1984

Session Law 84-342

Florida Senate & House of Representatives

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Recruited, placed on Local Calendar by Rules and Calendar - SJ 00827
Considered, placed on Local Calendar by Rules and Calendar - SJ 00480; Passed YEAS 33 NAYS 1 - SJ 00297
In Messages
Received, referred to Community Affairs - SJ 00878
Withdrawn from Community Affairs - SJ 01044; Placed on Calendar
Placed on Local Calendar; Read second time; Amendments adopted; Read third time; Passed as amended; YEAS 118 NAYS 2 - SJ 01078
Concurred; Passed as amended; YEAS 32 NAYS 0
Ordered engrossed, then enrolled - SJ 00632
Signed by Officers and presented to Governor
Became Law without Governor's Signature
Chapter No. 84-430

S 1180 CONCURRENT RESOLUTION by Barron

S 1181 GENERAL BILL by Barron and others (Compare CS/B 1025, S 1188)
Medical Incident Compensation Law creates Medical Incident Compensation Law Study Commission; provides for appointment of members; requires report. Appropriation: $200,000. Effective Date: Upon becoming law.

S 1182 GENERAL BILL/CS by Finance, Taxation and Claims, Margolis and others
General Revenue Tax: imposes said tax on gross receipts derived by persons on business done within state & between points within state; includes said tax on telecommunication services; defines telecommunication services, local telephone service, toll telephone service, etc. Amends Ch. 203. Effective Date: 07/01/84.

CS read first time - SJ 00666; Placed on Special Order Calendar - SJ 00800; CS passed; YEAS 29 NAYS 0 - SJ 00868
In Messages
Received, placed on Calendar - SJ 00943; Read second time; Amendment adopted; Read third time; Passed as amended; YEAS 81 NAYS 24 - SJ 01019
In Messages
Concurred; CS passed as amended; YEAS 83 NAYS 0
Ordered engrossed, then enrolled - SJ 00556
Signed by Officers and presented to Governor
Approved by Governor Chapter No. 84-342
NOTICE OF WITHDRAWAL.

The Loxahatchee River Environmental Control District hereby gives notice that it is withdrawing proposed amendment to Rule No. 31-13.04 Chapter 31-13, notice of which was originally published in Florida Administrative Weekly, Volume 9, No. 13 Page 2998, October 28, 1983

8. LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT
Rule Chapter 31-13

NOTICE OF WITHDRAWAL
The Loxahatchee River Environmental Control District hereby gives notice that it is withdrawing proposed Chapter 31-13, notice of which was originally published in Florida Administrative Weekly, Volume 9, No. 38, Page 2464, September 23, 1983

EMERGENCY RULES

1. DEPARTMENT OF REVENUE
Division of Miscellaneous Tax
Rule No. 12BER84-1 (12B-6 011(1)(3), 12B-6 04(4))
RULE TITLE Gross Receipts on Use of Telephones

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE
The recent divestiture of the largest telephone company and the deregulation of several telephone operations have affected the manner in which the gross receipts tax is imposed for use of telephones. The changes are significant for the first quarter of 1984 with the tax return due by April 30, 1984. The emergency rule is needed to protect the public's interest by providing for an orderly and efficient implementation of the new requirements necessitated by the changes in the telephone industry as of January 1, 1984. Without the requirements and clarification of the imposition of the tax contained in the emergency rule, the welfare of the citizens would be adversely affected because of the impact of the above changes and the fact that the taxpayers under the gross receipts tax would not be adequately informed of their responsibilities and duties and would be subject to assessment of penalty and interest if they fail to include the changes in their taxable gross receipts.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES
Promulgation of these procedures and requirements using the emergency rule procedures is the only mechanism available which adequately informs the taxpayers and protects the public's interest under the circumstances which require immediate implementation of the changes required by the deregulation and divestiture which occurs in the returns and tax payments. This procedure is fair to both the public and to taxpayers in that it permits promulgation of the requirements for the imposition of the tax within a time frame which allows taxpayers to be adequately informed of their responsibilities and duties under s. 203, F.S., after the divestiture and deregulation.

SUMMARY OF THE RULE
This rule clarifies the imposition of the gross receipts tax to revenues received by the taxpayers since the deregulation of certain telephone operations and the divestiture of the largest telephone company.

A COPY OF THE EMERGENCY RULE MAY BE OBTAINED BY CONTACTING Glenn A. Bedore, Chief, Bureau of Technical Assistance, P.O. Box 5139, Tallahassee, Florida 32301.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS STATED BELOW
May 2, 1984

SECTION III
NOTICES OF MEETINGS, WORKSHOPS AND PUBLIC HEARINGS

The following state governmental agencies announce a public meeting to which all persons are invited:

Department of Education
Board of Administration
Admission Commission
Land and Water Adjudicatory Commission
Board of Trustees of the Internal Improvement Trust Fund
Department of Natural Resources
Department of Revenue
Department of Law Enforcement
Department of Highway Safety and Motor Vehicles
Department of General Services
Information Resource Commission

DATE AND TIME: May 22, 1984, 9:00 a.m.
PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

PURPOSE: The Department of Education will finalize agency action on the business of the Florida Department of Education

The State Board of Administration will take action on matters duly presented on its agenda, which may include such matters as Executive Director's reports, approval of fiscal sufficiency of state bond issues; approval of sale of local bonds at an interest rate in excess of statutory interest rate limitation, report on investment performance, designation of banks as depositories for state funds, adoption of rules and regulations, investment of state funds pursuant to Chapter 215, F.S., and consideration of other matters within its authority pursuant to Chapters 215, F.S. and 344 F.S., and Section 16 of Article IX of the Florida Constitution of 1888, as continued by subsection 9(c) of Article XII of the Florida Constitution of 1968.

The Administration Commission will take action on matters duly presented on its agenda, which may include such matters as to create or transfer agency funds or positions,
A bill to be entitled
An act relating to the gross receipts tax
imposed under ch 203, F S, amending s
203 01, F S, imposing gross receipts tax on
gross receipts derived by persons on business
done within the state and between points within
the state, including gross receipts tax on
telecommunication services, creating s
203 012, F S, defining telecommunication
services, local telephone service, toll
telephone service, private communication
service, teletypewriter or computer exchange
service, repealing s 203 011, F S, relating
to authorized credits, creating s 203 013,
F.S., establishing the apportionment formula
for the tax where the telecommunication
services originate in Florida and terminate in
another state or originate in another state and
terminate in Florida, amending s. 203 012,
F S, defining telecommunication services
effective January 1, 1985, providing effective
dates

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

Section 1. Section 203 01, Florida Statutes, is
amended to read.

203 01 Tax on gross receipts for utility services --
Every person, including a municipal corporation, receiving
payment for electricity for light, heat, or power; for natural
or manufactured gas for light, heat, or power; for
telecommunication services use of telephones; and for the
sending of telegrams and telegraph messages shall report
quarterly to the Department of Revenue, not later than January
31 for the 3 months ending December 31, not later than April
30 for the 3 months ending March 31, not later than July 31
for the 3 months ending June 30, and not later than October 31
for the 3 months ending September 30, under oath of the
secretary or some other officer of such person, the total
amount of gross receipts derived from business done within
this state, or between points within this state, for the
preceding 3 months and, at the same time, shall pay into the
State Treasury the sum of $1.50 upon each $100 of such gross
receipts; and such collections shall be certified by the
Comptroller upon request of the State Board of Education. The
term "gross receipts" as used herein shall not include gross
receipts of any person derived from the sale of natural gas to
a public or private utility, including municipal corporations
and rural electric cooperative associations, either for resale
or for use as fuel in the generation of electricity. If any
person fails to make such report to the department and pay the
tax as herein provided, the department shall, after having
given at least 5 days' notice to such person or some official
or representative thereof within this state, estimate the
amount of such gross receipts from such information as it may
be able to obtain, add 18 percent of the amount of such taxes
as a penalty for the failure of such person to make the
report, and proceed to collect such tax, together with all
costs and the penalty, the same as other delinquent taxes are
collected. However, no penalty shall be added if a return is
made and the amount due is paid to the Treasurer before the
expiration of the time stated in the department's notice.
Section 2  Section 203 012, Florida Statutes, is created to read

203 012 Definitions --As used in this chapter

(1) "Telecommunication services" means local telephone service, toll telephone service, teletypewriter or computer exchange service, private communication services, cellular mobile telephone or telecommunication service, specialized mobile radio, and pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communications

(2) "Local telephone service" means

(a) The access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system, or

(b) Any facility or service provided in connection with a service described in paragraph (a)

The term "local telephone service" does not include any service which is a "toll telephone service," "private communication service," or "teletypewriter or computer exchange service," as defined in subsections (3), (4), and (5)

(3) "Toll telephone service" means.

(a) A telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication, or

(b) A service which entitles the subscriber or user, upon payment of a periodic charge, determined as a flat amount or upon the basis of total elapsed transmission time, to the

CODING: Words in struck through type are deletions from existing law, words underlined are additions
privilege of an unlimited number of telephonic communications
to or from all or a substantial portion of the persons having
telephone or radio telephone stations in a specified area
which is outside the local telephone system area in which the
station provided with this service is located.

The term toll telephone service includes interstate and
intrastate wide area telephone service charges.

(4) "Private communication service" means:

(a) The communication service furnished to a
subscriber or user which entitles the subscriber or user to
exclusive or priority use of any communication channel or
groups of channels, or to the use of an intercommunication
system for the subscriber's stations, regardless of whether
such channel, groups of channels, or intercommunication system
may be connected through switching with a service described in
 subsections (2), (3), or (5),

(b) Switching capacity, extension lines, and stations,
or other associated services which are provided in connection
with, and are necessary or unique to the use of, channels or
systems described in paragraph (a), or

(c) The channel mileage which connects a telephone
station located outside a local telephone system area with a
central office in such local telephone system.

(5) "Teletypewriter or computer exchange service"
means the access from a teletypewriter, telephone, computer,
or other data station of which such station is a part, and the
privilege of intercommunication by such station with
substantially all persons having teletypewriter, telephone,
computer, or other data stations constituting a part of the
same teletypewriter or computer exchange system, to which the

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1 subscriber or user is entitled upon payment of a charge or
2 charges, whether such charge or charges are determined as a
3 flat periodic amount, on the basis of distance and elapsed
4 transmission time, or some other method. The term
5 "teletypewriter or computer exchange service" does not include
6 "local telephone service" or "toll telephone service" as
7 defined in subsections (2) and (3).
8 (6) "Access charge" or "right of access" means any
9 charge to any person for the right to use or for the use of
10 the telephone system which shall include equipment,
11 facilities, or services to originate or terminate any of the
12 services defined in subsection (1), (2), (3), (4), or (5) and
13 specifically includes customer access line charges, which
14 includes the gross amount paid by subscribers and users in
15 this state for access into the interstate interexchange
16 network as authorized by the Federal Communications
17 Commission.
18 (7) Gross receipts for telecommunication services
19 shall not include.
20 (a) Charges for customer premises equipment, including
21 such equipment that is leased or rented by the customer from
22 any source;
23 (b) Charges made to the public for commercial or cable
24 television, unless it is used for two-way communication,
25 however, if such two-way communication service is separately
26 billed only the charges made for two-way communication service
27 shall be subject to tax hereunder, or
28 (c) Charges made by hotels and motels, which are
29 required under the provisions of s. 212.03 to collect
30 transient rentals tax from tenants and lessees, for local
31 telephone service or toll telephone service, where such charge
occurs incidental to the right of occupancy in such hotel or motel

(8) Gross receipts from telecommunication services shall include the gross receipts for all telecommunication services of whatever nature, including, but not limited to disconnect and connect charges, access charges and charges paid for right of access, move or change charges, suspension of service charges, residential and business 1, 2, and 4 party rotary charges, centrex charges, service order, number change and restoration charges, directory assistance, public telephone charges, touch tone charges, emergency number charges, PBX message charges, PAS charges, dial-it charges, LADT charges, and key lines, PBX trunk-flat rate charges.

Section 3. Section 203.011, Florida Statutes is hereby repealed.

Section 4. Section 203.01, Florida Statutes, is amended to read

203.01 Tax on gross receipts for utility services -- Every person, including a municipal corporation, receiving payment for electricity for light, heat, or power, for natural or manufactured gas for light, heat, or power; for telecommunication services use of telephones; and for the sending of telegrams and telegraph messages shall report quarterly to the Department of Revenue, not later than January 31 for the 3 months ending December 31, not later than April 30 for the 3 months ending March 31, not later than July 31 for the 3 months ending June 30, and not later than October 31 for the 3 months ending September 30, under oath of the secretary or some other officer of such person, the total amount of gross receipts derived from business done within this state, or between points within this state, for the

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preceding 3 months and, at the same time, shall pay into the State Treasury the sum of $1.50 upon each $100 of such gross receipts, and such collections shall be certified by the Comptroller upon request of the State Board of Education. The term "gross receipts" as used herein shall not include gross receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity or from the sale of telecommunications services or electricity to a public or private utility, including municipal corporations and rural electric cooperatives, or any person, for resale. If any person fails to make such report to the department and pay the tax as herein provided, the department shall, after having given at least 5 days' notice to such person or some official or representative thereof within this state, estimate the amount of such gross receipts from such information as it may be able to obtain, add 18 percent of the amount of such taxes as a penalty for the failure of such person to make the report, and proceed to collect such tax, together with all costs and the penalty, the same as other delinquent taxes are collected. However, no penalty shall be added if a return is made and the amount due is paid to the Treasurer before the expiration of the time stated in the department's notice.

Section 5. Section 203.013, Florida Statutes, is created to read

203.013 Apportionment of business done within this state. Interstate telecommunication services --

(1) Except as provided in subsection (2), gross receipts from the provision of telecommunication services where the communication originates in Florida and terminates
in another state or originates in another state and terminates
in Florida, shall be reported and paid in the same manner as
provided in s. 203 01 on the following portion of the gross
receipts for such interstate telecommunication services:

(a) The sum of:

1. The total access charges paid or payable by the
provider for access into the local Florida telephone system
for interstate telecommunication services; and

2. An amount determined by multiplying:

a. An amount determined by subtracting the total
access charges paid or payable by the provider for access into
all local telephone systems in the United States for all
interstate telecommunication services from the total gross
receipts of the provider for all interstate telecommunication
services,

b. By a fraction the numerator of which is the total
access charges paid or payable by the provider for access into
the local Florida telephone system for all interstate
telecommunication services and the denominator of which is the
total access charges paid or payable by the provider for
access into all local telephone systems in the United States
for all interstate telecommunication services; or

(b) If the amount as so determined does not accurately
reflect the amount of such interstate gross receipts
attributable to this state, the Department of Revenue may, by
rule, provide for the use of any other method which will
produce a substantially just and correct determination of the
amount of such interstate receipts attributable to this state.

For purposes of computing gross receipts and access charges
paid or payable under this subsection, there shall be taken
314-1591A-84

into account the gross receipts and access charges paid or payable by the provider and all other providers who are commonly owned and who jointly provide the same type of services as are subject to this tax,

(2) Gross receipts from the provision of teletypewriter or computer exchange services where the communication originates in Florida and terminates in another state or originates in another state and terminates in Florida, shall be reported and paid in the same manner as provided in s 203 01 on the following portion of the gross receipts for such interstate teletypewriter or computer exchange services:

(a) An amount determined by multiplying the gross receipts for teletypewriter and computer exchange system services included under this paragraph by a fraction the numerator of which is the terminal equipment stations connected to the teletypewriter or computer exchange service located in this state and the denominator of which is the total number of terminal equipment stations connected to the teletypewriter or computer exchange service included under this paragraph, or

(b) If the amount as so determined does not accurately reflect the amount of such interstate gross receipts attributable to this state, the Department of Revenue may, by rule, provide for the use of any other method which will produce a substantially just and correct determination of the amount of such interstate receipts attributable to this state.

For purposes of computing gross receipts and access charges paid or payable under this subsection, there shall be taken into account the gross receipts and access charges paid or

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payable by the provider and all other providers who are commonly owned and who jointly provide the same type of services as are subject to this tax.

Section 6 Subsection (7) of section 203.012, Florida Statutes, as created by this act, is amended to read 203.012 Definitions -- As used in this chapter.

(7) Gross receipts for telecommunication services shall not include

(a) Charges for customer premises equipment, including such equipment that is leased or rented by the customer from any source;

(b) Charges made to the public for commercial or cable television, unless it is used for two-way communication; however, if such two-way communication service is separately billed only the charges made for two-way communication service shall be subject to tax hereunder; or

(c) Charges made by hotels and motels, which are required under the provisions of s. 212.03 to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service, where such charge occurs incidental to the right of occupancy in such hotel or motel; or

(d) Connection and disconnection charges

Section 7. It is the legislative intent that gross receipts tax shall be due on interstate telecommunication services, as defined herein, beginning January 1, 1985; however, gross receipts tax shall be due on customer access line charges which includes the gross amount paid by subscribers and users in this state for access into the interstate inter-exchange network as authorized by the Federal Communications Commission beginning July 1, 1984.
Section 8  This section and sections 1, 2, and 7 shall take effect July 1, 1984  Sections 3, 4, 5, and 6 shall take effect January 1, 1985
I. SUMMARY:
A. Present Situation.

Section 19 of Article XII of the Constitution of 1885 and Section 9 of Article XII of the Constitution of 1968 provide that gross receipts taxes collected on payments for "electricity for light heat or power, for natural or manufactured gas for light, heat or power, for use of telephones and for sending of telegrams and telegraph messages" shall be placed in the Public Education Capital Outlay and Debt Service Trust Fund, and expended for capital projects for the state system of public education. Revenue may be pledged for full faith and credit bonds without a vote of the electorate. Chapter 203, F.S., levies the gross receipts tax at a rate of 1.5% on a base described using language virtually identical to that in the Constitution.

This bill specifically addresses that portion of the gross receipts tax referred to in the Constitution as "for the use of telephones." Seven types of "telecommunication services" should be distinguished:

1) Interstate activity access charges: This represents the local telephone company's share of charges for interstate telecommunication services.

2) Interstate activity - gross margin: This represents the long distance carrier's share of charges for interstate telecommunications services.

3) Customer access line charges (CALC): These are payments made by the long distance carriers to the local telephone companies based on the number of telephones having access to the long distance network. Under current FCC rule, CALC charges are only made for multiline businesses.

4) Customer Premise Equipment (CPE) charges: These are charges made for the use (sale or lease) of telecommunications equipment located on the customer's premises. Current law taxes only such charges made by companies regulated by the PSC.

5) Charges for buyers and similar services: This category covers a broad range of charges for specialized services such as cellular mobile telephones, mobile radio, pagers and paging services, and private telephone lines.

6) Connect and disconnect charges. These are charges for connecting and disconnecting telecommunications equipment.
7) Other charges: These include charges for local telephone service, intrastate activity access charges, and other types of local activity charges.

Three events have occurred in the last six months which have greatly altered the taxation of telecommunications services in Florida.

a. On January 1, 1984, the U.S. Justice Department order deregulating the telephone industry took effect. The primary effect in state taxation was the transferring of customer premise equipment charges from the Bell affiliates to a private non-regulated company which is not taxed under current law.

b. On May 25, 1984, the Federal Communications Commission adopted rules requiring customer access line charges (CALC) for multiline businesses. These charges previously did not exist.

c. On May 1, 1984, the Florida Department of Revenue adopted an emergency rule reinterpreting the current gross receipts tax base in light of the deregulation of the telephone industry. Prior to this rule, Florida taxed only three of the above listed items. These were the customer premise equipment charges, the connect and disconnect charges, and other local service charges. The tax on connect and disconnect charges are being challenged in court by the companies. Under the new rule Florida, in addition to taxing those items previously taxed, now taxes the interstate activity access charges, customer access line charges and intrastate activity access charges. The new rule, however, does not tax the customer premise charges of the Bell affiliates because they are not charged by a non-PSC regulated company.

In addition to the above events, an additional issue involves the collectability of taxes specified by the emergency rule. Certain long distance carriers feel that interstate activity access charges cannot be taxed under current law as "for use of telephones" and are threatening not to pay the tax. Also, a portion of taxes paid for intrastate activity access fees are currently being paid under protest.
The following table summarizes the above actions:

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<tr>
<td>Interstate Activity Access Charge</td>
<td>Not Taxed</td>
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<td>-</td>
<td>Taxed</td>
</tr>
<tr>
<td>Interstate Activity Gross Margin</td>
<td>Not Taxed</td>
<td>-</td>
<td>-</td>
<td>Not Taxed</td>
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<tr>
<td>Customer Access Line Charges (CALC)</td>
<td>Did Not exist</td>
<td>Created</td>
<td>-</td>
<td>Taxed</td>
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<tr>
<td>Customer Premise Equipment (CPE)</td>
<td>Taxed</td>
<td>Exempted Bell Affiliates</td>
<td>-</td>
<td>Non-Bell Affiliates</td>
</tr>
<tr>
<td>Beepers and Others</td>
<td>Not Taxed</td>
<td>-</td>
<td>-</td>
<td>Not Taxed</td>
</tr>
<tr>
<td>Connect and Disconnect</td>
<td>Taxed</td>
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<td>Local and Other Services</td>
<td>Taxed</td>
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<td>Taxed</td>
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</table>

An additional issue only implicitly addressed by this bill is that of bondability of tax proceeds. Under the constitution, only those revenues specifically identified can be used to back full faith and credit bonds. While the state may be able to tax all of the above charges for telecommunication services, it is a separable issue concerning whether these receipts are bondable given the constitutionally defined tax base of "for use of telephones." The issue of bondability will be subject to the interpretation of bond counsel prior to the issuance of bonds.

B. Effect of Proposed Changes:

This bill does the following:

1) Subects interstate activity access charges to the gross receipts tax beginning January 1, 1985.

2) Subjects the apportioned share of the long distance carriers charges (gross margin) to the gross receipts tax on January 1, 1985.

3) Subjects customer access line charges to the gross receipts tax on July 1, 1984.

4) Exempts customer premise equipment changes from the gross receipts tax beginning July 1, 1984.

5) Subjects "beepers" and other telephone related changes to the gross receipts tax beginning July 1, 1984.

6) Repeals the tax on connect and disconnect charges beginning on January 1, 1985.
II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The impact on the public depends on how much of the proposed taxes are allowed to be made up in rate increases by the regulatory agencies.

B. Government:

In December, 1983 the forecast of gross receipts taxes for 1984-85 was $167.9 million. Based on federal court rulings and state administrative actions that estimate under current law has been reduced to $161.7 million. The gross receipts taxes levied by this bill would raise $167.0 million in 1984-85. Because some of the changes do not take effect until mid-year, revenue on an annualized basis under this bill would be $182.5 million.

III. COMMENTS:

Sections 1, 2, and 7 of this act take effect on July 1, 1984. Sections 3, 4, 5, and 6 take effect on January 1, 1985.

IV. AMENDMENTS:

None
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 1152

Substantial changes made in the committee substitute are the following:

1) A series of "whereas" clauses are added expressing legislative intent.

2) Specifies that sales of electricity to another utility for resale are only exempt if the resale is in Florida or is part of an interchange agreement the purpose of which is to transfer more economically generated power. Sale of telecommunication services for resale is exempt only if such resale is wholly or partially within this state.

3) The exemption of connect and disconnect changes after January 1, 1985 is broadened to include move or change charges, suspension of service charges and service order, number changes and restoration charges.

4) Specifies that for purposes of apportionment, gross receipts means total gross receipts including those for resale.

Committee on Finance, Taxation & Claims

Staff Director

C14(4-74) (File 2 copies with Committee Substitutes)
A bill to be entitled

An act relating to the gross receipts tax
imposed under ch 203, F.S.; amending s.
203.01, F.S., imposing gross receipts tax on
gross receipts derived by persons on business
done within the state and between points within
the state, including gross receipts tax on
telecommunication services; creating s.
203.012, F.S.; defining telecommunication
services, local telephone service, toll
telephone service, private communication
service, teletypewriter or computer exchange
service, repealing s. 203.011, F.S., relating
to authorized credits; creating s. 203.013,
F.S.; establishing the apportionment formula
for the tax where the telecommunication
services originate in Florida and terminate in
another state or originate in another state and
terminate in Florida; amending s. 203.012,
F.S.; defining telecommunication services
effective January 1, 1985; providing effective
dates.

WHEREAS, the Legislature finds that due to the growth
of the telecommunication services industry, there is a need to
expand and enlarge chapter 203, Florida Statutes, so as to
impose the gross receipts tax on all telecommunication
services, and to avoid discrimination involving those
competitively similar, and

WHEREAS, the Federal Court ordered divestiture of
American Telephone and Telegraph Company has required the
State of Florida to carefully scrutinize the divestiture so as to determine gross receipts tax implications resulting therefrom, and

WHEREAS, the Legislature desires to clarify the legislative intent with regard to imposition of the gross receipts tax involving interstate use of telephone and telecommunication services, and

WHEREAS, the Legislature desires to create an apportionment formula so as to impose the gross receipts tax to reasonably and fairly measure that part of gross receipts generated from business done within the State of Florida, and

WHEREAS, the Legislature recognizes that the gross receipts tax, levied under chapter 203, Florida Statutes, is used to fund bonds as provided in Section 9, Art XII, State Constitution, and

WHEREAS, the Legislature recognizes that since 1947, chapter 203, Florida Statutes, imposed gross receipts tax derived from business done within this state, or between points within this state, but did not contain an apportionment formula apportioning gross receipts derived from business done within this state for use of telephone where the use of telephone originated in Florida and terminated in another state, or originated in another state and terminated in Florida, NOW, THEREFORE,

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

Section 1. Section 203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility services.-- Every person, including a municipal corporation, receiving
payment for electricity for light, heat, or power; for natural
or manufactured gas for light, heat, or power; for

telecommunication services use of telephones, and for the
sending of telegrams and telegraph messages shall report
quarterly to the Department of Revenue, not later than January
31 for the 3 months ending December 31, not later than April
30 for the 3 months ending March 31, not later than July 31
for the 3 months ending June 30, and not later than October 31
for the 3 months ending September 30, under oath of the
secretary or some other officer of such person, the total
amount of gross receipts derived from business done within
this state, or between points within this state, for the
preceding 3 months and, at the same time, shall pay into the
State Treasury the sum of $1.50 upon each $100 of such gross
receipts; and such collections shall be certified by the
Comptroller upon request of the State Board of Education. The
term "gross receipts" as used herein shall not include gross
receipts of any person derived from the sale of natural gas to
a public or private utility, including municipal corporations
and rural electric cooperative associations, either for resale
or for use as fuel in the generation of electricity. If any
person fails to make such report to the department and pay the
tax as herein provided, the department shall, after having
given at least 5 days’ notice to such person or some official
or representative thereof within this state, estimate the
amount of such gross receipts from such information as it may
be able to obtain, add 18 percent of the amount of such taxes
as a penalty for the failure of such person to make the
report, and proceed to collect such tax, together with all
costs and the penalty, the same as other delinquent taxes are
collected. However, no penalty shall be added if a return is

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made and the amount due is paid to the Treasurer before the
expiration of the time stated in the department's notice.

Section 2. Section 203.012, Florida Statutes, is
created to read:

203.012 Definitions.--As used in this chapter:

(1) "Telecommunication services" means local telephone
service, toll telephone service, teletypewriter or computer
exchange service, private communication services, cellular
mobile telephone or telecommunication service, specialized
mobile radio, and pagers and paging service, including but not
limited to "beepers" and any other form of mobile and portable
one-way or two-way communications.

(2) "Local telephone service" means:

(a) The access to a local telephone system, and the
privilege of telephonic quality communication with
substantially all persons having telephone or radio telephone
stations constituting a part of such local telephone system;

or

(b) Any facility or service provided in connection
with a service described in paragraph (a).

The term "local telephone service" does not include any
service which is a "toll telephone service," "private
communication service," or "teletypewriter or computer
exchange service," as defined in subsections (3), (4), and
(5).

(3) "Toll telephone service" means:

(a) A telephonic quality communication for which there
is a toll charge which varies in amount with the distance and
elapsed transmission time of each individual communication; or
(b) A service which entitles the subscriber or user, upon payment of a periodic charge, determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

The term toll telephone service includes interstate and intrastate wide area telephone service charges.

(4) "Private communication service" means:

(a) The communication service furnished to a subscriber or user which entitles the subscriber or user to exclusive or priority use of any communication channel or groups of channels, or to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in subsections (2), (3), or (5);

(b) Switching capacity, extension lines, and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of, channels or systems described in paragraph (a); or

(c) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.

(5) "Teletypewriter or computer exchange service" means the access from a teletypewriter, telephone, computer, or other data station of which such station is a part, and the privilege of intercommunication by such station with
substantially all persons having teletypewriter, telephone, computer, or other data stations constituting a part of the same teletypewriter or computer exchange system, to which the subscriber or user is entitled upon payment of a charge or charges, whether such charge or charges are determined as a flat periodic amount, on the basis of distance and elapsed transmission time, or some other method. The term "teletypewriter or computer exchange service" does not include "local telephone service" or "toll telephone service" as defined in subsections (2) and (3).

(6) "Access charge" or "right of access" means any charge to any person for the right to use or for the use of the intrastate telephone system which shall include equipment, facilities, or services to originate or terminate any of the services defined in subsection (1), (3), (4), or (5) and specifically includes customer access line charges, which includes the gross amount paid by subscribers and users in this state for access into the intrastate or interstate interexchange network as authorized by the Federal Communications Commission or Florida Public Service Commission.

(7) Gross receipts for telecommunication services shall not include:

(a) Charges for customer premises equipment, including such equipment that is leased or rented by the customer from any source;

(b) Charges made to the public for commercial or cable television, unless it is used for two-way communication; however, if such two-way communication service is separately billed only the charges made for two-way communication service shall be subject to tax hereunder; or
(c) Charges made by hotels and motels, which are required under the provisions of s. 212.03 to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service, where such charge occurs incidental to the right of occupancy in such hotel or motel.

(8) Gross receipts from telecommunication services shall include the gross receipts for all telecommunication services of whatever nature, including, but not limited to disconnect and connect charges, access charges and charges for right of access, move or change charges, suspension of service charges, residential and business 1, 2, and 4 party rotary charges, centrex charges, service order, number change and restoration charges, directory assistance, public telephone charges, touch tone charges, emergency number charges, private branch exchange message charges, public announcement service charges, dial-it charges, local area data transport charges, and key lines, private branch exchange trunk-flat rate charges, and directory listing charges other than yellow-page classified listing charges.

Section 3. Section 203.011, Florida Statutes, is hereby repealed.

Section 4. Section 203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility services --
Every person, including a municipal corporation, receiving payment for electricity for light, heat, or power; for natural or manufactured gas for light, heat, or power; for telecommunication services use of telephones; and for the sending of telegrams and telegraph messages shall report quarterly to the Department of Revenue, not later than January...
31 for the 3 months ending December 31, not later than April 30 for the 3 months ending March 31, not later than July 31 for the 3 months ending June 30, and not later than October 31 for the 3 months ending September 30, under oath of the secretary or some other officer of such person, the total amount of gross receipts derived from business done within this state, or between points within this state, for the preceding 3 months and, at the same time, shall pay into the State Treasury the sum of $1.50 upon each $100 of such gross receipts; and such collections shall be certified by the Comptroller upon request of the State Board of Education. The term "gross receipts" as used herein shall not include gross receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity or from the sale of electricity to a public or private utility, including municipal corporations and rural electric cooperative associations, for resale within the state, or as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power or from the sale of telecommunication services for resale of telecommunication services wholly or partially within this state, provided the person deriving gross receipts from such sales can demonstrate that a resale in fact occurred and complies with the following requirements: A resale in this state must be in strict compliance with the rules and regulations of the Department of Revenue, and any public or private utility, including any municipal corporation and rural electric cooperative association, or any person making a sale for resale in this

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state which is not in strict compliance with the rules and
regulations of the Department of Revenue shall himself be
liable for and pay the tax. Any public or private utility,
including any municipal corporation and rural electric
cooperative association, or any person making a sale for
resale in this state may, through the informal protest
provided for in s. 213 21, and the rules of the Department of
Revenue, provide the department with evidence of the exempt
status of a sale. The department shall adopt rules which
shall provide that valid proof and documentation of the resale
in this state by any public or private utility, including any
municipal corporation and rural electric association, or any
person making the sale for resale in this state shall be
accepted by the department when submitted during the protest
period but shall not be accepted when submitted in any
proceeding under chapter 120, or any circuit court action
instituted under chapter 72. If any person fails to make such
report to the department and pay the tax as herein provided,
the department shall, after having given at least 5 days'
otice to such person or some official or representative
thereof within this state, estimate the amount of such gross
receipts from such information as it may be able to obtain,
add 18 percent of the amount of such taxes as a penalty for
the failure of such person to make the report, and proceed to
collect such tax, together with all costs and the penalty, the
same as other delinquent taxes are collected. However, no
penalty shall be added if a return is made and the amount due
is paid to the Treasurer before the expiration of the time
stated in the department's notice.

Section 5. Section 203 013, Florida Statutes, is
created to read:
203.013 Apportionment of business done within this state: interstate telecommunication services.--

(1) Except as provided in subsection (2), the tax on gross receipts from the provision of telecommunication services where the communication originates in Florida and terminates in another state or originates in another state and terminates in Florida, shall be reported and paid in the same manner as provided in s. 203.01 on the following portion of the gross receipts for such interstate telecommunication services:

(a) The sum of:

1. The total access charges paid or payable by the provider for access into the local Florida telephone system for interstate telecommunication services; and

2. An amount determined by multiplying:

a. An amount determined by subtracting the total access charges paid or payable by the provider for access into all local telephone systems in the United States for all interstate telecommunication services from the total gross receipts of the provider for all interstate telecommunication services;

b. By a fraction the numerator of which is the total access charges paid or payable by the provider for access into the local Florida telephone system for all interstate telecommunication services and the denominator of which is the total access charges paid or payable by the provider for access into all local telephone systems in the United States for all interstate telecommunication services; or

(b) If the amount as so determined does not accurately reflect the amount of such interstate gross receipts attributable to this state, the Department of Revenue may, by

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rule, provide for the use of any other method which will
produce a substantially just and correct determination of the
amount of such interstate receipts attributable to this state.

For purposes of computing gross receipts and access charges
paid or payable under this subsection, there shall be taken
into account the gross receipts and access charges paid or
payable by the provider and all other providers who are
commonly owned and who jointly provide the same type of
services as are subject to this tax. For purposes of
apportionment as provided herein, gross receipts means the
total gross receipts of the provider, without any deduction or
reduction for gross receipts which result from the sale of
telecommunication services for resale.

(2) The tax on gross receipts from the provision of
teletypewriter or computer exchange services where the
communication originates in Florida and terminates in another
state or originates in another state and terminates in
Florida, shall be reported and paid in the same manner as
provided in s. 203.01 on the following portion of the gross
receipts for such interstate teletypewriter or computer
exchange services:

(a) An amount determined by multiplying the gross
receipts for teletypewriter and computer exchange system
services included under this paragraph by a fraction the
numerator of which is the terminal equipment stations
connected to the teletypewriter or computer exchange service
located in this state and the denominator of which is the
total number of terminal equipment stations connected to the
teletypewriter or computer exchange service included under
this paragraph; or

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
(b) If the amount as so determined does not accurately reflect the amount of such interstate gross receipts attributable to this state, the Department of Revenue may, by rule, provide for the use of any other method which will produce a substantially just and correct determination of the amount of such interstate receipts attributable to this state.

For purposes of computing gross receipts and access charges paid or payable under this subsection, there shall be taken into account the gross receipts and access charges paid or payable by the provider and all other providers who are commonly owned and who jointly provide the same type of services as are subject to this tax. For purposes of apportionment as provided herein, gross receipts means the total gross receipts of the provider, without any deduction or reduction for gross receipts which result from the sale of telecommunication services for resale.

Section 6. Subsections (5), (7), and (8) of section 203.012, Florida Statutes, as created by this act, are amended to read:

203.012 Definitions.—As used in this chapter:

(6) "Access charge" or "right of access" means any charge to any person for the right to use or for the use of the intrastate telephone system which shall include equipment, facilities, or services to originate or terminate any of the services defined in subsection (1), (3), (4), or (5) and specifically includes customer access line charges, which includes the gross amount paid by subscribers and users in this state for access into the intrastate or interstate interexchange network as authorized by the Federal

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
Communications Commission or Florida Public Service

Commission.

(7) Gross receipts for telecommunication services shall not include:

(a) Charges for customer premises equipment, including such equipment that is leased or rented by the customer from any source;

(b) Charges made to the public for commercial or cable television, unless it is used for two-way communication; however, if such two-way communication service is separately billed only the charges made for two-way communication service shall be subject to tax hereunder, or

(c) Charges made by hotels and motels, which are required under the provisions of s. 212 03 to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service, where such charge occurs incidental to the right of occupancy in such hotel or motel;

(d) Connection and disconnection charges, move or change charges, suspension of service charges, and service order, number change, and restoration charges.

(8) Gross receipts from telecommunication services shall include the gross receipts for all telecommunication services of whatever nature, including, but not limited to disconnect and connect charges, access charges and charges for right of access, move or change charges, suspension of service charges, residential and business 1, 2, and 4 party rotary charges, centerx charges, service order, number change and restoration charges, directory assistance, public telephone charges, touch tone charges, emergency number charges, private branch exchange message charges, public announcement service charges, and such similar services of whatever nature.
Section 7. It is the legislative intent that gross receipts tax shall be due on interstate telecommunication services, as defined herein, beginning January 1, 1985; however, gross receipts tax shall be due on customer access line charges which includes the gross amount paid by subscribers and users in this state for access into the interstate inter-exchange network as authorized by the Federal Communications Commission beginning July 1, 1984.

Section 8. This section and sections 1, 2, and 7 shall take effect July 1, 1984. Sections 3, 4, 5, and 6 shall take effect January 1, 1985.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR SENATE BILL 1152

Substantial changes made in the committee substitute are the following:

1) A series of "whereas" clauses are added expressing legislative intent.

2) Specifies that sales of electricity to another utility for resale are only exempt if the resale is in Florida or is part of an interchange agreement the purpose of which is to transfer more economically generated power. Sale of telecommunication services for resale is exempt only if such resale is wholly or partially within this state.

3) The exemption of connect and disconnect changes after January 1, 1985 is broadened to include move or change charges, suspension of service charges and service order, number changes and restoration charges.

4) Specifies that for purposes of apportionment, gross receipts means total gross receipts including those for resale.
I. SUMMARY:

A. Present Situation:

Section 19 of Article XII of the Constitution of 1885 and Section 9 of Article XII of the Constitution of 1968 provide that gross receipts taxes collected on payments for "electricity for light, heat or power, for natural or manufactured gas for light, heat or power, for use of telephones and for sending of telegrams and telegraph messages" shall be placed in the Public Education Capital Outlay and Debt Service Trust Fund, and expended for capital projects for the state system of public education. Revenue may be pledged for full faith and credit bonds without a vote of the electorate. Chapter 203, F.S., levies the gross receipts tax at a rate of 1.5% on a base described using language virtually identical to that in the Constitution.

This bill specifically addresses that portion of the gross receipts tax referred to in the Constitution as "for the use of telephones." Seven types of "telecommunications services" should be distinguished.

1) Interstate activity access charges: This represents the local telephone company's share of charges for interstate telecommunications services.

2) Interstate activity - gross margin: This represents the long distance carrier's share of charges for interstate telecommunications services.

3) Customer access line charges (CALC): These are payments made by the long distance carriers to the local telephone companies based on the number of telephones having access to the long distance network. Under current FCC rule, CALC charges are only made for multiline businesses.

4) Customer Premise Equipment (CPE) charges: These are charges made for the use (sale or lease) of telecommunications equipment located on the customer's premises. Current law taxes only such charges made by companies regulated by the PSC.

5) Charges for "beepers" and similar services: This category covers a broad range of charges for specialized services such as cellular mobile telephones, mobile radio, pagers and paging services, and private telephone lines.

6) Connect and disconnect charges: These are charges for connecting and disconnecting telecommunications equipment.
7) Other charges: These include charges for local telephone service, intrastate activity access charges, and other types of local activity charges.

Three events have occurred in the last six months which have greatly altered the taxation of telecommunications services in Florida.

a. On January 1, 1984, the U.S. Justice Department ordered deregulating the telephone industry took effect. The primary effect on state taxation was the transferring of customer premise equipment charges from the Bell affiliates to a private non-regulated company which is not taxed under current law.

b. On May 25, 1984, the Federal Communications Commission adopted rules requiring customer access line charges (CALC) for multiline businesses. These charges previously did not exist.

c. On May 1, 1984, the Florida Department of Revenue adopted an emergency rule reinterpreting the current gross receipts tax base in light of the deregulation of the telephone industry. Prior to this rule, Florida taxed only three of the above listed items. These were the customer premise equipment charges, the connect and disconnect charges, and other local service charges. The tax on connect and disconnect charges are being challenged in court by the companies. Under the new rule Florida, in addition to taxing those items previously taxed, now taxes the interstate activity access charges, customer access line charges and intrastate activity access charges. The new rule, however, does not tax the customer premise charges of the Bell affiliates because they are now charged by a non-PCS regulated company.

In addition to the above events, an additional issue involves the collectability of taxes specified by the emergency rule. Certain long distance carriers feel that interstate activity access charges cannot be taxed under current law as "for use of telephones" and are threatening not to pay the tax. Also, a portion of taxes paid for intrastate activity access fees are currently being paid under protest.
The following table summarizes the above actions:

<table>
<thead>
<tr>
<th>Taxed Prior to</th>
<th>U.S. Justice Department Ruling</th>
<th>FCC Rule</th>
<th>DOR Emergency Rule</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 1, 1984</td>
<td>Jan. 1, 1984</td>
<td>May 25, 1984</td>
<td>May 1, 1984</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Interstate Activity Access Charge</th>
<th>Not Taxed</th>
<th>-</th>
<th>-</th>
<th>Taxed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interstate Activity Gross Margin</td>
<td>Not Taxed</td>
<td>-</td>
<td>-</td>
<td>Not Taxed</td>
</tr>
<tr>
<td>Customer Access Line Charges (CALC)</td>
<td>Did Not exist</td>
<td>-</td>
<td>Created</td>
<td>Taxed</td>
</tr>
<tr>
<td>Customer Premise Equipment (CPE)</td>
<td>Taxed Exempted Bell Affiliates</td>
<td>-</td>
<td>Non-Bell Affiliates Taxed</td>
<td></td>
</tr>
<tr>
<td>Beepers and Others</td>
<td>Not Taxed</td>
<td>-</td>
<td>-</td>
<td>Not Taxed</td>
</tr>
<tr>
<td>Connect and Disconnect</td>
<td>Taxed</td>
<td>-</td>
<td>-</td>
<td>Taxed</td>
</tr>
<tr>
<td>Local and Other Services</td>
<td>Taxed</td>
<td>-</td>
<td>-</td>
<td>Taxed</td>
</tr>
</tbody>
</table>

An additional issue only implicitly addressed by this bill is that of bondability of tax proceeds. Under the constitution, only those revenues specifically identified can be used to back full faith and credit bonds. While the state may be able to tax all of the above charges for telecommunication services, it is a separable issue concerning whether these receipts are bondable given the constitutionally defined tax base of ‘‘for use of telephones.’’ The issue of bondability will be subject to the interpretation of bond counsel prior to the issuance of bonds.

B. Effect of Proposed Changes.

This bill does the following:

1) Subjects interstate activity access charges to the gross receipts tax beginning January 1, 1985.
2) Subjects the apportioned share of the long distance carrier’s charges (gross margin) to the gross receipts tax on January 1, 1985.
3) Subjects customer access line charges to the gross receipts tax on July 1, 1984.
4) Exempts customer premise equipment charges from the gross receipts tax beginning July 1, 1984.
5) Subjects “beepers” and other telephone related charges to the gross receipts tax beginning July 1, 1984.
6) Repeals the tax on connect and disconnect charges beginning on January 1, 1985.
II. ECONOMIC IMPACT AND FISCAL NOTE.

A. Public:

The impact on the public depends on how much of the proposed taxes are allowed to be passed on to the consumer in rate increases by the regulatory agencies.

B. Government:

In December, 1983 the forecast of gross receipts taxes for 1984-85 was $167.9 million. Based on federal court rulings and state administrative actions that estimate under current law has been reduced to $161.7 million. The gross receipts taxes levied by this bill would raise $167.0 million in 1984-85. Because some of the changes do not take effect until mid-year, revenue on an annualized basis under this bill would be $182.5 million.

III. COMMENTS:

Sections 1, 2, and 7 of this act take effect on July 1, 1984. Sections 3, 4, 5, and 6 take effect on January 1, 1985.

IV. AMENDMENTS:

None
affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle tax anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district, or board of trustees of any junior college district

(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district

(11) The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and effect. The legislature shall not reduce the levies of said motor vehicle license taxes during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license taxes from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle tax anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle tax anticipation certificates

(12) The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.

(13) Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license taxes as provided herein, and if herefore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state, and if herefore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) DEBT LIMITATION Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

(f) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.

(g) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.

(h) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (c) differs from that contained herein, then such other language as to subsection (c) shall prevail over the language of subsection (c) as contained herein. This amendment shall take effect as of July 1, 1975

BE IT FURTHER RESOLVED that the following statement be placed on the ballot

CONSTITUTIONAL AMENDMENT

ARTICLE XII, SECTION 9

PUBLIC EDUCATION CAPITAL OUTLAY BONDS—Proposing an amendment to the State Constitution to provide for the levy on gross receipts pursuant to Chapter 203, Florida Statutes, as provided by law to authorize the continuation of the funding of public education capital outlay bonds for the construction of public school, vocational education, community college, School for the Deaf & Blind, and university buildings

On passage of SJR 1157, the vote was

Yea's—107

The Chair; Dunbar; Lawson; Rocklin; Abrams; Evans-Jones; Lehtinen; Ros; Armstrong; Figg; Lewis; Sample; Arnold; Friedman; Liberti; Sanderson; Bailey; Gallagher; Lippman; Selph; Bass; Gardner; Locke; Shackleford; Bell; Gordon; Logan; Silver; Brantley; Grant; Mackenzie; Simon; Bronson; Grindle; Martin; Simone; Brown, C; Gustafson; Martinez; Smith; Brown, T C; Hanson; McEwan; Spel; Burke; Hargrett; Metcalf; Stewart; Burnsed; Harris; Thomas; Carlton; Hawkins, L R; Mills; Thompson; Carpenter; Hawkins, M E; Mitchell; Titone; Casas; Hazouri; Morgan; Tobnassen; Clark; Healey; Murphy; Tobin; Clements; Hodges; Nergard; Wallace; Combee; Hollingsworth; Ogden; Ward; Cortina; Jamerson; Patchett; Watt; Crady; Johnson, B L; Peeples; Webster; Crotty; Johnson, R C; Press; Weinstock; Danson; Johnson, R M; Ready; Wetherell; Danziger; Jones, C F; Reaves; Williams; Davus; Jones, D L; Reddock; Woodruff; Deutch; Kelly; Reynolds; Young; Drage; Kutun; Robinson

Nays—None

On motion by Rep Kutun, the rules were waived and—

CS for SB 1152—A bill to be entitled An act relating to the gross receipts tax imposed under ch 203, F.S.; amending s. 203.01, F.S.; imposing gross receipts tax on gross receipts derived by persons on business done within the state and between points within the state, including gross receipts tax on telecommunication services, creating s. 203.012, F.S.; defining telecommunication services, local telephone service, toll telephone service, private communication service, teletypewriter or computer exchange service, repealing s. 203.011, F.S.; relating to authorized credits, creating s. 203.013, F.S.; establishing the apportionment formula for the tax where the

May 31, 1984
telecommunication services originate in Florida and terminate in another state or originate in another state and terminate in Florida, amending s. 203, F.S.; defining telecommunication services effective January 1, 1985, providing effective dates

—was taken up and read the second time by title.

Representative Kutun offered the following amendment.

Amendment 1—On page 14, line 15, after "1985", insert: ; however, the provisions of subparagraph 2 of paragraph (a) of s. 203.015(1), F.S., as created in Section 5 of this act shall take effect July 1, 1985.

Rep. Kutun moved the adoption of the amendment, which was adopted without objection.

Representative Gallagher offered the following amendment:

Amendment 2—On page 4, lines 6-12, strike all of said lines and strike "computer" throughout the bill and insert on lines 6-12, (1) "telecommunication services" means local telephone service, toll telephone service, teletypewriter exchange service and private communication service.

Rep. Gallagher moved the adoption of the amendment, which failed of adoption. The vote was:

**Yeas—45**

Bankhead
Brantley
Burrrall
Carpenter
Cass
Combee
Cortina
Cosgrove
Crady
Danson
Deutsch
Dudley

**Nays—66**

Abrams
Armstrong
Arnold
Bailey
Bass
Bell
Bronson
Brown, C
Brown, T. C.
Burke
Burnsed
Carlton
Clark
Clements
Crotty
Dantlier
Drage

On motion by Rep. Kutun, the rules were waived and CS/SB 1152, as amended, was read the third time by title. On passage, the vote was:

**Yeas—81**

The Chair
Abrams
Armstrong
Arnold
Bailey
Bass
Bell

Gustafson
Hargrett
Harris
Hawkins, L R
Hazouri
Healey
Holt
Jamerson
Johnson, B L
Johnson, R C
Jones, C F
Jones, D L.
Jones, D L.
Jones, J. F.
Jones, R. N.
Jones, N. J.
Lehtinen
Lippman
Locke
Logan
Mackenzie
Martin
Martinez
Meffert
Metcalfe
Mills
Morgan
Morton

**Nays—24**

Crady
Crotty
Danson
Drage
Dudley
Dubner

Lehtinen
Lippman
Locke
Logan
Mackenzie
Martin
Martinez
Meffert
Metcalfe
Mills
Morgan
Morton

**Votes after roll call**

**Yeas—Reddick**

**Nays—Shackelford, M. E Hawkins, Carlton**

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

**Messages from the Senate**

The Honorable H. Lee Moffitt, Speaker

I am directed to inform the House of Representatives that the Senate has passed HB 619, with amendments, and requests the concurrence of the House.

Joe Brown, Secretary

By the Committee on Ethics & Elections—

**HB 619**—A bill to be entitled An act relating to elections; amending s. 97.061, F.S., relating to elections requiring assistance to vote, amending s. 98.031, F.S., relating to changes in election precincts, amending s. 29.012, F.S., relating to disclosure of financial interests by candidates, amending s. 99.061, F.S., relating to qualifying dates for special district elections; amending s. 100.371, F.S., relating to retention of petition forms; amending s. 101.051, F.S., relating to elections requiring assistance to vote, amending s. 101.161, F.S., relating to constitutional amendments by initiative; amending s. 106.011 and 106.03, F.S., raising the limit for registration of political committees to $500; amending s. 106.021, F.S., relating to campaign depositories, amending ss. 106.141 and 106.29, F.S., relating to financial records and proceedings of the Florida Elections Commission; amending s. 111.011, F.S., relating to statement of contributions received by elected public officers; providing an effective date.

**Senate Amendment 1**—On page 12, lines 2-4, strike all of said lines and insert: this chapter shall be confidential, shall be exempt from the provisions of s. 119.07 (1) and chapter 286, and shall be exempt from publication in the Florida Administrative Weekly of any notice or agenda with respect to any proceeding relating to such violations, unless confidentiality is waived in writing by the person against whom the complaint has been filed. Upon entry of an order by the commission disposing of a case before it, the entire proceedings and records relating to such case shall become a public record, except that if an order disposing of a case is entered within 30 days prior to the date of the election with respect to which the alleged violation occurred, such order and the proceedings and records relating to such case shall not become public until
CHAPTER 84-341 LAWS OF FLORIDA

Approved by the Governor June 24, 1984.

Filed in Office Secretary of State June 25, 1984.

CHAPTER 84-341

An act relating to the gross receipts tax imposed under ch. 203, F.S.; amending ss. 203.011, 203.013, F.S.; defining telecommunication services, local telephone service, toll telephone service, private communication service, teletypewriter or computer exchange service; repealing ss. 203.011, F.S., relating to authorized credits; creating ss. 203.012, F.S.; establishing the apportionment formula for the tax where the telecommunication services originate in Florida and terminate in another state or originate in another state and terminate in Florida; amending ss. 203.012, F.S.; defining telecommunication services effective January 1, 1985; providing effective dates.

WHEREAS, the Legislature finds that due to the growth of the telecommunication services industry there is a need to expand and enlarge Chapter 203, Florida Statutes, so as to impose the gross receipts tax on all telecommunication services, and to avoid discrimination involving those competitively similar, and

WHEREAS, the Federal Court ordered divestiture of American Telephone and Telegraph Company has required the State of Florida to carefully scrutinize the divestiture so as to determine gross receipts tax implications resulting therefrom, and

WHEREAS, the Legislature desires to clarify the legislative intent with regard to imposition of the gross receipts tax involving interstate use of telephone and telecommunication services, and

WHEREAS, the Legislature desires to create an apportionment formula so as to impose the gross receipts tax on reasonably and fairly measure that part of gross receipts generated from business done within the State of Florida, and

WHEREAS, the Legislature recognizes that the gross receipts tax, levied under chapter 203, Florida Statutes, is used to fund bonds as provided in Section 9, Art XII, State Constitution, and

WHEREAS, the Legislature recognizes that since 1947, chapter 203, Florida Statutes, imposed gross receipts tax derived from business done within this state, or between points within this state, but did not contain an apportionment formula apportioning gross receipts derived from business done within this state for use of telephone where the use of telephone originated in Florida and terminated in another state, or originated in another state and terminated in Florida, NOW, THEREFORE,

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

Section 1. Section 203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility services.—Every person, including a municipal corporation, receiving payment for electricity for light, heat, or power; for natural or manufactured gas for light, heat, or power; for telecommunication services use-of-telephone; and for the sending of telegrams and telegraph messages shall report quarterly to the Department of Revenue, not later than January 31 for the 3 months ending December 31, not later than April 30 for the 3 months ending March 31, not later than July 31 for the 3 months ending June 30, and not later than October 31 for the 3 months ending September 30, under oath of the secretary or some other officer of such person, the total amount of gross receipts derived from business done within this state, or between points within this state, for the preceding 3 months and, at the same time, shall pay into the State Treasury the sum of $1.50 upon each $100 of such gross receipts; and such collections shall be certified by the Comptroller upon request of the State Board of Education. The term "gross receipts" as used herein shall not include gross receipts of any person derived from the sale of natural gas to a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity. If any person fails to make such report to the department and pay the tax as herein provided, the department shall, after having given at least 5 days' notice to such person or some official of such person, if such notice is not violative thereof within this state, estimate the amount of such gross receipts from such information as it may be able to obtain, add 18 percent of the amount of such taxes as a penalty for the failure of such person to make the report, and proceed to collect such tax, together with all costs and the penalty, the same as other delinquent taxes are collected. However, no penalty shall be added if a return is made and the amount due is paid to the Treasurer before the expiration of the time stated in the department's notice.

Section 2. Section 203.012, Florida Statutes, is created to read:

203.012 Definitions.—As used in this chapter:

1. "Telecommunication services" means local telephone service, toll telephone service, teletypewriter or computer exchange service, private communication services, cellular mobile telephone or telecommunication services, specialized mobile radio, and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communications.

2. "Local telephone service" means:

(a) The access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or
(b) Any facility or service provided in connection with a service described in paragraph (a).

The term "local telephone service" does not include any service which is a "toll telephone service," "private communication service," or "teletypewriter or computer exchange service," as defined in subsections (3), (4), and (5).

(3) "Toll telephone service" means:

(a) A telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication; or

(b) A service which entitles the subscriber or user, upon payment of a periodic charge, determined as a flat amount or upon the basis of total elapsed transmission time, to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

The term toll telephone service includes interstate and intrastate wide area telephone service charges.

(4) "Private communication service" means:

(a) The communication service furnished to a subscriber or user which entitles the subscriber or user to exclusive or priority use of any communication channel or groups of channels, or to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, groups of channels, or intercommunication system may be connected through switching with a service described in subsections (2), (3), or (5);

(b) Switching capacity, extension lines, and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of, channels or systems described in paragraph (a); or

(c) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system.

(5) "Teletypewriter or computer exchange service" means the access from a teletypewriter, telephone, computer, or other data station of which such station is a part, and the privilege of intercommunication by such station with substantially all persons having teletypewriter, telephone, computer, or other data stations constituting a part of the same teletypewriter or computer exchange system, to which the subscriber or user is entitled upon payment of a charge or charges, whether such charge or charges are determined as a flat, periodic amount, on the basis of distance and elapsed transmission time, or some other method. The term "teletypewriter or computer exchange service" does not include "local telephone service" or "toll telephone service" as defined in subsections (2) and (3).
or originates in another state and terminates in Florida, shall communicate originates in Florida and terminates in another state interstate telecommunication services.——

Treasurer before receipt of such sales can demonstrate in fact occurred and complies with the following requirements: A resale in this state must be in strict compliance with the rules and regulations of the Department of Revenue, and any public or private utility, including any municipal corporation and rural electric cooperative association, or any person making a sale for resale in this state which is not in strict compliance with the rules and regulations of the Department of Revenue shall himself be liable for and pay the tax. Any public or private utility, including any municipal corporation and rural electric cooperative association, or any person making a sale for resale in this state may, through the informal protest provided for in s. 203.012, and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. The department shall adopt rules which shall provide that valid proof and documentation of the resale in this state by any public or private utility, including any municipal corporation and rural electric cooperative association, or any person making the sale for resale in this state shall be accepted by the department when submitted during the protest period but shall not be accepted when submitted in any proceeding under chapter 170 or any circuit court action instituted under chapter 72. If any person fails to make such report to the department and pay the tax as herein provided, the department shall, after having given at least 5 days notice to such person or some official or representative thereof within this state, estimate the amount of such gross receipts from such information as it may be able to obtain, add 18 percent of the amount of such taxes as a penalty for the failure of such person to make the report, and proceed to collect such tax, together with all costs and the penalty, the same as other delinquent taxes are collected. However, no penalty shall be added if a return is made and the amount due is paid to the Treasurer before the expiration of the time stated in the department's notice.

Section 5. Section 203.013, Florida Statutes, is created to read:

203.013 Apportionment of business done within this state: interstate telecommunication services.—

(1) Except as provided in subsection (2), the tax on gross receipts from the provision of telecommunication services where the communication originates in Florida and terminates in another state or originates in another state and terminates in Florida, shall be reported and paid in the same manner as provided in s. 203.01 on the following portion of the gross receipts for such interstate telecommunication services:

(a) The sum of:

1. The total access charges paid or payable by the provider for access into the local Florida telephone system for interstate telecommunication services; and

2. An amount determined by multiplying:

a. The amount as determined by subtracting the total access charges paid or payable by the provider for access into all local telephone systems in the United States for all interstate telecommunication services from the total gross receipts of the provider for all interstate telecommunication services.

b. By a factor the numerator of which is the total access charges paid or payable by the provider for access into all local telephone systems in the United States for all interstate telecommunication services and the denominator of which is the total access charges paid or payable by the provider for access into all local telephone systems in the United States for all interstate telecommunication services; or

(b) If the amount so determined does not accurately reflect the amount of such interstate gross receipts attributable to this state, the Department of Revenue may, by rule, provide for the use of any other method which will produce a substantially just and correct determination of the amount of such interstate receipts attributable to this state.

For purposes of computing gross receipts and access charges paid or payable under this subsection, there shall be taken into account the gross receipts and access charges paid or payable by the provider and all other providers who are commonly owned and who jointly provide the same type of services as are subject to this tax. For purposes of apportionment as provided herein, gross receipts means the total gross receipts of the provider, without any deduction or reduction for gross receipts which result from the sale of telecommunication services for resale.

(2) The tax on gross receipts from the provision of teletypewriter or computer exchange services where the communication originates in Florida and terminates in another state or originates in another state and terminates in Florida, shall be paid in the same manner as provided in s. 203.01 on the following portion of the gross receipts for such interstate teletypewriter or computer exchange services:

(a) An amount determined by multiplying the gross receipts for teletypewriter or computer exchange system services included under this paragraph by a fraction the numerator of which is the total equipment terminals connected to the teletypewriter or computer exchange service located in this state and the denominator of which is the total number of terminal equipment stations connected to the
teletypewriter or computer exchange service included under this paragraph; or

(b) If the amount so determined does not accurately reflect the amount of such interstate gross receipts attributable to this state, the Department of Revenue may, by rule, provide for the use of any other method which will produce a substantially just and correct determination of the amount of such interstate receipts attributable to this state.

For purposes of computing gross receipts and access charges paid or payable under this subsection, there shall be taken into account the gross receipts and access charges paid or payable by the provider and all other providers who are commonly owned and who jointly provide the same type of services as are subject to this tax. For purposes of apportionment as provided herein, gross receipts means the total gross receipts of the provider, without any deduction or reduction for gross receipts which result from the sale of telecommunication services for resale.

Section 6. Subsections (6), (7), and (8) of section 203.012, Florida Statutes, as created by this act, are amended to read:

203.012 Definitions.--As used in this chapter:

(6) "Access charge" or "right of access" means any charge to any person for the right to use or for the use of the interstate telephone system which shall include equipment, facilities, or services to originate or terminate any of the services defined in subsection (1), (3), (4), or (5) and specifically includes customer access line charges, which includes the gross amount paid by subscribers and users in this state for access into the interstate or interconnection network as authorized by the Federal Communications Commission or Florida Public Service Commission.

(7) Gross receipts for telecommunication services shall not include:

(a) Charges for customer premises equipment, including such equipment that is leased or rented by the customer from any source;

(b) Charges made to the public for commercial or cable television, unless it is used for two-way communication; however, if such two-way communication service is separately billed only the charges made for two-way communication service shall be subject to tax hereunder;

(c) Charges made by hotels and motels, which are required under the provisions of s. 212.03 to collect transient rentals tax from tenants and lessees, for local telephone service or toll telephone service, where such charge occurs incidental to the right of occupancy in such hotel or motel; or

(d) Connection and disconnection charges, move or change charges, suspension of service charges, and service order, number change, and restoration charges.

Chapter 84-342

Approved by the Governor June 24, 1984.

File in Office Secretary of State June 25, 1984.

Chapter 84-343

An act relating to domestic violence; amending s. 415.601, F.S.; setting forth duties and functions of the Department of Health and Rehabilitative Services with respect to domestic violence; creating s. 415.604, F.S.; requiring an annual report by the department; amending s. 415.605, F.S.; providing for certification, decertification, procedures for seeking services, and funding of domestic violence centers; providing rulemaking authority; and providing for confidentiality of information; creating s. 415.606, F.S.; requiring that law enforcement officers and certain judges receive certain information and training; amending s. 415.608, F.S.; providing for confidentiality of information; creating s. 415.609, F.S.; requiring that law enforcement officers and certain judges receive certain information and training; amending s. 741.01, F.S.; conforming provisions; amending s. 741.30, F.S.; providing for an injunction for protection and an expedite temporary injunction for protection; providing penalties for violating such injunctions; prescribing relief available through an injunction for protection;