, abatement or credit resulting therefrom has been assessed, paid or collected, whichever shall first occur.

(b) If the amended return or other report filed with the department concedes the accuracy of a federal change or correction, any deficiency in tax under this Code resulting therefrom shall be deemed assessed on the date of filing such amended return or report and such assessment shall be timely notwithstanding any other provision contained in Part I of chapter 214.

(c) In any case where notification of an adjustment is required under paragraph (a), then

(i) a notice of deficiency may be issued at any time within 2 years after the date such notification is given; or

(ii) if a taxpayer either fails to notify the department or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued at any time; provided however

(iii) that in either case the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Code from recomputation of the taxpayer's income for the taxable year after giving effect only to the item or items reflected in the adjustment.

(d) In any case where notification of an adjustment is required by paragraph (a), a claim for refund may be filed within 2 years after the date on which such notification was due (regardless of whether such notice was given) notwithstanding any other provision contained in Part I of chapter 214; provided, however, that the amount recoverable pursuant to such a claim shall be limited to the amount of any overpayment resulting under this Code...
from recomputation of the taxpayer's income for the taxable year after giving effect only to the item or items reflected in the adjustment required to be reported.

220.24 Declaration of Estimated Tax.--

(1) Every taxpayer shall make a declaration of estimated tax for the taxable year, in such form as the department shall prescribe, if the amount payable as estimated tax can reasonably be expected to be more than $2,500. The term "estimated tax" shall mean the amount which the taxpayer estimates to be his tax under this Code for the taxable year, or in the case of a taxable year of less than twelve months an amount of tax determined in accordance with regulations prescribed by the department.

(2) A taxpayer may amend a declaration, under regulations prescribed by the department.

220.241 Declaration; Time for Filing.-- A declaration of estimated tax under this Code shall be filed on or before the first day of the fourth month of each taxable year, except that if the minimum tax requirement of subsection 220.24(1) is first met:

(1) after the third month and before the seventh month of the taxable year, the declaration shall be filed on or before the first day of the seventh month;

(2) after the sixth and before the tenth month of the taxable year, the declaration shall be filed on or before the first day of the tenth month; or

(3) after the ninth month and before the end of the taxable year, the declaration shall be filed for the taxable year on or before the first day of the succeeding taxable year.

220.242 Declaration as Return.-- All of the provisions of this Part of the Code (relating to returns, declarations and records) and the provisions of section 214.21 (relating to confidentiality) shall be applicable with respect to declarations of estimated tax unless manifestly inconsistent therewith.

PART FOUR
PAYMENTS

220.31 Payments; Due Date
220.32 Payments of Tentative Tax
220.33 Payments of Estimated Tax
220.34 Special Rules Relating to Estimated Tax

220.31 Payments; Due Date

(1) Every taxpayer required to file a return under this Code or a notification under subsection 220.23(2) shall, without assessment, notice or demand, pay any tax due thereon to the department at the place fixed for filing, on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return) or notification, pursuant to regulations prescribed by the department.

(2) Except as to estimated tax payments under section 220.33, the payment required under this section shall be the balance of tax remaining due after giving effect to the following:
(a) Any amount of tentative tax or estimated tax paid by a taxpayer for a taxable year pursuant to section 200.2 or section 220.3 shall be deemed to have been paid on account of the tax imposed by this Code for such taxable year.

(b) Any amount of a tax overpayment which is credited against the taxpayer's liability for the taxable year under section 214.13 shall be deemed to have been paid on account of the tax imposed by this Code for such taxable year.

220.32 Payments of Tentative Tax. --

(1) In connection with any extension of the time for filing a return under section 220.22, the taxpayer shall file a tentative tax return and pay, on or before the date prescribed by law for the filing of such return (determined without regard to any extensions of time for such filing), an amount estimated to be the balance of its proper tax for the taxable year after giving effect to any estimated tax payments under section 220.33 and any tax credits under sections 220.16 and 214.13.

(2) The department shall by regulation prescribe the manner and form for filing tentative returns.

(3) Interest on any amount of tax due and unpaid during the period of any extension shall be payable as provided in section 214.44.

(4) The estimated tax shall be paid as follows:

1. If the declaration is required to be filed on or before the first day of the fourth month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of filing the declaration, the second installment shall be paid on or before the first day of the seventh month of the taxable year, and the fourth installment shall be paid on or before the first day of the next taxable year.

2. If the declaration is required to be filed on or before the first day of the seventh month of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of filing the declaration, the second installment shall be paid on or before the first day of the tenth month of the taxable year, and the third installment shall be paid on or before the first day of the next taxable year.

3. If the declaration is required to be filed on or before the first day of the tenth month of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of filing the declaration, and the second installment shall be paid on or before the first day of the next taxable year.

4. If the declaration is required to be filed on or before the first day of the succeeding taxable year, the estimated tax shall be paid in one installment at the time of filing the declaration.
taxable year, the estimated tax shall be paid in full at the time of such required filing.

(5) If the declaration is filed after the time prescribed in section 220.241 due to the grant of an extension of time for filing, subsections (1) through (4) of this section shall not apply and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration had been filed within the time prescribed in said section and without regard to the extension, and the remaining installments shall be paid at the time at which, and in the amounts in which they would have been payable if the declaration had been so filed.

(6) If an amended declaration is filed, the remaining installments, if any, shall be ratably increased or decreased, as the case may be, to reflect the increase or decrease in the estimated tax occasioned by such amendment.

(7) The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the department.

220.34 Special Rules Relating to Estimated Tax.--

(1) Any amount paid as estimated tax shall be deemed assessed upon the date of receipt of payment.

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(a) Except as provided in paragraph (d), the taxpayer shall be liable for interest at the rate of 6% per year and for a penalty in an amount determined at the rate of 10% per year upon the amount of any underpayment of estimated tax determined under this subsection.

(b) For purposes of this subsection, the amount of any underpayment of estimated tax shall be the excess of:

(i) the amount of the installment which would be required to be paid if the estimated tax were equal to 80% of the tax shown on the return for the taxable year, or, if no return was filed 80% of the tax for such year, over

(ii) the amount, if any, of the installment paid on or before the last date prescribed for payment.

(c) The period of the underpayment for which interest and penalties shall apply shall commence on the date the installment was required to be paid and shall terminate on the earlier of the following dates:

(i) the first day of the fourth month following the close of the taxable year; or
(ii) with respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)(i) for such installment date.

(d) No penalty for underpayment of any installment of estimated tax shall be imposed if the total amount of all such payments made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were the lessor of:

(i) An amount equal to the tax computed at the rates applicable to the taxable year but otherwise on the basis of the facts shown on the return for, and the law applicable to, the preceding taxable year; or

(ii) An amount equal to 80% of the tax finally due for the taxable year.

(e) For purposes of paragraphs (b) and (d), the term "tax" shall mean the excess of the tax imposed by this Code over all amounts properly credited against such tax for the taxable year.

(f) The application of this subsection to taxable years of less than 12 months shall be in accordance with regulations prescribed by the department.

(g) The provisions of this subsection shall not apply with respect to any taxable year beginning before January 1, 1972.

The department may provide by regulation for a credit against estimated taxes for any taxable year of any amount determined by the taxpayer or by the department to be an overpayment of the tax imposed by this Code for a preceding taxable year.

PART FIVE
ACCOUNTING

220.41 Taxable Year
220.42 Methods of Accounting
220.43 Reference to Federal Determinations
220.44 Adjustments

220.41 Taxable Year.--

(1) For purposes of the tax imposed by this Code and the returns required to be filed, the taxable year of a taxpayer shall be the same as the taxable year of such taxpayer for federal income tax purposes.

(2) If the taxable year of a taxpayer is changed for federal income tax purposes, the taxable year of such taxpayer for purposes of this Code shall be similarly changed.
(3) Notwithstanding the provisions of subsections (1) and (2), if the department terminates the taxable year of a taxpayer under the provisions of chapter 214 relating to jeopardy assessments, the tax shall be computed for the period determined by such action.

220.42 Methods of Accounting.--

(1) For purposes of this Code, a taxpayer's method of accounting shall be the same as such taxpayer's method of accounting for federal income tax purposes except to the extent provided in paragraph 220.13(1) (d). If no method of accounting has been regularly used by a taxpayer, net income for purposes of this Code shall be computed by such method as in the opinion of the department fairly reflects income.

(2) If a taxpayer's method of accounting is changed for federal income tax purposes, the taxpayer's method of accounting for purposes of this Code shall be similarly changed.

220.43 Reference to Federal Determinations.--

(1) To the extent not inconsistent with the provisions of this Code or forms or regulations prescribed by the department, each taxpayer making a return under this Code shall take into account the items of income, deduction and exclusion on such return in the same manner and amounts as reflected in such taxpayer's federal income tax return for the same taxable year.

(2) A final determination under the Internal Revenue Code adjusting any item or items of income, deduction or exclusion for any taxable year shall be prima facie correct for purposes of this Code to the extent such item or items enter into the determination of net income under this Code.

(3) If there has been implementing legislation under subsection 220.03(3), and to the extent required in regulations prescribed by the department, any taxpayer making a return under this Code may be required to indicate the item or items of income, deduction and exclusion which would enter into the determination of income if this Code were amended to incorporate the Internal Revenue Code as amended and in effect for such taxable year.

220.44 Adjustments.-- If it appears to the director that any agreement, understanding or arrangement exists between any taxpayers, or between any taxpayer and any other person, which causes any taxpayer's net income subject to tax to be reflected improperly or inaccurately, the director may adjust any item or items of income, deduction or exclusion, or any factor taken into account in apportioning income to this state, to the extent necessary clearly to reflect the net income of such taxpayer properly attributable to this state.
PART SIX
MISCELLANEOUS

220.51 Promulgation of Rules and Regulations

220.52 Arrangements and Captions

220.53 Adoption of Chapter 214

220.51 Promulgation of Rules and Regulations.-- In accordance with the Administrative Procedure Act of this state, chapter 120, Florida Statutes, the department is authorized to make, promulgate and enforce such reasonable rules and regulations, and to prescribe such forms relating to the administration and enforcement of the provisions of this Code, as it may deem appropriate, including:

(1) rules for initial implementation of this Code and for taxpayers' transitional taxable years commencing before and ending after January 1, 1972;

(2) rules or regulations to clarify whether certain groups, organizations or associations formed under the laws of this state or any other state, country or jurisdiction, shall be deemed "taxpayers" for the purposes of this Code, in accordance with the legislative declarations of intent in section 220.02; and

(3) regulations relating to combined reporting for affiliated groups of corporations, in order to provide for an equitable and just administration of this Code with respect to multi-corporate taxpayers.

220.52 Arrangements and Captions.-- No inference, implication or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular sections or provisions of this Code, nor shall any caption be given any legal effect.

220.53 Adoption of Chapter 214.-- The tax imposed by this chapter is hereby made subject to the tax administration act of 1971, chapter 214, Florida Statutes.

Section 2. Subsection 323.15(6), Florida Statutes, is amended to read:

323.15 Road tax; advance deposits, lien for taxes; enforcement of lien; records; statements, etc.--

(6) The road tax provided for in this section shall be in lieu of all other taxes and fees of every kind, character and description, state, county or municipal, including excise and license taxes levied or imposed against such motor carriers, or the operation of such business and facilities thereof, or their property, except ad valorem taxes levied upon the property other than motor vehicles of such motor carriers, and except the gasoline tax and motor vehicle fuel tax, and except the motor vehicle license tax now or hereafter provided for by law, and the income tax imposed by chapter 220, Florida Statutes.
Section 3. Section 624.0307, Florida Statutes, is amended by adding a new subsection (3) to read:

624.0307 Premium tax; rate and computation.—
(3) The income tax imposed under chapter 220, Florida Statutes, which is paid by any insurer in the quarterly period immediately preceding a payment date for the tax imposed by this section shall be credited against and to the extent thereof discharge the liability for tax under this section, and any excess of such payment over liability on the quarterly due date shall be credited against and to the extent thereof discharge subsequent liability for taxes under this section.

Section 4. Section 624.0308, Florida Statutes, is amended by adding a new subsection (3) to read:

(3) The income tax imposed under chapter 220, Florida Statutes, which is paid by any insurer in the quarterly period immediately preceding a payment date for the tax imposed by this section shall be credited against and to the extent thereof discharge the liability for tax under this section, and any excess of such payment over liability on the quarterly due date shall be credited against and to the extent thereof discharge subsequent liability for taxes under this section; provided that the aggregate income tax credit for any insurer under this subsection and subsection 624.0307(3), exclusive of excess income tax payments carried forward and applied as credits against subsequent premium tax liability, shall not exceed the amount of tax paid under chapter 220 in any calendar quarter.

Section 5. As promptly as possible after this act becomes law, the department of revenue shall produce and distribute the forms and notices necessary for compliance with this act, and it shall develop and distribute such summaries or explanations of the law, or rules and regulations, as will enable corporations to comply herewith.

Section 6. If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable or void, such invalidity or unconstitutionality shall not be construed to affect the portions of this chapter not so held to be unconstitutional, void, invalid or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being hereby declared to be the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable or void portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective or void portions of this chapter, the
legislature would have enacted the valid and
constitutional portions thereof.

   Section 7. All laws or parts of laws in
conflict with the provisions of this Code are hereby
repealed.

   Section 8. This act shall take effect on
January 1, 1972.
PART TWO

Major Policy Questions

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DISCUSSION

There are probably more policy questions involved in the adoption of an income tax statute than in any other major piece of legislation, since a tax statute of this type will affect every business conducted in the State of Florida. This Part will discuss those matters which are "major", in the sense that:

(1) they evoked the most discussion and comment from groups who reviewed the staff draft;
(2) they involve significant revenue;
(3) they could affect the choices of taxpayers as to the manner in which they conduct business in Florida; or
(4) they involve more than one of these considerations.

1. Federal piggyback.

The staff draft attempts to put Florida into the income tax business in much the same way as the federal government. That is, as a general matter, taxpayers would use federal accounting methods and periods, federal tax bases, federal tax rules for the deferral or non-recogni-
tion of income, federal tax concepts, and procedures comparable to the federal rules relating to returns and periodic tax payments. While this attempt to piggyback on the federal income tax laws will simplify state administration of the tax and taxpayer compliance, it must be recognized that it will also produce a Florida income tax structure which contains all the strengths and weaknesses inherent in the federal structure.

The extent to which federal returns are used for the proposed Florida tax is illustrated by the tax computation chart appended to this Part as Exhibit A.

2. Constitutional limitations.

The Florida Constitution prohibited the taxation of income during the period November 7, 1924 through November 2, 1971. This prohibition raises several significant problems relative to the adoption of an income tax statute. Foremost are the following:

(1) Can (and should) the legislature tax appreciation in the value of capital assets which developed prior to November 2, 1971, but after November 7, 1924?

(2) Can (and should) the legislature tax other increments of wealth which were derived during the prohibited period, such as appreciation in the value of properties used
in a trade or business, accretions of operating income, or appreciation in inventory?

(3) How can (and should) the legislature tax amounts received after November 2 as a result of transactions occurring before that date, in cases where the taxpayer has elected under the installment sale provisions of the Internal Revenue Code to report and pay tax to the federal government in the year of receipt rather than sale? The staff draft raises or deals with each of these questions, in an effort to expose the problems.

(a) What constitutes "income"? The basic approach to all taxability in the draft is that which has been adopted and court-tested for federal income tax purposes. This approach starts with the concept that "income" arises at the time of a taxable event—that is, at the time there is a sale or disposition of goods or property or services. "Income" is not earned periodically in increments over time under this approach.

Under the federal approach, it is clear that there is no income in either a constitutional or federal tax sense until there has been a disposition of property, so that the
appreciation or change in value of property during the time it is held becomes irrelevant for the purpose of imposing a tax at the time there is a disposition of the property. By adopting this approach in Florida, it is believed that the full amount treated as income for federal tax purposes can be taxed in Florida after the constitutional ban is lifted, even though a portion of that gain or profit was generated during the prohibited period. To adopt any other approach to taxation in Florida would so drastically depart from federal tax concepts that the Florida income tax would become administratively much more complex than it need be.

It is recognized that, in a general sense, there may be some inequity in taxing as "income" the full amount generated by the disposition of property (whether capital or operating property) after 1971, where the property had been held in prior years. However, the adjustments which would be necessary to place each taxpayer in a completely equitable position would be so horrendous that the administration of the income tax would become unmanageable. Consequently, "income" is defined in the staff draft to include all gain on the disposition of property. However, capital transactions are accorded a preferential treatment which is described below.

(b) Capital transactions. Since there appears to be no constitutional restraint on the legislature in the matter
of defining as "income" that which is generated from sales and dispositions, it would seem to follow that the state could tax less than it has capacity to tax by allowing some relief for certain types of income. To alleviate some of the apparent inequity, the staff draft provides that capital assets will be taxed only to the extent that gain is generated after the constitutional limitation was removed. This is done in paragraph No. 220.13(1)(c), on page 14 of the draft, by allowing corporate taxpayers to elect to value all of their capital assets on November 2, 1971, at their then fair market value. (A technical amendment contained in Part Seven (Amendment No. 19) changes the valuation date to December 31, 1971 for administrative simplicity.) If this election is made, that valuation will govern the determination of gain or loss on any subsequent disposition of capital assets.

It is probably very difficult for corporate taxpayers to value all of their capital assets as of a particular date. In Staff Draft No. 2, which was publicly distributed commencing on May 3, 1971, another alternative was provided which would have allowed a proration of capital gain based on the respective period that the capital asset was held before and after the critical date. This would seem to be
administratively more feasible for both the department and for taxpayers, and if it is determined by the legislature that capital gains should be given special tax relief (although such treatment is not constitutionally required), then the staff draft should be amended either to include a second, proration option for taxpayers or to replace the valuation option with a proration option. An amendment (Amendment No. 1) has been prepared and is enclosed in this Part to substitute the proration option for the fair market value option. A second amendment (Amendment No. 1a) has been prepared to delete the special treatment for capital asset transactions, in the event it is determined that this feature is not desired.

(c) Installment sales. With respect to installment sales, there are several problems. First, it should be understood that an installment sales problem exists because of the constitutional inability to tax transactions which took place prior to November 2, 1971 but which are the source of income or gain being returned and taxed for federal purposes after that date by election of the corporate taxpayers. Installment sales are of the retail credit type, such as the revolving credit charges allowed
by retail merchants, of the land sales type, and of other various types (including gains on the disposition of capital assets). By adhering to the concept previously discussed, that income cannot be taxed in Florida if it was generated by a taxable event occurring prior to November 2, it would seem that Florida is not free to tax sales consummated prior to November 2, 1971 even though the taxpayer has elected for federal income tax purposes to report his gain on these transactions after that date. Accordingly, this inability to tax transactions consummated prior to November 2 produces a complexity which must be faced in drafting Florida's statute. How the problem should be solved has been the subject of continual dialogue with interested and affected parties.

There is no requirement, constitutionally or otherwise, that Florida must grant corporate taxpayers the same installment sale election which they have available to them under the Internal Revenue Code. If Florida were to decide not to grant this special election, all corporate taxpayers disposing of their property would be taxed under
the accrual method of accounting (or the cash method if that was appropriate for the particular taxpayer), and the entire amount of their gain on an installment sale transaction would be subject to Florida tax in the year of the transaction. (Land sale companies already maintain two sets of accounting books, to compute and return income on the installment method for income tax purposes and to compute and report income on an accrual basis for shareholder purposes. Thus, there would be no record-keeping burden on that industry if Florida did not grant an installment sale election.) However, it must be recognized that a disallowance of the federal election would cause a departure from the federal tax returns of electing corporate taxpayers, and perhaps cause economic hardships.

Why even consider denying taxpayers an installment sale election? It is estimated that the revenue loss to the State of Florida in the first several years of our income tax would be highly significant if Florida could not take the federal returns filed after 1971 and use those returns as a basis for computing the Florida tax. In other words, it is to Florida's financial advantage to
tax installment sale income along with other forms of income immediately, rather than allowing it to be deferred. Alternately, Florida could attempt to tax gain or income which was generated prior to November 2 but which is reported thereafter for federal tax purposes. However, as was previously indicated, to elect this latter alternative would require a departure from the concept of income taxation which is consistently utilized in the rest of the draft statute.

The staff draft attempts to reconcile the financial needs of Florida with the federal tax concept of installment sale elections, without violating constitutional limitations. In paragraph 220.13(1)(d) of the draft, on pages 14-16, there is provided a mandatory and an elective procedure. The accrual method of accounting is made the basic tax form, thus enabling Florida to tax in full all transactions which occur after 1971. Taxpayers may, however, at their election, report to Florida exactly as they report to the federal government. However, taxpayers so electing would, voluntarily, be including in their Florida tax returns the installment sale income which was generated by transactions prior to November 2. There is no compulsion for taxpayers to make the election, but if
they find it to their advantage so to do, for whatever reasons, the election is available. It is believed that this method of approaching the installment sale problem will prevent a significant loss of revenue to the state, while accommodating most of the potential objections to the taxation of installment sale income. To understand why this is so, it has to be understood that the installment sale election is not an elimination of tax, but merely a deferral. The postponement of income for one year, or for two or more years, through an installment sale election, does not exonerate taxpayers permanently. To see what this actually means, hypothesize that the income tax statute is repealed in some later year, say 1980. If this were done, Florida would be free to tax all of the transactions consummated in 1979 even though the gain and income from those transactions would not be reported until years after the tax had expired. Thus, it can be seen that the installment sale election merely postpones the reconciliation of tax payments with tax liability to some future determinable date; the liability never disappears.

The land sales industry has indicated that there is a need to consider, as a special situation,
their peculiar method of dealing with installment sale transactions. Land sales companies may elect, on a year to year basis, to report their income on land sales under the installment method or under the accrual method. It is general practice in their industry to defer income up to the point where they would begin to run out of net operating loss carry-overs. When that occurs, they absorb any remaining balance by electing in that year to accrue rather than defer the gain of their land sales. To reconcile this unusual tax treatment with the concepts previously discussed, there has been prepared and is enclosed in this Part an amendment (Amendment No. 2) which is peculiar to the land sales industry. There are also enclosed in this Part Amendments No. 2a and 2b which together present an alternative to the accrual-deferral election now contained in the staff draft. This alternative has two principal features. First, it would tax land sales companies on the same basis which they elect to be taxed for federal income tax purposes, but prospectively only from January 1, 1972. The amendment does not require the inclusion in income of amounts collected on installment sale transactions from pre-1972 years. Second, the amendment
requires that expenses attributable to income generated in years prior to 1972 be eliminated as a deduction against current income. The general intent of this amendment is to tax land sales companies under their chosen accounting methods commencing on the date income first becomes taxable in Florida, while disallowing as an offset to current income those expenses which relate to the collection of previously-earned, untaxed income. If adopted, Amendments No. 2a and 2b should produce less revenue for Florida in the early years of its income tax law than the accrual-deferral option alternative. Moreover, the computation of Florida taxable income will be much more complex for land sales taxpayers and much more difficult for the state to audit. However, segments of the land sales industry suggest that this approach is more equitable for them than other possible approaches.

3. Dividends. The most controversial area in respect to the taxation of corporate net income appears to be the taxability of dividends. Dividends constitute a source of income from a variety of investment forms, and the problems of dividend taxation cut across industry lines in many different ways. Dividends arise principally from payments received from "controlled" (wholly-owned or partly-owned) subsidiary corporations, from foreign corporations
which remit to their U.S. parent, and from pure "investment" sources such as the dividends received by corporations investing their idle cash in corporate securities.

In preparing the staff draft, I deliberately departed from the federal method of taxing dividends in order to develop community interest and technical input on the dividend question. In this regard, the draft was eminently successful. More people have taken an interest in the dividend question than in any other area.

The federal treatment of dividends is, basically, dependent upon the dividend source. If a corporate taxpayer receives dividend income from a domestic (U.S.) corporation, the Internal Revenue Code grants an automatic deduction for 85% of that dividend receipt (100% if the paying and receiving corporation are members of an affiliated group). This deduction eliminates severe double taxation at the federal level, since the dividend-paying corporation has earned income subject to U.S. tax and did not receive a deduction for its dividend payment in computing its federal taxable income. Dividends received from foreign corporations are
included in gross income (in fact they are "grossed-up", under section 78 of the code, to include the amount of foreign taxes paid before the dividend was declared), but they are not usually taxed because the Code grants a credit against federal liability for taxes paid in foreign countries. The staff draft does not grant a foreign tax credit for Florida tax purposes, with the consequence that foreign-source dividend income would be taxed if the draft were adopted in Florida in its present form.

Space does not permit a discussion of all of the pros and cons relating to the taxation of dividends. In order to identify for the legislature some of the more basic issues pertinent to the policy determination on dividend taxation, I have obtained the comments of people who were knowledgeable about and interested in the dividend question. On behalf of the Committee on State Taxation of the Council of State Chambers of Commerce ("COST"), I received a memorandum dated June 23, 1971 which was prepared by Mr. James Peters, chief tax attorney for the American Telephone and Telegraph Company. A copy of that memorandum, setting forth COST'S
views, accompanies this report as Exhibit B to this Part. In addition, I attempted to ascertain how other states tax dividends. Legislative intern Al Galbraith researched the laws of all of the states taxing corporate income and summarized his research in the form of a one-page chart. Thereafter, I sent a copy of that chart to each tax administrator in a state which imposes a corporate income tax, asking whether the chart accurately reflects the basis of dividend taxation in his state. Almost all of the tax administrators responded, and I amended the original chart to reflect their comments. The revised dividend taxation chart, which should give a simplified and quick picture of state dividend taxation, is attached as Exhibit C to this Part. As can be seen from that chart, the states vary greatly in the methods by which dividends are or are not taxed.

Intertwined with the taxability of dividends is a fundamental principal of state taxation which probably should be explored to some extent at this juncture. Historically, states have "allocated", or assigned to one
particular state, 100% of certain types of income derived from corporate activities. Typically, dividends, interest, rents, royalties, and capital gains were "allocated" in full to the state of "commercial domicile" of a corporation. What this means, simply, is that the dividend income received by a corporate taxpayer would be "allocated" by almost every state in which it does business so as not to be taxable in those states, while being subject to tax in full in the one place where it has its commercial domicile. Of course, the state of commercial domicile could and in many cases does choose not to tax dividend income at all. As a result, if all states "allocated", no dividend income received by such a corporation would be taxed anywhere. In contrast to the "allocation" of certain items of income (the most significant of which is dividend income), the balance of operating income derived by corporations doing business in more than one state is typically "apportioned", that is, divided ratably among the states in which the business is conducted. The methods of apportionment vary, but a 3-factor formula based on payroll, property and
sales is in general use.

The staff draft does not attempt to allocate any items of income to the commercial domicile of corporate taxpayers. It endeavors to apportion 100% of corporate net income, from whatever source derived, and to attribute to Florida its apportionable share of all of that net income. This method of state taxation is sometimes called the "new Massachusetts approach", since that state recently changed from the allocation-apportionment method to 100% apportionment.

When business representatives discuss the dividend question, they tend to operate in the frame of reference with which they are familiar in most other states - namely, that dividend income is "allocated" to a particular jurisdiction rather than being subject to tax in a multiplicity of places. This historical practice has, I think, tended to result in an allocation of certain types of income to a very few states of commercial domicile. New York, California and Illinois are the major commercial domicile states. Obviously under "allocation" procedures, corporate taxpayers
need only convince one legislature - the legislature in their commercial domicile - that dividend income should not be subjected to taxation. Thus, you find that some commercial domicile states in fact exempt all or a major portion of the dividend income received by their corporate taxpayers.

The arguments against taxing dividends are persuasive. Dividends constitute the one type of corporate income which do not have a corollary deduction for the paying corporation, so there is a definite potentiality for double taxation in the federal tax scheme. As previously indicated, however, Congress alleviated double taxation at the federal level. On the other hand, the legislature should be aware that there are reasons why dividend income from various sources should not all be treated alike. Dividends from foreign corporate activities might well be excluded from taxable income in Florida on the ground that we should not extend our tax base to the international operations of the corporate community. Similarly, a case can be made for excluding from income dividends which are received from "controlled" corporate affiliates, such as those which are 100%-owned or
80%-owned, on the ground that these corporate entities are merely an extension or "branch" of the parent and not a suitable subject for double taxation. (An elimination of dividends within a controlled group can also be achieved through the filing of consolidated returns.) A less persuasive case can be made for excluding dividends which are received from ordinary investment activities, since dividends received from this source enter into the general operation, finances and activities of corporate taxpayers to the same extent as their other operating receipts. As can be seen from Exhibit C, the variations in state taxation of dividends indicate a wide variety of solutions to these distinctions.

Opponents of dividend taxation suggest that dividends should be taxed no more onerously in Florida than the federal government taxes dividends, which essentially means that all foreign dividends and at least 85% of all dividends received from domestic corporations would be removed from the state tax base. As to the latter, it is well to consider the probable rationale for the federal tax policy, which I believe is a reluctance to tax the same income twice. It does not follow from this reasoning,
however, that the State of Florida should adopt the federal tax treatment. It is not true that income received by corporate taxpayers in Florida, or even income apportioned to Florida from out-of-state corporate entities, would have been taxed first by Florida at the subsidiary level. In fact, it would be coincidental if that were in fact the case. And although the operating income of the subsidiary may have been taxed by another state jurisdiction, that in itself does not provide a reason for Florida to relinquish taxability of the parent if it is a corporation doing business in Florida.

Because the legislature may choose to treat dividends in the same manner as the federal government, rather than in the manner provided in the staff draft, Amendment No. 3 has been prepared to achieve that result. This amendment, in essence, provides a deduction for 85% of the domestic dividends received by Florida corporate taxpayers and for 100% of such dividends in the event of affiliated status. Foreign dividends are further discussed and treated in the next paragraph of this Part.
4. Foreign source income. As was the case with dividend income, the staff draft did not provide exclusionary treatment for the taxability of foreign source income. The principal purpose for including that income in the tax base under the draft was to develop technical discussion regarding foreign-source income among interested taxpayers.

Foreign source income is essentially derived from one of two categories. First, income earned in a foreign corporate entity may be transmitted to a domestic (United States) corporate parent by way of dividend (or interest or royalty) payments. This foreign source income will appear in the federal tax base, and dividends will be "grossed-up". Second, foreign source income may constitute operating income which either is derived from a corporation doing business both within and without the United States or is deemed earned by the domestic parent under subpart F of the Internal Revenue Code.

By adopting federal "taxable income" as a starting point for the Florida tax base, Florida would not parallel the federal treatment of corporations conducting foreign operations. For federal tax purposes, foreign source income is in general exonerated from tax by the allowance
of foreign tax credits. Unless Florida adopts a method of granting like foreign tax credits (which most states do not and essentially cannot), Florida cannot adopt the federal policy of exonerating foreign source income unless it adjusts the federal tax base for Florida purposes by the amount of foreign source income which is included in the federal base. (In many foreign countries, United States corporations are not permitted to own 80% of the foreign operating corporation, so that affiliated status and the availability of consolidated returns is not an adequate solution.)

Amendment No. 4 appended to this Part adjusts the Florida tax base to eliminate all foreign source income.

5. Subchapter S corporations. Under subchapter S of the Internal Revenue Code, federal tax law provides special tax treatment for certain corporate entities (technically called "small business corporations") which elect to avail themselves of that treatment. There are five aspects of subchapter S taxation which should be understood in connection with a proposed corporate income tax law for Florida.
(1) The term "small business corporation" is a term which is defined in subsection 1371(a) of the Internal Revenue Code. The definition sets limits on the number (ten) and the type (essentially natural persons) of shareholders the corporation may have, and on the classes of stock the corporation may have outstanding. There is no quantitative restriction either on the asset size of the enterprise or on the amount of income it can generate.

(2) Subchapter S status is elective. It cannot be forced upon corporate taxpayers by the federal government. It was designed by Congress as a relief measure for those corporate entities which find it to their financial advantage to make the election.

(3) Corporations which have elected the tax treatment available under subchapter S of the Internal Revenue Code are "corporations" in the same legal senses as corporate entities which have not so elected. Subchapter S corporations are not partnerships, and they are not taxed in the same manner as partnerships. In other words, there are no distinguishing
features between electing and non-electing corporations, except for the election itself and its concomitant federal tax effects.

(4) The tax treatment afforded electing "small business corporations" is essentially that the corporate entity itself pays no tax, but the individual shareholders (recall that the shareholders must be natural persons) pick up and include in their personal income tax returns a pro-rata share (based on shareholdings) of the corporation's net income. Essentially these corporations compute their net income (federal "taxable income") like every other tax-paying corporation and report it to the Internal Revenue Service on a comparable tax return (Form 1120-S). A copy of page one of that return is appended as Exhibit D to this Part, and a copy of page one of the regular corporate return (Form 1120) is appended as Exhibit E for comparison.

For computing federal tax liability, a subchapter S corporation does not apply a rate against taxable income. Rather, the corporation prorates the bottom line among its shareholders and they then include their respective shares
in their personal tax returns for the year. This method of taxation is not comparable to the manner in which partnerships and partners compute or report earnings from partnership activities.

A subchapter S corporation can actually pay the net income of the corporation to its shareholders in the form of dividends, or it can retain that net income within the corporate shell. In either case, the same amount—all the net income—is taxed to the shareholders. (If the corporation does not choose to pay the net income to shareholders as dividends, then the retained "undistributed taxable income" is reported by shareholders and, as a general rule but under complicated procedures, the shareholders can later withdraw that "UTI" without the imposition of a further tax.)

(5) The decision to elect, or not to elect, under subchapter S is predominantly a financial one relating to federal tax liability. Corporations are taxed at a 22% rate on their first $25,000 of net income, and at a 48% rate on all additional net income. Obviously, it is dis-

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advantageous to elect subchapter S status if the individual shareholders would be taxed at higher rates than the corporation, except for the fact that the money is taxed only once and is in the hands of (or available to) the shareholders rather than being locked in the corporate structure. The structure of the individual tax rate schedules is such that, as a general rule, it is not financially advantageous to elect subchapter S status if the corporation expects to enjoy any significant net earnings. For example, a married shareholder filing a joint return will be taxable at more than a 22% rate on all net income in excess of $8,000, and at a rate on all net income in excess of $8,000, and at a rate on subchapter S corporations. Generally, therefore, subchapter S corporations do not have substantial net earnings. Under the staff draft, subchapter S corporations are taxed on their undistributed taxable income—that is, on the amount the corporate managers choose to leave in the corporation, even though the shareholders have to pay tax on it. The following chart compares the Florida tax incidence on two corporations, one regular and one subchapter S but each having net income of $100,000, under the staff draft.
Subchapter S Tax Comparison Chart

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<th>Non-electing Corporation</th>
<th>Subchapter S Corporation</th>
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<td>$100,000</td>
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<tr>
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<tr>
<td>on shareholders</td>
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</tr>
<tr>
<td>total</td>
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<td>$41,500</td>
</tr>
<tr>
<td>balance retained in</td>
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<tr>
<td>corporation</td>
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<tr>
<td>amount subject to</td>
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<tr>
<td>Florida tax under</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff Draft No. 3</td>
<td>$95,000&lt;sup&gt;5&lt;/sup&gt;</td>
<td>$58,500&lt;sup&gt;6&lt;/sup&gt;</td>
</tr>
<tr>
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<td>$2,675</td>
</tr>
</tbody>
</table>

1. 22% x $25,000 ($5,500), plus 48% x $75,000 ($36,000).
2. It is assumed that no dividend distribution is made to shareholders in the tax year.
3. If the corporation had one married shareholder, and the corporation's $100,000 net income was his federally taxed income for the year 1971 (that is, he had other income exactly equivalent to the sum of his exemptions and deductions), his tax on this $100,000 would be $45,180. If there were two equal shareholders, both married, who were both taxed on their $50,000 shares, their combined taxes would be $34,120. Both situations are fanciful; the owners of a corporation earning $100,000 would have some other income, would take part or all of the $100,000 as salaries and would be in different personal tax brackets. Since it is impossible to determine a precise amount which represents aggregate shareholder taxes on the corporation's earnings, I have assigned the amount of corporate tax as a rough guide, for comparison purposes.
4. It is assumed that the corporation actually distributed as a dividend the exact amount needed by shareholders to pay their federal tax liability, leaving the balance in the corporation for working capital.
5. Net income ($100,000) less $5,000 exemption.
6. See staff draft paragraph 220.13(2)(i).
Two things are apparent from the chart. First, there is no correlation between the federal tax liability of an electing and a non-electing corporation. The former depends wholly upon intra-corporate adjustments which can be made to reduce taxable income and upon the individual tax brackets of the shareholders. Second, the Florida tax liability would vary as between subchapter S corporations earning identical amounts, based solely upon the decision of the corporate managers as to the amount of net income to be left in the corporation at year-end (a decision which has no effect on the shareholders' federal tax liability), and as between two corporations with identical earnings one of whom elects subchapter S treatment.

The analysis developed by the chart suggests that the tax treatment prescribed for subchapter S corporations in the staff draft is wrong, for two reasons. First, the Florida tax should not knowingly affect similarly situated
taxpayers dissimilarly, whether they elect subchapter S status or not. Second, the Florida tax is being imposed for the privilege of conducting business in Florida as a corporation. That fact makes irrelevant any consideration of the federal tax liability of the corporation, except insofar as Florida chooses to piggyback on federal tax concepts. Under the draft, the Florida taxability of subchapter S corporation net income could be determined wholly by the corporate managers without affecting their federal tax liability.

A more equitable basis for taxing subchapter S corporations in Florida than that in the staff draft would appear to be on the basis of corporate taxable income—that is, on line 28 of federal Form 1120-S. Taxability for Florida purposes on that basis would accord comparable tax treatment to all corporations having the same net income, whether or not a subchapter S election is in effect. To correct the staff draft, an amendment (Amendment No. 5) has been prepared and is enclosed in this Part.

6. Professional corporations. In 1961, chapter 621 of the Florida Statutes was adopted so that professionals,
as well as businessmen, would have the opportunity to incorporate. The principle purpose for this legislation in Florida, as elsewhere, was to allow professionals to obtain certain federal tax advantages which could not be obtained by conducting their "businesses" in proprietorship or partnership form. The Florida legislation conferred at least one significant, additional benefit on those professionals who incorporate, which their unincorporated brethren cannot obtain. That advantage is insulation from personal liability for the malpractice of associates over whom there is no exercise of direct supervision and control. Fla. Stat. Ann. section 621.07.

Professionals who incorporate do so consciously and purposefully; there are no involuntary incorporations. When professionals avail themselves of chapter 621, they obtain from the state a status of corporateness which is quite comparable, but not identical, to the corporate status conferred by the state on businessmen who incorporate under chapter 608. In preparing a draft statute to tax the privilege of conducting profit-making activities in the State of Florida in corporate form,
it seemed to me that there was no basis or reason to dis­tin­guish professional corporations from non-professional corporations. Thus, the staff draft continues in this area the broader philosophy that the tax incidence should apply whenever the state grants corporate immunities and privileges to a group or class of persons who voluntarily find it to their advantage to take them.

7. Net operating losses. The Internal Revenue Code prescribes a twelve month accounting cycle for corporate taxpayers, but it recognizes through the allowance of a net operating loss deduction that business prosperity and misfortune is not logically confined within arbitrary twelve month limits. The federal net operating loss deduction, which is essentially the excess of expenses over income for the year, is generally allowed to be carried back for three years and forward for five years. By using the carryback, corporate taxpayers may obtain a refund of taxes previously paid to the extent those tax payments are eliminated by the subsequent losses. In essence, the federal government has used the net operating loss deduction to recognize a business cycle of nine years.
The staff draft departs from the federal net operating loss provisions in two respects. First, the draft allows a six year business cycle by authorizing a net operating loss deduction which can only be carried forward for the five-year federal period. It allows no carryback. Second, carryovers from years prior to 1972 are prohibited. There are 3 reasons for these variations from the federal treatment.

(1) The constitutional ban which existed prior to November 2 would prevent taxation of all pre-November 2 earnings. It would seem reasonable that taxpayers should not be allowed to bring forward losses incurred prior to that date for the purpose of reducing their taxability after that date. This result is achieved in subparagraph 220.13(1)(b)(ii)(a), on page 13, of the staff draft.

(2) No carrybacks are allowed in the staff draft, for two reasons. First, there is no easy way for the state to budget for, or to carry reserves for, tax refund grants. Second, in a general economic decline, aside from the general decline in the state's collection of income taxes the fiscal loss would be aggravated if refunds from the state were available to corporate taxpayers.
(3) A six-year business cycle for Florida purposes, rather than a nine year cycle, should be adequate for all taxpayers. The tax rate in Florida will not exceed 5%, in contrast to federal tax rates up to 48%. By adopting just the five-year federal carryover provisions, the staff draft piggybacks in full on federal carryover practice and eliminates a great deal of complexity for Florida taxpayers.

8. Tax credits. The staff draft provides tax credits—that is, offsets to tax liability—for insurance premium taxes and for gross receipts taxes. The two credits are treated differently under the staff draft, however.

The income tax liability of an insurer will in fact be paid, and to that extent it will discharge the insurer's liability for gross premium taxes under the Florida Insurance Code. See sections 3 and 4 of the staff draft, on pages 39-40. This arrangement will, in effect, enable insurers to deduct their premiums tax (to the extent of the income tax payment) for federal tax purposes because it has been represented that premiums taxes are not now necessarily deductible for federal tax purposes.
With respect to the payers of gross receipts taxes, a credit is provided against their income tax liability for the gross receipts taxes which have been paid to the state. See staff draft subsection 220.16(1), on page 20. This arrangement, rather than the reverse credit arrangement, is dictated by subsection 9(a) of Article XII of the 1968 Constitution, which adopted by reference Section 19 of Article XII of the 1885 Constitution. The latter provision, which established the junior college capital outlay trust fund, would require continuation of the payment of gross receipts taxes.

The reason for providing any tax credits in the staff draft was to identify one policy area for legislative consideration. Insurance and utility representatives indicate that these two industries stand alone in the fact that they pay, and have been paying, a significant tax to the state which no other segment of the business community pays. Additionally, both the gross receipts tax and the gross premiums tax are reputed to equate to more than a 5% tax on the federal net income tax base. With respect to the insurance industry, the need for a credit derives in part from the retaliatory laws of Florida and other states. However some commentators on the draft see no
need for these tax credits, for the following reasons:

(1) the complex federal tax treatment of insurance companies is generally favorable to the industry, in that the federal tax base of insurance companies contains much less of the "true earnings" of insurers than the base on which other businesses pay;

(2) the insurance premiums tax is not a tax on the insurer, but more in the nature of a sales tax (although not separately identified as such) which the insurers collect from policyholders; and

(3) the gross receipts tax of utilities companies is built into the rate base as a cost of doing business, and to that extent it is directly passed to utility consumers in the form of rate increases. The argument is made that, like the premiums tax, the gross receipts tax is not a cost of doing business for the utility, in the same sense that other businesses incur costs which cannot be passed on in full.

The staff draft makes no provision for an investment credit of the type Congress grants from time to time in order to stimulate capital outlay in the economy.
9. Life insurance taxation. Under the staff draft, life insurance companies would be taxed on "life insurance company taxable income" as defined in the Internal Revenue Code, a tax base actually composed of 3 distinctive elements. So-called "phase 1 income", labelled "taxable investment income", is the company's share of its investment yield for the current year over the amount necessary to guarantee a prescribed rate of return on required reserves. So-called "phase 2 income", technically called "gain from operations", is essentially just that after setting aside certain arbitrary amounts as "deferred" income. The tax imposed on these two types of income is computed as the smaller of phase 1 or phase 2 income, plus 50% of the excess (if any) of phase 2 income over phase 1 income.

So-called "phase 3 income" is also taxed. This constitutes income which was originally earned in prior years and set aside in the deferral accounts. Certain events can occur in the life of an insurance company which "trigger" phase 3 income so as to make it taxable for federal purposes in the
current year. These events are mathematical, and they relate to ratios of premium income earned and reserves held in the current year as compared with premiums and reserves on January 1, 1959.

It is not essential that the legislature understand the exact nature of the triggering events. However, it is important to understand that phase 3 income is income which had been earned in previous years and is currently being taxed because the company has exceeded certain reserve or premium levels relating to its business now as compared to January 1, 1959. (The significance of 1959 relates to the fact that the federal government adopted a method of taxing insurance companies in 1959 which treated them as if they commenced business that year, and as if their assets and reserves were zero at the end of 1958.)

The life insurance industry contends that it would be inappropriate for the legislature to tax phase 3 income to the extent that it represents amounts earned and set aside in a reserve account in previous years. They urge
the adoption of an amendment to the staff draft which would limit the tax on phase 3 income to income actually earned after November 2, 1971. Amendment No. 6 has been prepared to achieve this result.

10. Western Hemisphere trade corporations. The federal tax laws provide an incentive for businessmen to conduct foreign activities in the Western Hemisphere by granting a special tax deduction for domestic (U.S.) corporations which conduct practically all of their sales activities in the Western Hemisphere but outside the continental United States. The staff draft does not grant this tax incentive, so that the legislature could focus directly on the policy question of whether Florida should grant a like tax incentive. There probably are a significant number of Western Hemisphere trade corporations in Florida which utilize the special deduction conferred in section 922 of the Internal Revenue Code, principally for activities in the Caribbean and Latin America. An amendment (Amendment No. 7) has been prepared to conform Florida law to the federal law in this area, if that is deemed appropriate.
11. **Florida tax deduction.** The staff draft provides an "add-back" to the federal tax base of the amount of Florida income taxes which the taxpayer has claimed as a deduction on its federal return. The effect of this adjustment, which appears as subparagraph 220.13(1)(a)(i) on page 12, is to prevent an erosion of the Florida tax base by the federal tax benefit obtained by paying Florida income tax. Many states provide a comparable add-back in arriving at their state tax base.

12. **Consolidated returns.** The federal Internal Revenue Code grants a consolidated return privilege to groups of corporations which are affiliated to the extent of 80% stock ownership. This privilege allows the group to eliminate all intercompany transactions and to return consolidated taxable income for the qualifying group. The staff draft accords a like privilege to Florida corporate taxpayers, provided the parent corporation is subject to tax in Florida. See section 220.131, on pages 18 and 19 of the draft. There has been some confusion regarding the draft's use of the term "combined" rather than "consolidated", and a series of amendments (Amendments No. 8 through 13)
have been prepared to rectify this situation.

13. Tax preference income. In the Tax Reform Act of 1969, Congress addressed itself to certain peculiarities of federal tax law which had enabled high-income taxpayers to pay minimal federal income taxes over the years. One of the things Congress did was to create a new federal income tax, at a 10% rate, on the receipt of more than $30,000 of "tax preference" income. The most significant items of tax preference income are capital gains, certain accelerated depreciation, percentage depletion, and the excess bad debt deductions of financial institutions.

The staff draft has adopted federal taxable income as the Florida tax base, and it does not result in the imposition of any tax on tax preference income. That type of income is separately defined and taxed in sections 56, 57 and 58 of the Internal Revenue Code, and the taxation of tax preference income does not appear in the computations leading to the Florida starting point, line 28 of the federal return. Whether the legislature will want to adopt the federal concept of taxing preference income is a policy question to be considered.
14. **Leasing companies.** It has been called to my attention that, if the staff draft is adopted, a special problem will exist for at least one industry by reason of the fact that the sales factor in the apportionment formula will exclude intangible-source income such as rents. See subparagraph 220.15(1), on page 20 of the draft. The rental car companies such as Hertz and Avis, and other leasing companies, obviously require the inclusion of rental income in their sales factor since this is their principal form of operating receipt. To deal with this problem, and other related problems, an amendment (Amendment No. 14) has been prepared and is appended to this Part.

15. **Joint ventures.** A question was raised in discussions through the state as to whether a joint venture in Florida would bring into the state and make subject to the Florida income tax a corporate joint venturer who is otherwise not doing business in Florida. The staff draft does not expressly speak to this question. However, for federal income tax purposes a joint venture is treated and taxed
as a partnership, rather than as a corporation. IRC section 7701(a)(2). Thus, if we follow the federal concept the corporate joint venturer would be subject to tax in Florida merely by its venture activity. There would be no artificial entity interposed between the state and the venturer. If the legislature proposes to adopt the federal concept, no amendment to the draft is required.

16. **Tax-exempt interest.** Under section 103 of the Internal Revenue Code, interest on certain governmental obligations are excluded from gross income. By adopting the federal tax base for Florida tax purposes, this interest income is excluded from the Florida tax base. Although some states tax the interest derived from municipal bonds of other states and their political subdivisions, the staff draft does not endeavor to tax any federally tax-exempt interest. It should be recognized that while this treatment makes computation of the Florida tax less complex, the financial effect of the exclusion will be more significant for certain types of taxpayers, such as financial institutions, than for others.
PROPOSED CORPORATE INCOME TAX LEGISLATION

Prepared by:

Special Tax Counsel
November 17, 1971
TO: All Members of the House of Representatives, and other interested parties.

A report to the House dated November 3, 1971 was prepared to assist the House in developing corporate net income tax legislation. This Supplemental Report discusses matters which are not treated in the earlier Report because there was inadequate time to research and analyze them, and it contains additional technical amendments to the staff draft.

1. Multiple Corporations

Under subsection 11(d) of the federal Internal Revenue Code, every corporate taxpayer is entitled to a $25,000 surtax exemption. This means that the first $25,000 of corporate taxable income is exempt from the 26% federal surtax and is taxable at 22% rather than 48%. Over the years, taxpayers (on the one hand) and the Internal Revenue Service and Congress (on the other) have fought over the availability of this tax benefit for affiliated and related groups of corporations. The most recent significant development in the controversy over "multiple" surtax exemptions was the enactment of a new section 1561(a) of the Internal
Revenue Code as a part of the Tax Reform Act of 1969. In that section, Congress provided (generally) that 80%-owned parent-subsidiary and brother-sister groups of corporations would be entitled to only one $25,000 surtax exemption commencing in 1975. For years between 1970 and 1975, the financial benefits of a multiple surtax exemption election have been progressively reduced.

Under the draft income tax legislation contained in the earlier Report, each corporate taxpayer would be entitled to the $5,000 exemption conferred in subsection 220.14(1), unless a consolidated return is filed. The adoption of federal tax concepts for the Florida tax statute would not, by itself, remove the proliferation of Florida tax exemptions. To deal with this problem, and to parallel the new federal treatment of multiple surtax exemptions, I have prepared and enclose an amendment (Amendment No. 44) to the draft statute.
2. **Taxation of Federal Interest.**

Under federal law (31 U.S.C.A. section 742), "all stocks, bonds, Treasury notes, and other obligations of the United States" are exempt from all forms of state taxation "except nondiscriminatory franchise or other nonproperty taxes in lieu thereof imposed on corporations". The exemption of federal securities, which carries with it an exemption for the interest and dividends therefrom, has operated as a federal limitation on state taxation since at least 1829. The stated exception for corporate franchise and "in lieu" taxes was first engrafted on the basic exemption by judicial decision, but more recently has been a part of the federal statute itself. Congress adopted the quoted "clarifying" language in September 1959. See 2 U.S. Code Cong. and Admin. News 2769, 2773 (1959). This legislative codification of judicial precedent was undoubtedly, in part, a result of the Supreme Court's per curiam holding in *Werner Mach. Co. v. Director of Div. of Tax.*, 350 U.S. 492 (1956), that tax-exempt federal bonds were properly taxable under New Jersey's corporate franchise tax measured by net worth. The tax imposed on a corporation in that case was "an annual franchise tax ... for the privilege of having or exercising its corporate franchise" in New Jersey. 352 U.S. at 492.
The federal immunity rule, and its franchise tax exemption, have been a matter of continuing concern in framing a Florida statute to tax corporate profits. An "income tax", as such, would seem to offend the federal statute insofar as it would attempt to tax interest income derived from federal bonds. A corporate privilege (or franchise) tax, however, or a nonproperty tax in lieu thereof, would not seem to be subject to the same limitation even though net income were used as the measure of the tax. The staff draft tax statute, as drawn, contemplates this distinction.

The staff draft tax statute contains declarations that the levy imposed is a nonproperty privilege tax measured by net income, rather than a tax on income. See subsections 220.02(1) and (2). The use of the catch title "Florida Income Tax Code" does not derogate from that description of the nature of the tax. See section 220.52. The declarations accurately reflect the basis upon which the constitutional amendment was proposed to the voters of Florida. A mere recitation of the nature of a tax would not, by itself, avoid a conflict with the federal immunity law; the operating incidence of the tax would also have to reflect the declared intent. In the present case, the facts do comport with the declaration. That the tax authorized by H.J.R. 7-B is in
fact a privilege tax is evidenced by the fact that its proponents consistently stated, publicly, that the proposed authorization would allow a levy on the not-invaluable privilege of conducting business in Florida in corporate (or artificial) form, and by the further fact that the tax will replace, automatically, the only pure corporate privilege tax in effect in Florida at the present time.

Under the exception to the federal immunity statute, any state-imposed tax must be "nondiscriminatory". This requirement, which has its roots in Article I, Section 8, clause 2 of the federal Constitution ("The Congress shall have power . . . to borrow money on the credit of the United States"), has been construed to mean (generally) that a state may not construct a scheme of taxation which taxes federal but not state and local ("municipal") obligations. Under the staff draft, the required nondiscrimination has not been preserved because, by adopting the federal definition of taxable income, interest derived from municipal obligations are exempt from tax while interest derived from federal obligations are (with one minor exception) fully taxed.

The problems of taxing federally-derived interest income are of principal significance for financial institutions,
since an inability to tax that revenue source would eliminate most (if not all) of the tax liability of those institutions. The effect on banks was most recently discussed in a report of the Federal Reserve Board issued on May 4, 1971 to the Senate Banking, Housing and Urban Affairs Committee. The Board had been directed to assess the impact of changes Congress had adopted with respect to the state taxation of national banks, and the Board's report contained a recommendation that Congress

"Amend the Federal public debt statutes to authorize States to include, in the measure of otherwise valid direct net income taxes, the income realized by banks and other depositary institutions form Federal Government obligations."

The report sets forth the following reasons for this recommendation:

"Under present law, States are permitted to include interest income derived from Federal obligations in the tax base for a franchise or excise tax "according to or measured by" net income, but they must exempt such interest from the base of a direct tax on net income. The problem is a general one that goes beyond depositary institutions.

There is no economic difference between these two types of taxes. Apart from the treatment of tax-exempt interest, they are identical in all essential characteristics except the circumstances in which they may be imposed by States. Most
States that tax banks with respect to their net income use excise taxes, and the number has gradually increased. Under present law, their choice among forms of taxation is influenced by the fact that banks and other depositary institutions have large holdings of Government obligations. Elimination of the distinction between direct and indirect taxes on net income would give the States considerably greater freedom in formulating tax legislation. The change could be made in the Federal public debt law (31 U.S.C. 742) and any other relevant statutes."

Responsible segments of the banking community and certain accountants in Florida familiar with the taxability of financial institutions have been laboring with me to find an equitable solution to the problems just discussed. Our deliberations have produced the following alternatives for legislative consideration:

1. The legislature could exempt from the Florida tax all federal, state and local interest income. This would solve both the discrimination problem and the problem as to the nature of Florida's tax. The consequence of this solution would be the virtual elimination of all tax on financial institutions under the proposed tax statute.

2. The legislature could tax all federal, state and local interest income. The mechanism for this solution would be to
add to federal taxable income all interest otherwise exempt under section 103 of the Internal Revenue Code. This solution, which would solve the discrimination problem, leaves open the possibility that a court might find the nature of the tax imposed to be an "income" rather than a "franchise" tax, and thereby invalidate the levy insofar as it attempts to tax the interest derived from federal obligations. (Caution would dictate that, if this solution were to be adopted, the severability clause now in the staff draft should be amended to avoid an invalidation of the entire tax statute. Amendment No. 45 has been prepared and is enclosed for that purpose.) I am advised that the consequence of this solution would be devastating and unfair to the financial community -- that the tax imposed on financial institutions would be 3 to 5 times greater than the tax those institutions would pay under the staff draft (on the basis of federal taxable income) if federal interest income could be freely taxed.

3. The legislature could exempt federal interest from the Florida tax, thereby avoiding problems with the nature of the tax under the federal immunity statute, but tax all municipal interest income. This solution would discriminate against municipal interest and in favor of federal interest,
but this form of discrimination is not prohibited by the federal immunity statute. I am advised that this solution would probably tax financial institutions at levels at least as great, if not greater, as the level that would result under the staff draft (that is, on the basis of federal taxable income) if federal interest income could be freely taxed. While this solution seems reasonably calculated to put financial institutions in the same place they would be without the federal statute, it has one policy defect. A tax which reaches all municipal obligations but no federal obligations could induce financial institutions to purchase fewer tax-exempt obligations of Florida municipalities.

4. The legislature could adopt a modified version of the third alternative, exempting federal interest income but taxing interest derived from non-Florida municipal obligations. This solution would appear to solve all problems under the federal immunity statute while at least preserving (if not encouraging) the incentive to invest in the debt obligations of Florida municipalities. This solution, if adopted, would not be unique. At least 18 other states have created exactly such an arrangement for their local bonds, including Alabama, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Virginia and West Virginia. Moreover, I am advised that this
Method of taxing financial institutions will come the closest to providing a tax burden equivalent to that which financial institutions would have under the staff draft if federal interest income were freely taxable. This solution requires two amendments to the staff draft, which I have prepared (Amendments No. 46 and 46a) and enclose with this Supplemental Report.

The problem of taxing federal interest income can and should be revisited at such time as Congress adopts the recommendation of the Federal Reserve Board and allows states the right to levy a net income tax on federal interest income.

3. Additional Technical Amendments.

Since the November 2 vote, a number of business representatives have commented on the technical aspects of the staff draft, and I have received the technical comments of the review committee of the Florida Institute of Certified Public Accountants. As a result of these additional comments, additional amendments (Amendments No. 47 through 62) have been prepared and are enclosed with this Supplemental Report.

Amendment No. 47 eliminates the payment of interest on underpayments of estimated tax in cases where minimum estimated tax payments are timely made.

Amendments No. 48 and 49 have been prepared to clarify further an accounting problem in the filing of consolidated returns for "mixed industry" groups which was treated to some extent in Amendment No. 42.
Amendment No. 50 removes an incorrect reference to depreciation deductions. By definition, no depreciation is allowable with respect to capital assets.

Amendment No. 51 deletes a term in connection with the installment sale provisions which could cause discrimination among taxpayers and cause administrative difficulties.

Amendment No. 52 conforms the declarations requirements of an estimated tax return with federal declaration requirements.

Amendment No. 53 conforms the estimated tax "safety zone" provision to paragraph 6655(d)(1) of the federal Internal Revenue Code.

Amendments No. 54 through 61, as a unit, adjust the Florida tax base of corporate taxpayers by eliminating certain items of deduction which arose from transactions prior to January 1, 1972, and by adopting operating loss carryback limitations for capital loss carrybacks. These adjustments are consistent with the treatment accorded net operating loss deductions.

Amendment No. 62 clarifies Amendment No. 1 in one particular.
FINAL REPORT OF
BILL STATUS
SPECIAL SESSION LEGISLATION
DECEMBER '71

Compiled by
Legislative Information Div.
HB 1-D (Ogden) GENERAL (COMPARE SB 7-D)

State and local taxation; extends municipal operating millage; provides for ad valorem millage rollback, maximum millage increase and administrative procedure; abolishes dealers' credit for collecting sales tax; provides for municipal ad valorem tax relief fund, etc. Amends §200.131(1), creates §§200.031 & 212.30, and repeals §212.12(1), F.S.

11/29/71 H Read first time and referred to Finance & Taxation and Appropriations. HJ 9
Died in House Committee.

HB 2-D (Ogden) GENERAL

Tax exemptions; limits exemption for certain governmental leasehold interests. Amends §§196.012(5), 196.192(2), 196.199 (2) & (3) and adds 196.031(4), F.S.

11/29/71 H Read first time and referred to Finance & Taxation and Appropriations. HJ 9
12/2/71 H Recommended favorably with amendments by Finance & Taxation. HJ 34
12/3/71 H Recommended favorably, placed on Rules Calendar. HJ 39
12/6/71 H Temporarily deferred. HJ 53
12/7/71 H Passed as amended. 93 yeas, 4 nays. HJ 65
S Received, read first time, referred to Ways & Means. SJ 43
Died in Senate committee.

HB 3-D (Ogden) GENERAL (IDENTICAL HB 60-D)

Taxation; provides for procedures to be used by tax assessors in assessing property. Adds §193.023(2) & (3), F.S.

11/29/71 H Placed in Rules & Calendar. HJ 9
Introduction refused.

HJR 4-D (Ogden) CONSTITUTIONAL AMENDMENT (SIMILAR HJR 36-D)

Ad valorem tax levies; proposes amendment to State Constitution to provide that certain ad valorem tax levies are subject to approval of all electors qualified to vote within the area under jurisdiction of taxing authority, instead of limiting such questions to freeholder elections. Amends Art. VII, §9, State Constitution.
11/29/71 H Placed in Rules & Calendar. HJ 9
Introduction refused.

HB 5-D (Ogden) GENERAL

Education, annual minimum financial effort of school districts for minimum foundation program; provides that Auditor General shall complete assessment ratio study by April 1 of each year and that said study shall be conducted only on real property; provides definition of 100% of nonexempt assessed property valuation for educational funding purposes. Amends §§236.07(9)(2) and adds §§236.0725 (7), F.S.

11/29/71 H Read first time, referred to Education, Finance & Taxation and Appropriations. HJ 9
Died in House committee.

HB 6-D (Trombetta, et al) GENERAL

Taxation, setting of millage; provides for millage rollback in proportion to increase in assessed value of nonexempt property, provides for maximum millage increase of 10% and an additional 5% increase in emergencies; provides for administrative procedures. Creates §200.031, F.S.

11/29/71 H Read first time, referred to Finance & Taxation and Appropriations. HJ 9
Died in House committee.

HB 7-D (Committee on Transportation) GENERAL (SIMILAR SB 19-D)

Outdoor advertising; provides for execution of agreements regulating certain signs and for a construction moratorium; specifies exceptions; provides compensation for removal of certain existing signs. Amends §§479.01 - 479.03, 479.11(1), 479.16(12) and creates §§479.025, 479.111, 479.23 & 479.24, F.S.

11/29/71 H Read first time, referred to Appropriations. HJ 9
12/2/71 H Recommended committee substitute, placed on Calendar. HJ 34
12/3/71 H Passed as amended. 98 yeas, 0 nays. HJ 36
12/6/71 S Received, read first time, referred to Ways & Means. Withdrawn, placed on Calendar. Substituted for SB 19-D. SJ 26
S Passed. 39 yeas, 7 nays. SJ 29
12/7/71 H Signed by the officers and presented to the Governor. HJ 83
12/8/71 Approved by the Governor. Chapter 71-93
HB 8-D (Committee on Transportation) GENERAL (COMPANION SB 18-D)

Junkyards or scrap metal processing facilities; prohibits operation within 1,000 feet of right-of-way unless screened from public view; assigns to Dept of Transportation powers of eminent domain over certain lands; provides for enforcement by DOT and sets penalty for violation. Repeals §§861.13-861.18, F.S.

11/29/71 H Read first time, referred to Appropriations. HJ 10
12/2/71 H Recommended favorably with amendments, placed on Calendar. HJ 34
12/3/71 H Passed as amended. 97 yeas, 0 nays. HJ 36
S Received, read first time and referred to Transportation. Withdrawn, placed on Calendar and passed as amended. 44 yeas, 2 nays. SJ 23
12/6/71 H Concurred. Passed as amended. 110 yeas, 0 nays. HJ 61
12/8/71 H Signed by the officers and presented to the Governor. HJ 84
12/8/71 Approved by Governor. Chap. 71-92

HB 9-D (Reeves) GENERAL

Intangible personal property taxation; repeals Ch. 199, F.S., which levies taxes on intangible personal property.

11/29/71 H Read first time, referred to Finance & Taxation and Appropriations. HJ 10 (Corrected to "Placed in Rules and Calendar." HJ 12)
Introduction refused.

HB 10-D (Reeves) GENERAL

Intangible personal property taxation; reduces the amount of intangible personal property tax levied. Amends §199.032, F.S.

11/29/71 H Read first time, referred to Finance & Taxation and Appropriations. HJ 10 (Corrected to "Placed in Rules & Calendar." HJ 12)
Introduction refused.

HJR 11-D (Committee on Judiciary) CONSTITUTIONAL AMENDMENT

(COMPARE SJR 41-D & SJR 52-D)


11/29/71 H Read first time, referred to Appropriations. HJ 10 (Cont.)
HB 12-D (Danahy) GENERAL

Local government finance; establishes a Division of Local Finance within the Department of Community Affairs; requires financial reports by local governments; transfers duties of Department of Administration and Department of Banking & Finance regarding local finance to Division of Local Finance.

11/29/71 H Placed in Rules & Calendar. HJ 10
Introduction refused.

HB 13-D (Danahy) GENERAL

Legislation; deletes requirement of incorporating certain court related matters into the Florida Statutes.

11/29/71 H Placed in Rules & Calendar. HJ 10
12/1/71 H Introduction voted, read first time and passed. 100 yeas, 0 nays. HJ 26
12/2/71 S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 16
12/9/71 S Introduction voted, passed. 32 yeas, 1 nay.

HB 14-D SF (Wolfson) GENERAL

Outdoor advertising; proposes committee study be given to regulating outdoor advertising so as to preserve highway beauty and the imposition of a privilege tax on outdoor advertising signs.

11/29/71 H Read first time, referred to Transportation. HJ 10
Died in House committee.
HCR 15-D (Wolfson) CONCURRENT RESOLUTION

Outdoor advertising; recommends appointment of a 7-member delegation to meet with Federal highway program administration on subject of outdoor advertising and highway beautification.

11/29/71 H Read first time, referred to Transportation & Appropriations. HJ 10
12/7/71 H Transportation recommended favorably. HJ 74 Died in House committee.

HB 16-D (Turlington) GENERAL (SIMILAR to SB 20-D)

Taxation and finance; provides for imposition, collection and administration of income tax on corporations; removes income tax exemption of motor carriers and provides credit for insurers against insurance premium taxes for amount of income taxes paid; provides an appropriation to the Department of Revenue and procedures for competitive bidding on contract to develop administration and organizational structure. Creates Ch. 220, F.S., amends §323.15(6) and adds §§624.0307(4) and 624.0308(3), F.S.

Appropriation: $475,000

11/29/71 H Read first time, referred to Finance & Taxation and Appropriations. HJ 10
11/30/71 H Committee substitute recommended by Finance & Taxation. Committee substitute with amendments recommended by Appropriations, placed on Calendar. HJ 12 Passed as amended. 98 yeas, 13 nays. HJ 18
12/1/71 S Received, referred to Ways & Means. SJ 12
12/2/71 S Recommended favorably with amendments, placed on Calendar. SJ 14
12/3/71 S Passed as amended. 46 yeas, 1 nay. SJ 21
12/6/71 H Refused to concur, requested Senate to recede or conference committee be appointed. HJ 51
S Refused to recede, conference committee requested and appointed. SJ 29
12/8/71 H Conference committee appointed. HJ 61
S Conference committee report adopted by House. CS as amended passed by House. 95 yeas, 14 nays. HJ 99
CS Conference committee report adopted by Senate. 38 yeas, 0 nays. CS passed as amended. 39 yeas, 0 nays. SJ 53

HB 17-D (Zinkil) GENERAL (COMPARE SB 29-D & HB 62-D)

Ad valorem taxation; changes the expiration date for authority of municipalities to tax in excess of 10 mills. Amends §200.131(1).

11/29/71 H Introduced, referred to Finance & Taxation. HJ 10 Died in House committee.
HB 18-D SF (Zinkil)

Corporate income taxation; proposes committee study be given to adoption of Internal Revenue Service forms, regulations, accounting methods, etc., for use by Florida corporations in preparation and filing of income tax returns.

11/29/71 H Introduced and referred to Finance & Taxation. HJ 10
Died in House Committee.

HB 19-D (Danahy) GENERAL

Local government finance; relates to cigarette taxes and distribution of proceeds thereof and provides legislative intent. Amends §§210.025(2) and 210.20(3), F.S.

11/29/71 H Introduced, referred to Finance & Taxation and Appropriations. HJ 10
Died in House committee.

HB 20-D (Turlington) GENERAL

Corporations; prescribes the filing of annual corporation reports with Department of State and provides for a minimum annual corporate privilege tax of $75. Amends §§608.32 & 608.332, F.S.

11/29/71 H Introduced and referred to Finance & Taxation and Appropriations and ordered placed on Local Calendar. HJ 10 (Corrected. HJ 12)
12/6/71 H Finance & Taxation recommended a committee substitute. HJ 63
12/7/71 H Appropriations recommended CS favorably with amendments, placed on Rules Calendar. HJ 74
12/8/71 H Passed as amended. 97 yeas, 5 nays. HJ 90
S Received, referred to Ways & Means. Withdrawn, placed on Calendar and passed. 41 yeas, 0 nays. SJ 50

HB 21-D (Kershaw) GENERAL (SIMILAR to SB 2-D, SB 9-D & HB 32-D)

Game and fresh water fish; exempts from fishing license requirement persons fishing with 3 or less poles or lines for noncommercial purposes in county of residence. Amends §372.57(4)-(a), F.S.

11/30/71 H Read first time, referred to Finance & Taxation. HJ 18
Died in House committee.

HB 22-D (Powell) GENERAL

Sales and use tax; eliminates such tax on wired television service. Amends §212.05(5), F.S.

(Cont.)
11/31/71 H Placed in Rules & Calendar. HJ 19
Introduction refused.

HB 23-D (Judiciary Committee) GENERAL (COMPANION SB 53-D)

Special election; provides for a special election on March 14, 1972, for approval or rejection by Florida electors of a joint resolution revising Art. V of the State Constitution relating to the judicial branch of government.

11/30/71 H Read first time, referred to Appropriations, Rules & Calendar. HJ 19
Recommended favorably by Appropriations, placed in Rules & Calendar. HJ 19
Died in Rules & Calendar. Companion bill passed.

HB 24-D (Reed) GENERAL

Per diem and traveling expenses of public officers and employees; provides for maximum rates for per diem and mileage allowance equal to a dollar amount allowed for personal federal income tax deduction purposes. Amends §112.061(6) and (7)(d), F.S.

11/30/71 H Placed in Rules & Calendar. HJ 19
12/7/71 H Introduction refused. HJ 65

HB 25-D (Appropriations Committee) GENERAL

Industrial Relations Commission; provides that the salaries of the 2 members of the commission, other than the director, shall be $7,200 per annum. Amends §440.44(2), F.S.

11/30/71 H Placed in Rules & Calendar. HJ 19
12/1/71 H Introduction voted, passed as amended. 104 yeas, 0 nays. HJ 25
12/2/71 S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 16
12/8/71 S Introduction refused. SJ 45

HB 26-D (Appropriations Committee) GENERAL

Court reporters; changes the present salary level of court reporters from $3,000 to $5,400 per year. Amends §29.04(1), F.S.

11/30/71 H Placed in Rules & Calendar. HJ 19
12/1/71 H Introduction voted, passed. 98 yeas, 1 nay. HJ 26
12/2/71 S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 16
(Cont.
12/8/71 S Introduction refused. SJ 45

HB 27-D (Ogden) GENERAL (IDENTICAL HB 59-D)

Taxation; provides that the assessment ratio study conducted by the Auditor General shall be conducted only on real property. Creates §192.012, F.S.

12/1/71 H Placed in Rules & Calendar. HJ 21
Introduction refused.

HB 28-D (Featherstone) GENERAL

Insurance; provides that the Florida insurance guaranty fund be created as a bureau to be operated under the Division of Rehabilitation & Liquidation of the Department of Insurance, etc. Amends §§631.50 - 631.52, etc., and creates §§631.591, 631.68 and 631.69.

12/1/71 H Read first time, referred to Insurance and Appropriations. HJ 21
Died in House committee.

HB 29-D (Insurance Committee) GENERAL (COMPANION SB 33-D)

Insurance and claims against insolvent insurers; requires certain insurers to establish and be members of Florida Property and Casualty Insurance Guaranty Association; provides duties and functions of the Association, 4 guaranty accounts, duties of the Department of Insurance relating to the Association, etc. Amends §627.0851(4), F.S.

12/1/71 H Read first time, placed on Rules Calendar. HJ 21
Passed. 99 yeas, 0 nays. HJ 23
12/2/71 S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. Read first time, referred to Commerce. Withdrawn, placed on Calendar. SJ 16
12/3/71 S Passed. 44 yeas, 0 nays. SJ 20
12/6/71 H Signed by the officers and presented to Governor. HJ 63
12/7/71 H Approved by Governor. HJ 84 Chapt 51-920

HB 30-D (Finance & Taxation Committee) GENERAL (COMPANION SB 24-D)

Taxation and finance; repeals Art. III relating to Elements of Income Tax Laws and Art. IV relating to Division of Income of the Multistate Tax Compact. Repeals §213.15, Arts. III & IV. (Cont.)
12/1/71  H Read first time, placed on Rules Calendar. HJ 21
12/3/71  H Temporarily deferred. HJ 36
12/7/71  H Passed. 108 yeas, 1 nay. HJ 67
         S Received, read first time, referred to Ways & Means. SJ 43
12/8/71  S Recommended favorably with amendments, placed on Calendar. SJ 45
         S Passed as amended. 38 yeas, 0 nays. SJ 49
         H Concurred, passed as amended. 102 yeas, 0 nays. HJ 94

HB 31-D (Finance & Taxation Committee) GENERAL (SIMILAR SB 26-D)

Taxation and corporations; conforms provisions relating to crimes to Ch. 71-136; provides for special tax apportionment procedures for manufacturers of tangible personal property in Florida; modifies the sales factor apportionment rule and defines term "everywhere" for apportionment factors. Amends §§214.21(1), 214.70 and 214.71(3)(a) and adds §214.72(3), F.S.

12/1/71  H Introduced, placed on Rules Calendar. HJ 21
Died on House calendar.

HB 32-D (Finance & Taxation Committee) GENERAL (SIMILAR SB 2-D, SB 9-D & HB 21-D)

Game and fresh water fish; exempts from fishing license requirement persons fishing with 3 or less poles or lines for non-commercial purposes in county of residence. Amends §372.57(4)(a).

12/1/71  H Placed on Rules Calendar. Read first time, referred to Appropriations. HJ 22
12/3/71  H Recommended favorably, placed on Rules Calendar. HJ 39
12/6/71  H Temporarily deferred. HJ 53
12/7/71  H Amendments adopted. Ordered engrossed. HJ 68
12/8/71  H Failed to pass as amended. 45 yeas, 52 nays. HJ 85

HB 33-D (Finance & Taxation Committee) GENERAL (SIMILAR SB 5-D & SB 10-D)

Sales and use tax; exempts household utilities from sales and use taxes. Amends §212.08(7), F.S.

12/1/71  H Introduced, placed on Rules Calendar. HJ 21
         Passed. 101 yeas, 0 nays. HJ 22
12/2/71  S Received, referred to Ways & Means. SJ 15
12/8/71  S Recommended favorably with amendment, placed on Calendar. SJ 45
         Passed as amended. 37 yeas, 0 nays. SJ 50
12/9/71  H Concurred, passed as amended. 106 yeas, 0 nays. HJ 102

Chapter 71-985
HCR 34-D (Poole, et al) HOUSE CONCURRENT RESOLUTION

Commends the Miami Dolphins professional football team for their outstanding record and achievements.

12/1/71 H Read first time, placed on Rules Calendar. HJ 27
12/6/71 H Rules recommended committee substitute, placed on Rules Calendar. HJ 63
12/7/71 H Adopted committee substitute. HJ 64
S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. Withdrawn, placed on Calendar, adopted. SJ 42

HB 35-D (Andrews, et al) GENERAL (SIMILAR SB 50-D)

Alcoholic beverage licenses; provides for tax to be imposed on vendors operating more than 3 permanent separate locations serving alcoholic beverages for consumption on the premises and excludes therefrom service bars and temporary or portable bars. Amends §561.34(3)(g), F.S.

12/1/71 H Placed in Rules & Calendar. HJ 27
12/6/71 H Introduction refused. Reconsidered, introduction voted, read first time and referred to Finance & Taxation and Appropriations. HJ 62
12/7/71 H Finance and Taxation recommended favorably. HJ 74 Appropriations recommended favorably, placed on Calendar. HJ 74
12/8/71 H Passed as amended. 99 yea, 3 nays. HJ 86
S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 52 Withdrawn, placed on Calendar and determined not within purview. SJ 58

HJR 36-D (Finance & Taxation Committee) CONSTITUTIONAL AMENDMENT (SIMILAR to HJR 4-D)

Local taxes; proposes amendment to State Constitution to provide that certain ad valorem tax levies are subject to approval of all electors qualified to vote within the area under jurisdiction of taxing authority, instead of limiting such questions to freeholder elections. Amends Art. VII, §9, State Constitution.

12/2/71 H Placed in Rules & Calendar. HJ 34 Introduction refused.

HB 37-D (Johnson, et al) LOCAL

Sarasota county, special lighting district; provides for inclusion of certain parcels of land, subject to referendum, in the Warm Mineral Springs Lighting District No. 1.

(Cont.)
12/2/71 H Placed in Rules & Calendar. HJ 34
Introduction refused.

HB 38-D (Tillman, et al) GENERAL (SIMILAR SB 45-D
CSHB COMPANION to SB 45-D)

Local law enforcement officers, minimum foundation program
financing; provides a new method of financing and for new require­
ments for eligibility and participation; provides for certain
educational criteria to be met to qualify for participation.
Adds §163.552(4) - (7), creates §163.5531, and repeals §163.553-
163.556, F.S.
Appropriation: $2,500,000

12/2/71 H Placed in Rules & Calendar. HJ 34
12/3/71 H Read first time, referred to Criminal Justice and
Appropriations. HJ 38
12/7/71 H Criminal Justice recommended committee substitute. HJ 74
H Appropriations recommended CS favorably, placed on
Calendar. HJ 74
Passed as amended. 102 yeas, 4 nays. HJ 77
12/8/71 S Received, referred to Judiciary - Criminal and
Ways & Means. SJ 46
Died in Senate Committee.

HB 39-D (Hodes, et al) GENERAL

Supplemental payments for medical care; provides for skilled
nursing homes and intermediate care facilities to receive supple­
dimentary payments for services rendered.

12/2/71 H Placed in Rules & Calendar. HJ 34
12/6/71 H Introduction refused. Reconsidered, introduction
voted, read first time, referred to Health & Re­
habilitative Services and Appropriations. HJ 62
Health & Rehabilitative Services recommended favorably. HJ 63
12/7/71 H Appropriations recommended favorably, placed on
Rules Calendar. HJ 74
Died on House Calendar.

HB 40-D (Hodes, et al) GENERAL (SIMILAR to SB 28-D)

Department of Health and Rehabilitative Services, Division
of Family Services; provides additional moneys for remainder of
1971-72 fiscal year to pay cost of certain medical care programs
and repeals provision relating to county participation.
Appropriation: $6,126,000

12/2/71 H Placed in Rules & Calendar. HJ 34
12/6/71 H Introduction refused. Reconsidered, introduction
voted, read first time, referred to Appropriations. HJ 62

12/7/71 H Recommended committee substitute, placed on Rules Calendar. HJ 74
Passed as amended. 107 yeas, 1 nay. HJ 76

12/8/71 S Received, referred to Ways & Means. SJ 46
Read & substituted SB 28-D; SB 28-D passed.

HB 41-D (Martinez) GENERAL (COMPANION to SB 46-D)

Nonpartisan election of certain justices and judges; provides that the first and second nonpartisan elections shall be held at time of second primary election and general election, respectively.

12/2/71 H Placed in Rules & Calendar. HJ 34
12/6/71 H Introduction refused. Reconsidered, introduction voted, read first time, referred to Elections. HJ 62
12/7/71 H Recommended favorably with amendment. HJ 74
Passed as amended. 79 yeas, 29 nays. HJ 76
12/8/71 S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 46
Introduction refused.

HJR 42-D (MacKay, et al) CONSTITUTIONAL AMENDMENT (COMPANION SJR 32-D, IDENTICAL HJR 46-D)

Revenue bonds for student loans; proposes amendment to State Constitution to permit issuance of revenue bonds to establish a fund to make loans to students attending institutions of higher learning, junior colleges, health related training institutions or public vocational training centers; provides for establishment of reserve account to pay debt service requirements. Adds new §15 to Art. VII, State Constitution.

12/2/71 H Placed in Rules & Calendar. HJ 34
Introduction refused.

HB 43-D (Appropriations Committee) GENERAL

Board of Trustees of Internal Improvement Fund; provides that proceeds from the sale of lands revert to General Revenue Fund unallocated; appropriates funds for salaries and expenses from Jan. 1, 1972 through June 30, 1972, for shoreline survey and maps, and for repayment of a loan for repairs to the roof and other areas of the Capitol. Amends §§253.01, 253.02(1), 253.03(2), 253.03(4), 253.45(1) and repeals §§253.46, 270.12, 270.13, 270.14, 270.22 and 270.23, F.S.

Appropriation: $998,584

(cont.)
HB 44-D (Appropriations Committee)  GENERAL

State Game Trust Fund; provides that said trust fund shall be used by the Game and Fresh Water Fish Commission to the extent that such funds are appropriated annually by the Legislature in the General Appropriations Act. Amends §372.09, F.S.

12/3/71 H Placed in Rules & Calendar. HJ 38

Introduction refused.

HB 45-D (Mixon, et al)  GENERAL  (SIMILAR to SB 34-D)

Division of Commercial Development of Department of Commerce; provides a supplement appropriation to expand activities in assisting the rural, underdeveloped, economically depressed and underemployed metropolitan areas in securing new industries and improving their economic well being.

Appropriation:  $200,000

12/3/71 H Placed in Rules & Calendar. HJ 38

12/7/71 H Introduction voted, placed on Calendar and passed as amended. 109 yeas, 0 nays. HJ 66

S Received, read first time, referred to Ways & Means. SJ 43

12/8/71 S Recommended favorably with amendments, placed on Calendar. SJ 45

S Passed as amended. 38 yeas, 0 nays. SJ 56

H Concurred. Passed as amended. 95 yeas, 0 nays. HJ 101

HJR 46-D (Education Committee)  CONSTITUTIONAL AMENDMENT  (COMPANION to SJR 32-D)  (IDENTICAL to HJR 42-D)

Revenue bonds for student loans; proposes amendment to State Constitution to permit issuance of revenue bonds to establish a fund to make loans to students attending institutions of higher learning, junior colleges, health related training institutions or public vocational training centers; provides for establishment of reserve account to pay debt service requirements. Adds new §15 to Art. VII, State Constitution.
12/3/71  H Placed in Rules & Calendar.  HJ 38
12/7/71  H Introduction refused.  Reconsidered, introduction voted, read first time, referred to Finance & Taxation and Appropriations.  HJ 72
       H Finance & Taxation recommended favorably.  HJ 74
       H Appropriations recommended favorably with amendments, placed on Rules Calendar.  HJ 74
12/8/71  H Passed as amended.  106 yeas, 0 nays.  HJ 87
       S Received, referred to Ways & Means.  SJ 52
       S Withdrawn, placed on Calendar and passed.  40 yeas, 3 nays.  SJ 57

HB 47-D  (Woodward, et al)  GENERAL

Justice of the peace courts; provides that justices of the peace in Gadsden County shall have jurisdiction to try a misdemeanor of the second degree.  Adds §37.01(7), F.S.

12/6/71  H Placed in Rules & Calendar.  HJ 62
       Introduction refused.

HJR 48-D  (Wilson)  CONSTITUTIONAL AMENDMENT

Legislative apportionment; proposes amendment to State Constitution to restore the authorized membership of the Senate to 48 members.  Amends §16, Art. III, State Constitution.

12/6/71  H Placed in Rules & Calendar.  HJ 62
12/7/71  H Introduction refused.  Reconsidered, introduction voted, read first time, referred to House Administration & Conduct and Appropriations.  HJ 83
12/8/71  H Withdrawn from House Administration & Conduct.  Withdrawn from Appropriations, placed on Rules Calendar.  HJ 92
       Died on House Calendar.

HB 49-D  (Chapman, et al)  GENERAL  (SIMILAR to SB 13-D)

Assistance for local law enforcement; makes appropriation to Governor's Council on Criminal Justice for distribution to local law enforcement units; provides requirements for participation in program and limits use of funds; provides for administration and apportionment of funds; repeals minimum foundation program for local law enforcement.  Repeals §§163.550-163.561, F.S.

Appropriation:  $3,394,722

12/6/71  H Read first time, referred to Criminal Justice and Appropriations.  HJ 62
       Died in House Committee.
HB 50-D (D'Alemberte) GENERAL (COMPANION to SB 39-D)

State Treasurer; provides that U. S. government guaranteed student loans and small business administration loans posted as security for deposit of public funds shall be retained by bank posting such security; provides for monthly statement of accounting to State Treasurer. Amends §18.11, F.S.

12/6/71 H Placed in Rules & Calendar. HJ 62
Introduction refused.

HB 51-D (Shreve, et al) GENERAL (COMPANION to SB 38-D)

Environmental protection; provides an emergency appropriation to the Governor for purpose of preventing and alleviating drought conditions in Central and Southern Florida.
Appropriation: $200,000

12/6/71 H Placed in Rules & Calendar. HJ 62
12/7/71 H Introduction refused. Reconsidered, introduction voted, read first time, referred to Appropriations.
HJ 72
Recommended favorably with amendment, placed on Rules Calendar. HJ 74
12/8/71 H Passed as amended. 98 yeas, 0 nays. HJ 86
S Received, referred to Ways & Means. SJ 52
Died in Senate Committee.

HB 52-D (Finance & Taxation) GENERAL

Sales and use taxes; reduces dealer's allowance for collection of sales and use taxes and provides a scale for computation of credit for collecting tax. Amends §212.12(1), F.S.

12/6/71 H Read first time, placed on Calendar. HJ 63
12/7/71 H Laid on table. HJ 67

HR 53-D (Birchfield, et al) RESOLUTION

Moulton Lee Adams and his wife, Mildred Stockton Adams; expresses sympathy in their death.

12/6/71 H Placed in Rules & Calendar. HJ 63
Introduction refused.

HB 54-D (Gustafson) GENERAL (SIMILAR to SB 40-D)

Florida Uniform Traffic Control Law; provides for provisions, maintenance, and control of roads within local governments; provides (cont.)
for enactment of ordinances to vest jurisdiction of violation in certain local courts; provides for certain traffic court systems and alters penalties. Amends §§316.006(2)(3), 316.007, 316.008(2), 316.028(2), 316.029(2) and 901.15, F.S.

12/7/71 H Placed in Rules & Calendar. HJ 64
H Introduction refused. Reconsidered, introduction voted, read first time, referred to Transportation. HJ 72
H Recommended favorably, placed on Calendar. HJ 74
H Passed as amended. 104 yeas, 1 nay. HJ 77

12/8/71 S Received, referred to Transportation. SJ 46
S Withdrawn, placed on Calendar and passed. 39 yeas, 0 nays. SJ 56

Chapter 71-982

HB 55-D (Hector) GENERAL (SIMILAR to SB 31-D)

Public projects in which federal funds are used; authorizes the state, its agencies, political subdivisions, etc., to comply with provisions of federal relocation assistance and real property acquisition policies act of 1970 in connection with public projects for which federal funds are used.

12/7/71 H Placed in Rules & Calendar. HJ 72
H Introduction refused.

HB 56-D (Appropriations Committee) GENERAL (SIMILAR to SB 27-D)

Corporate income tax administration; directs Department of Revenue to implement administration of corporation income tax when enacted and provides an appropriation to insure immediate development of an effective administrative organization.

Appropriation: $475,000

12/7/71 H Read first time, placed on Rules Calendar. HJ 73
12/8/71 H Passed. 104 yeas, 0 nays. HJ 88
S Received, referred to Ways & Means. Withdrawn, placed on Calendar and passed. 32 yeas, 0 nays. SJ 52

Chapter 71-983

HB 57-D (Tucker, et al) GENERAL

Public officers and employees; provides that the maximum per diem allowance shall be $25 for all public officers, employees and other persons authorized to travel at public expense. Amends §112.061(6), F.S.

12/7/71 H Placed in Rules & Calendar. HJ 73
H Introduction refused. Reconsidered, introduction voted, read first time, referred to Appropriations. HJ 83

12/8/71 H Recommended a committee substitute, placed on Rules Calendar. HJ 91
H Passed as amended. 75 yeas, 20 nays. HJ 93
S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 53

Introduction refused.

HB 58-D (Finance & Taxation) GENERAL (COMPARE HB 12-D)

Local government finance; establishes a Division of Local Finance within the Department of Community Affairs; requires financial reports by local governments; provides for suspension of payments to local governments which fail to comply and that failure to comply shall constitute misfeasance or nonfeasance in office, etc.

12/7/71 H Placed in Rules & Calendar. HJ 73
H Introduction refused. Reconsidered, introduction voted, read first time, referred to Governmental Organization & Efficiency and Appropriations. HJ 83

12/8/71 H Withdrawn from Governmental Organization & Efficiency. HJ 90
H Recommended favorably with amendments, placed on Calendar. HJ 91
H Passed as amended. 71 yeas, 27 nays. HJ 91
S Received, delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 53
Introduction refused.

HB 59-D (Finance & Taxation) GENERAL (IDENTICAL to HB 27-D)

Taxation; provides that the assessment ratio study conducted by the Auditor General shall be conducted only on real property. Creates §192.012, F.S.

12/7/71 H Read first time, placed on Rules Calendar. HJ 73
H Passed. 82 yeas, 27 nays. HJ 75
S Received, read first time, referred to Ways & Means. SJ 42
Died in Senate Committee.

HB 60-D (Finance & Taxation) GENERAL (IDENTICAL to HB 3-D)

Taxation; provides for procedures to be used by tax assessors in assessing property. Adds §193.023(2) & (3), F.S.

12/7/71 H Read first time, placed on Rules Calendar. HJ 73
H Passed. 100 yeas, 6 nays. HJ 75
S Received, read first time, referred to Ways & Means. SJ 42
Died in Senate Committee.
HB 61-D  WITHDRAWN.  HJ 73

HB 62-D  (Finance & Taxation)  GENERAL  (SIMILAR TO SB 29-D)
(COMPARcE HB 17-D)

Municipal millage limitation; changes expiration date for authority of municipalities to tax in excess of 10 mills without referendum. Amends §200.131(1), F.S.

12/7/71  H Read first time, placed on Calendar.  HJ 73
Died on House Calendar.

HB 63-D  (Appropriations Committee)  GENERAL  (SIMILAR SB 35-D)

Special election; provides for a special election on March 14, 1972, for approval or rejection by Florida electors of HJR 46-D to permit the issuance of revenue bonds for student loans.

12/7/71  H Read first time, placed on Calendar.  HJ 83
12/8/71  H Passed.  113 yeas, 0 nays.  HJ 88
S Received, referred to Ways & Means.  SJ 53
S Withdrawn, placed on Calendar and passed.  43 yeas,
0 nays.  SJ 58

HR 64-D  (Criminal Justice Committee)  RESOLUTION

Florida Police Academy; recommends that the Governor and Cabinet decide at the earliest date possible the location of the Florida Police Academy.

12/8/71  H Introduced, placed on Calendar.  HJ 90
H Adopted as amended.  HJ 100

HB 65-D  (Conference Committee Report)  GENERAL

Insurance premium taxes; limits credits against insurance premium taxes. Amends §624.0312(1), F.S.

12/8/71  H Read first time and passed.  103 yeas, 5 nays.  HJ 99
S Received, placed on Calendar and passed.  41 yeas,
0 nays.  SJ 58

HB 66-D  (Wilson)  GENERAL

Special election; provides for a special election to be held March 14, 1972, for consideration of HJR 48-D relating to Senate membership.

12/8/71  H Placed in Rules & Calendar.  HJ 102
H Introduction refused.  Reconsidered, introduction voted, read first time and placed on Calendar.  HJ 102
Died on House Calendar.
Local government replacement revenues; authorizes grants to municipalities and counties and designates method of apportioning to be administered by Department of Revenue.

Appropriation: $50,000,000

11/29/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 6
12/2/71 S Introduction refused. SJ 14

Game and fresh water fish; exempts from fishing license requirement persons fishing with 3 or less poles or lines for non-commercial purposes in county of residence. Amends §372.57(4)(a), F.S.

11/29/71 S Read first time, referred to Natural Resources and Ways and Means. SJ 6
12/3/71 S Recommended favorably with amendments by Natural Resources. SJ 20
12/6/71 S Recommended unfavorably by Ways & Means. Laid on table. SJ 25

Sales and use taxes; removes term "electric power or energy" from definition of tangible personal property and exempts electric power or energy from taxation. Amends §§212.02(12) and 212.05(5), F.S.

11/29/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 6
12/2/71 S Introduction refused. SJ 14

Sales and use taxes; exempts Florida residents from paying transient rentals tax and provides that Department of Revenue promulgate rules and regulations. Adds §212.03(7), F.S.

11/29/71 S Read first time and referred to Ways & Means. SJ 6
Died in Senate committee.
SB 5-D (Sayler) GENERAL (SIMILAR to SB 10-D, and HB 33-D)

Sales and use taxes; exempts household utilities from sales and use taxes. Amends §212.08(7), F.S.

11/29/71 S Read first time and referred to Ways & Means. SJ 6
S Died in Senate Committee.

SB 6-D (Sayler) GENERAL (SIMILAR to HB 9-D)

Intangible personal property taxation; repeals Ch. 199, F.S., which levies taxes on intangible personal property.

11/29/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 6

12/2/71 S Introduction refused. SJ 14

SB 7-D (Ways & Means Committee) GENERAL (COMPARE: PRO 7-D)

State and local taxation; extends municipal operating millage over 10 mills until reduced under 212.30, F.S.; abolishes dealers' credit for collection sales tax; provides local government ad valorem tax relief fund; provides millage rollback and directs 1972 Legislature to adopt formula for distributing fund. Amends §200.131, repeals §212.12(1) and creates §212.30, F.S.

11/29/71 S Read first time, referred to Commerce and Ways & Means. SJ 6
12/6/71 S Recommended favorably with amendment by Commerce. SJ 25
S Died in Senate Committee.

SB 8-D (Ways & Means Committee) GENERAL

Transient rental tax; exempts persons who rent or lease their permanent place of residence and provides that Department of Revenue shall determine which type of rental facilities are primarily for transient lodging and which are for permanent place of residence. Adds §212.03(7), F.S.

11/29/71 S Read first time and referred to Ways & Means. SJ 6
12/1/71 S Committee substitute recommended, placed on Calendar. SJ 12
S Passed. 43 yeas. 3 nays. SJ 13
H Received, referred to Finance & Taxation. HJ 23
(cont')
SB 9-D (Ways & Means Committee)          GENERAL (SIMILAR to SB 2-D, 
          HB 32-D & HB 21-D) 

Game and fresh water fish; exempts from fishing license 
requirement persons fishing with 3 or less poles or lines for 
noncommercial purposes in county of residence. Amends 
§372.57(4)(a), F.S.

11/29/71 S Read first time, referred to Ways & Means. SJ 7 
Died in Senate Committee.

SB 10-D (Ways & Means Committee)          GENERAL (SIMILAR to SB 5-D & 
          HB 33-D) 

Sales and use taxes; exempts household utilities from sales 
and use taxes. Amends §212.08(7), F.S.

11/29/71 S Read first time, referred to Ways & Means. SJ 7 
11/30/71 S Withdrawn, placed on Calendar. SJ 9 
12/1/71 S Passed. 46 yeas, 0 nays. SJ 13 
H Received, referred to Finance & Taxation. HJ 24 
12/8/71 H Recommended favorably with amendment, placed on 
House Rules calendar. HJ 90 
Died on House Calendar.

SB 11-D (Ways & Means Committee)          GENERAL 

Taxation; eliminates motor fuels dealer discounts; reduces 
shrinkage allowance to 1% and eliminates special fuels dealer 
discounts. Amends §§206.43(1), 206.50, and 206.91, F.S.

11/29/71 S Read first time, referred to Ways & Means. SJ 7 
Died in Senate Committee.
SB 12-D (Ways & Means Committee) GENERAL

Occupational license taxes; reduces rates for certain occupational licenses to 1/3 of the amount provided in Ch. 205, F.S., and provides that taxes collected shall be distributed to the county wherein they are collected. Creates §205.013 and amends §205.041, F.S.

11/29/71 S Read first time, referred to Ways & Means. SJ 7 Died in Senate Committee.

SB 13-D (Ways & Means Committee) GENERAL (SIMILAR to HB 49-D)

Assistance for local law enforcement; makes appropriation to Governor's Council on Criminal Justice for distribution to local law enforcement units; provides requirements for participation in program and limits use of funds; provides for administration and apportionment of funds; repeals minimum foundation program for local law enforcement. Repeals §§163.550-163.561, F.S.

Appropriation $3,394,722

11/29/71 S Read first time, referred to Ways & Means. SJ 7 Died in Senate Committee.

SB 14-D (Ways & Means Committee) GENERAL (COMPARE SB 48-D)

Board of Trustees of Internal Improvement Trust Fund; makes appropriation to Board of Trustees of Internal Improvement Trust Fund for period beginning January 1, 1972, and ending June 30, 1972, to pay salaries and other operating expenses and to repay a loan for making repairs to Capitol.

Appropriation $587,584

11/29/71 S Read first time, referred to Ways & Means. SJ 7 Died in Senate Committee.

SB 15-D (Ways & Means Committee) GENERAL

Taxation; abolishes discounts and credits on beverage taxes to wine manufacturers and bottlers and distributors of malt beverages and beer and deletes allowance to distributors of spirituous beverages; provides penalties. Amends §561.505 and repeals §561.46(9) & (10), F.S.

(cont')
SB 16-D (Ways & Means Committee) **GENERAL**

Cigarette tax; eliminates the allowance for compensation of agents affixing cigarette stamps and collecting state tax thereby; provides penalties. Amends §210.05(3), F.S.

11/29/71 S Read first time, referred to Ways & Means. SJ 7
Died in Senate Committee.

SB 17-D WITHDRAWN. SJ 13

SB 18-D (Transportation Committee) **GENERAL** (COMPANION to HB 8-D)

Junkyards or scrap metal processing facilities; prohibits operation within 1,000 feet of right-of-way unless screened from public view; assigns to Department of Transportation powers of eminent domain over certain lands; provides for enforcement by DOT and sets penalty for violation. Repeals §§861.13-861.18, F.S.

11/29/71 S Read first time, referred to Transportation. SJ 7
12/2/71 S Recommended favorably, placed on Calendar. SJ 14
12/3/71 S Laid on table, companion HB 8-D passed. SJ 24

SB 19-D (Transportation Committee) **GENERAL** (SIMILAR to HB 7-D)

Outdoor advertising; provides for execution of agreements regulating certain signs; specifies exceptions; provides compensation for removal of certain existing signs; amends §§479.01, 479.02, 479.03, 479.11, 479.16 and creates §§479.025, 479.111, 479.23 and 479.24, F.S.

11/29/71 S Read first time, referred to Transportation-and
Ways & Means. SJ 7 (Corrected. SJ 9)
12/6/71 S Recommended favorably, placed on Calendar. SJ 25
Similar HB 7-D substituted and passed. SJ 26
SB 20-D (Ways & Means Committee) GENERAL (SIMILAR to HB 16-D)

Taxation and finance; provides for imposition, collection and administration of income tax on corporations; removes income tax exemption of motor carriers and provides credit for insurers against insurance premium taxes for amount of income taxes paid. Creates Ch. 220, F.S., amends §323.15(6) and adds §624.0307(4) and §24.0308(3), F.S.

11/29/71 S Read first time, referred to Ways & Means. SJ 7
Died in Senate Committee.

21-D (Arnold) GENERAL

Tax on special fuels; provides that certain transfers or deliveries of special fuel into the fuel supply tanks of certain motor vehicles shall not be taxed as a sale. Adds §206.87(4)(e) & (f), F.S.

11/29/71 S Delivered to Rules, Calendar, etc., prior to introduction. SJ 7
S Introduction refused. SJ 14

SB 22-D (Horne, et al) RESOLUTION

In Memoriam Leonard Peterson "Pete" Gibson; recognizes the devotion to public service of State and County and honor with which he served in the Florida Senate and expresses sorrow at his passing.

11/29/71 S Read first time, placed on Calendar. SJ 8
12/6/71 S Adopted. SJ 27

SB 23-D SF (Sayler, et al) GENERAL

Cigarette tax; proposes committee study of redistribution of the cigarette tax to give municipalities financial relief without taking from the counties or completely taking away proceeds to General Revenue Fund; proposes distribution formula.

12/1/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 12
12/2/71 S Introduction refused. SJ 14
SB 24-D (Ways & Means Committee)  GENERAL  (COMPANION to HB 30-D)
Taxation and finance; repeals Art. III relating to Elements of Income Tax Laws and Art. IV relating to Division of Income of the Multistate Tax Compact. Repeals §213.15, Art. III & IV, F.S.
12/1/71  S Read first time, referred to Ways & Means.  SJ 12  Died in Senate Committee.

SB 25-D (Ways & Means Committee)  GENERAL
Taxation and finance, income tax on corporations; adopts by reference future federal amendments to the Internal Revenue Code of 1954. Adds §220.03(2)(d), F.S.
12/1/71  S Read first time, referred to Ways & Means.  SJ 12  Died in Senate Committee.

SB 26-D (Ways & Means Committee)  GENERAL  (SIMILAR to HB 31-D)
Taxation and corporations; conforms provisions relating to crimes to Ch. 71-136; provides for special tax apportionment procedures for manufacturers of tangible personal property in Florida and modifies the sales factor apportionment rule. Amends §§214.21(1) and 214.71(3)(a) and adds §214.72(3), F.S.
12/1/71  S Read first time, referred to Ways & Means.  SJ 12  Died in Senate Committee.

SB 27-D (Ways & Means Committee)  GENERAL  (SIMILAR to HB 56-D)
Corporation income tax administration; directs Department of Revenue to implement administration of corporation income tax when enacted; authorizes employment of contractual services and provides an appropriation.
Appropriation $475,000
12/1/71  S Read first time, referred to Ways & Means.  SJ 12
12/8/71  S Recommended committee substitute, placed on Calendar.  SJ 45
S Committee substitute passed.  38 yeas, 0 nays.  SJ 50  
Died in Senate messages.
SB 28-D (de la Parte) GENERAL,  (SIMILAR to HB 40-D)

Department of Health and Rehabilitative Services, Division of Family Services; provides additional moneys for remainder of 1971-72 fiscal year to pay cost of certain medical care program and repeals provision relating to county participation.

Appropriation $3,966,000

12/1/71  S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 12
12/2/71  S Introduction refused. SJ 14
12/8/71  S Reconsidered, determined within purview, referred to Ways & Means. Recommended favorably, placed on Calendar. SJ 45
          S Passed. 39 yeas, 0 nays. SJ 56
          H Received, read first time, referred to Appropriations. HJ 101
          H Withdrawn, placed on Calendar and passed as amended. 94 yeas, 9 nays.
12/9/71  S Senate concurred, passed as amended. 42 yeas, 0 nays.

SB 29-D (Fincher, et al) GENERAL  (COMPARE HB 17-D)
(SIMILAR to HB 62-D)

Municipal millage limitation; changes expiration date for authority of municipalities to tax in excess of 10 mills. Amends §200.131(1), F.S.

12/2/71  S Read first time, referred to Ways & Means. SJ 14
          Died in Senate Committee.

SCR 30-D (Johnson, et al) CONCURRENT RESOLUTION  (COMPANION to HCR 34-D)

Miami Dolphins; commends the Miami Dolphins professional football team for their outstanding record and achievements.

12/2/71  S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 14
          Died in Senate Committee; companion HCR 34-D adopted, 12/8/71. SJ 42
SB 31-D (Haverfield) GENERAL (SIMILAR to HB 55-D)

Public projects in which federal funds are used; authorizes the state, its agencies, political subdivisions, etc., to comply with provisions of federal relocation assistance and real property acquisition policies act of 1970 in connection with public projects for which federal funds are used.

12/2/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 14
Died in Senate Committee.

SJR 32-D (Haverfield, et al) CONSTITUTIONAL AMENDMENT (COMPANION to HJR 46-D)

Revenue bonds for student loans; proposes amendment to State Constitution to permit issuance of revenue bonds to establish a fund to make loans to students attending institutions of higher learning, junior colleges, health related training institutions or public vocational training centers; provides for establishment of reserve account to pay debt service requirements. Adds new §15 to Art. VII, State Constitution.

12/2/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 14
12/7/71 S Read first time, referred to Universities & Community Colleges and Ways & Means. Withdrawn from Universities & Community Colleges. SJ 43
12/8/71 S Recommended favorably with amendments. Placed on Calendar. SJ 45
S Amendments adopted. Laid on table, companion HJR 46-D passed. SJ 58

SB 33-D (Commerce Committee) GENERAL (COMPANION to HB 29-D)

Insurance and claims against insolvent insurers; requires certain insurers to establish and be members of Florida Property and Casualty Insurance Guaranty Association; provides duties and functions of the Association, 4 guaranty accounts, duties of the Department of Insurance relating to the Association, etc. Amends §627.0851(4), F.S.

12/2/71 S Read first time, referred to Commerce. Withdrawn, placed on Calendar. SJ 15
12/3/71 S Laid on the table, companion HB 29-D passed. SJ 20
SB 34-D (Horne) GENERAL (SIMILAR to HB 45-D)

Division of Commercial Development of Department of Commerce; provides a supplemental appropriation to expand activities in assisting the rural, undeveloped, economically depressed and underemployed metropolitan areas in securing new industries and improving their economic well being.

Appropriation $200,000

12/3/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 20
12/8/71 S Introduction refused. SJ 45

SB 35-D (Haverfield, et al) GENERAL (SIMILAR to HB 63-D)

Special election; provides for a special election on March 14, 1972, for approval or rejection by Florida electors of a joint resolution permitting the issuance of revenue bonds for student loans.

12/6/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 25
12/7/71 S Read first time, referred to Universities & Community Colleges and Ways & Means. Withdrawn from Universities & Community Colleges. SJ 43 Died in Senate Committee.

SB 36-D (Graham, et al) GENERAL

Corporations; prohibits a corporation during the period it is a private foundation under Internal Revenue Code from engaging in acts of self-dealing, from retaining excess business holdings, from making investments which would jeopardize carrying out of exempt purposes of the corporation, etc.

12/6/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 25
12/7/71 S Read first time, referred to Judiciary - Civil B. Withdrawn, placed on Calendar. Passed. 40 yeas, 0 nays. SJ 31
H Received, placed in Rules & Calendar. HJ 73
12/8/71 H Considered, read first time, referred to Finance & Taxation. HJ 90
H Recommended favorably with amendment, placed on House Rules Calendar. HJ 90
(cont')
SB 37-D (Weissenborn, et al) GENERAL

Farm labor; provides that the $25 registration fee from farm labor contractors to the Farm Labor and Rural Manpower Service shall be deposited in a trust fund in the State Treasury to be used in administration of this act.

12/3/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 24
12/7/71 S Read first time, referred to Agriculture. Withdrawn, placed on Calendar and passed. 42 yeas, 0 nays. SJ 31
H Received, placed in Rules & Calendar. HJ 73
12/8/71 H Considered, read first time, referred to Appropriations. HJ 90
H Recommended favorably with amendment, placed on House Rules Calendar. HJ 91
H Passed as amended. 92 yeas, 0 nays. HJ 92
S Concurred. Passed as amended. 37 yeas, 0 nays. SJ 51

SB 38-D (Graham) GENERAL (COMPANION to HB 51-D)

Environmental protection; provides an emergency appropriation to the Governor for purpose of preventing and alleviating drought conditions in Central and Southern Florida.

Appropriation $200,000

12/6/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 25
12/7/71 S Read first time, referred to Ways & Means. SJ 43
Died in Senate Committee.

SB 39-D (Graham) GENERAL (COMPANION to HB 50-D)

State Treasurer; provides that U.S. Government guaranteed student loans and small business administration loans posted as security for deposit of public funds shall be retained by bank posting such security; provides for monthly statement of accounting to State Treasurer. Amends §18.11, F.S.

12/6/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 25
12/8/71 S Introduction refused. SJ 45

SB 40-D (Poston) GENERAL (SIMILAR to HB 54-D)

Florida Uniform Traffic Control Law; provides for provisions, (cont.)
maintenance and control of roads within local governments; provides for enactment of ordinances to vest jurisdiction of violation in certain local courts; provides for certain traffic court systems and alters penalties. Amends §§316.006(2)(3), 316.007, 316.008(2), 316.028(2), 316.029(2) and 901.15, F.S.

12/6/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 25
12/7/71 S Read first time, referred to Transportation. SJ 43
Died in Senate committee.

SJR 41-D (Barron, et al) CONSTITUTIONAL AMENDMENT (COMPARE HJR 11-D, SJR 42-D & SJR 52-D)

12/6/71 S Read first time, referred to Judiciary-Civil A. SJ 29
Died in Senate committee.

SJR 42-D (Sayler) CONSTITUTIONAL AMENDMENT. (SIMILAR to HJR 11-D; COMPARE SJR 41-D & SJR 52-D)

12/7/71 S Read first time, referred to Judiciary - Civil A. SJ 30
Died in Senate committee.

SB 43-D (Haverfield, et al) GENERAL
Revenue bonds for student loans; implements provisions of Art. VII, §15, State Constitution, upon ratification by electors; creates a student loan trust fund; authorizes issuance of revenue bonds to establish the fund and provides that Department of General Services shall determine amount of such bonds, not to exceed $40,000,000; authorizes loans to students admitted to certain institutions of higher learning and provides that Department of Education administer said fund.

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 30
S Read first time, referred to Universities & Community Colleges and Ways & Means. SJ 44
Died in Senate committee.

SR 44-D (Pope, et al) RESOLUTION
In memoriam Frederick Mortimer (Ted) Cabot, Jr.; recognizes his achievements and expresses sorrow at his passing.

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 40
Withdrawn, placed on Calendar. SJ 41
(cont.)
SB 45-D (Broxson, et al) GENERAL (COMPANION to CS/HB 38-D)

Local law enforcement officers, minimum foundation program financing; provides a new method of financing and for new requirements for eligibility and participation; provides for certain educational criteria to be met to qualify for participation. Amends §§ 163.550 and 163.552, creates §§ 163.5531 and 163.562, and repeals §§ 163.553-.556, F.S.

Appropriation: $1,848,273

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 41
Died in Senate Committee.

SB 46-D (Fincher, et al) GENERAL (COMPANION to HB 41-D)

Nonpartisan election of certain justices and judges; provides that the first and second nonpartisan elections shall be held at time of second primary election and general election, respectively.

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 41
Died in Senate Committee.

SB 47-D (Weissenborn, et al) GENERAL

Presidential preference primary; provides for presidential candidates to submit affidavits stating their desire to be placed on the presidential preference ballot, stating party affiliations and affirming that they shall not campaign under a different party designation or as an independent. Amends §103.101(3) and repeals §103.101(4), F.S.

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 41
Died in Senate Committee.

SB 48-D (Knopke) GENERAL (COMPARE SB 14-D)

Board of Trustees of Internal Improvement Trust Fund; makes appropriation to Board of Trustees of Internal Improvement Trust Fund to pay salaries and other operating expenses for period January 1, 1972, through June 30, 1972, and for shoreline survey and other mapping; limits the use of the trust fund. Adds §253.02(6).

Appropriation: $912,198

12/7/71 S Read first time, referred to Ways & Means. SJ 41
Died in Senate Committee.
SR 49-D (Henderson, et al) RESOLUTION

Tina Porter Gunn; commendation for her years of service at Talquin Inn.

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. Withdrawn, placed on Calendar and adopted. SJ 41

SB 50-D (Henderson) GENERAL (SIMILAR to HB 35-D)

Alcoholic beverage licenses; provides for tax to be imposed on vendors operating more than 3 permanent separate locations serving alcoholic beverages for consumption on the premises and excludes therefrom bars and temporary or portable bars. Amends §561.34(3)(g), F.S.

12/7/71 S Delivered to Rules, Calendar, etc., for consideration prior to introduction. SJ 41
Died in Senate Committee.

SB 51-D (Thomas) GENERAL

Intangible personal property taxes; repeals the intangible tax on money. Amends §199.032, F.S.

12/7/71 S Read first time, referred to Ways & Means. Withdrawn, placed on Calendar and passed. 40 yeas, 4 nays. SJ 42
H Received, referred to Finance & Taxation. HJ 83
H Recommended favorably, placed on Calendar. HJ 90
12/8/71 H Passed House. 87 yeas 13 nays. HJ 94

SJR 52-D (Conference Committee on HJR 11-D) (COMPARE SJR 42-D, SJR 41-D & HJR 11-D)

CONSTITUTIONAL AMENDMENT

Judicial branch of government; revision of Article V of the State Constitution.

12/8/71 S Conference Committee report accepted & adopted. Passed. 33 yeas, 14 nays. SJ 63
12/9/71 S Reconsidered, recommitte to conference committee. S Conference Committee Report with amendments accepted. Passed as amended. 34 yeas, 10 nays.
H Conference Committee report adopted. Failed to pass. 69 yeas, 42 nays.
H Reconsidered, recommitted to conference committee. Conference Committee Report with amendments accepted and adopted. Passed as amended. 75 yeas, 35 nays.
12/11/71 Signed by the officers and presented to the Governor.
SB 53-D (Barrow) GENERAL (COMPANION to HB 23-D)

Special election; provides for a special election on March 14, 1972, for approval or rejection by Florida electors of a joint resolution revising Art. V of the State Constitution relating to the judicial branch of government.

12/8/71  S Read first time, placed on Calendar and passed. 46 yeas, 1 nay. SJ 63
12/9/71  S Reconsidered, passed as amended. 42 yeas, 2 nays. H Received and passed. 90 yeas, 19 nays.
12/11/71  Signed by the officers and presented to the Governor.

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