

1988

## Session Law 88-119

Florida Senate & House of Representatives

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A bill to be entitled

An act relating to tax on sales, use and other transactions; amending s. 212.054, F.S.; revising requirements for determining when a sale is deemed to have occurred in a county levying a discretionary sales surtax; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 212.054, Florida Statutes, as amended by chapter 87-548, Laws of Florida, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.--

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a) The dealer is located in the county and the sale includes tangible personal property and delivery occurs in the county, except as otherwise provided herein; provided, that the sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property;

Section 2. This act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

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HOUSE SUMMARY

With respect to counties levying a discretionary sales surtax, specifies that a sale shall be deemed to have occurred in the county, and thus be subject to the tax, if the dealer is located in the county and delivery occurs in the county.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

By Senator Gordon

A bill to be entitled

An act relating to the acceptance of credit cards by state agencies; amending s. 215.322, F.S.; authorizing state agencies to collect service fees for financial institutions upon payment, by credit card, of taxes, license fees, tuition, and other statutorily prescribed revenue; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards by state agencies.--

(2) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards by state agencies, including, but not limited to, the following:

(b) The types of revenue or collections that may be subject to service fees by the financial institution. Taxes, license fees, tuition, and other statutorily prescribed revenues shall not be subject to a service fee; however, a state agency may collect a service fee from a person who pays a tax, license fee, tuition, or other statutorily prescribed revenue by credit card and remit the service fee to the financial institution.

Section 2. This act shall take effect upon becoming a law.

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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SENATE SUMMARY

Authorizes state agencies to collect service fees from each person who pays a tax, license fee, tuition, or other statutorily prescribed revenue by credit card and to remit the service fee to the financial institution that issued the credit card.

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By the Committee on Governmental Operations and Senator Gordon

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled  
An act relating to the acceptance of credit cards by state agencies and units of local government; amending s. 215.322, F.S.; authorizing state agencies and units of local government to collect service fees for financial institutions after receiving payment by credit card; authorizing rules for public disclosure; authorizing the Treasurer to establish contracts with financial institutions for processing credit card collections; creating an exemption from ch. 119, F.S., for certain records; providing an effective date.

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

Section 1. Section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards by state agencies and units of local government.--

(1) A state agency, as defined in s. 216.011, may accept credit cards in payment for goods and services with the prior approval of the Treasurer.

(2) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards by state agencies, including, but not limited to, the following:

(a) Utilization of a standardized contract between the financial institution and the agency which shall be developed by the Treasurer or approval by the Treasurer of a substitute agreement.

1           (b)1. The types of revenue or collections that may be  
2 subject to service fees or surcharges by the financial  
3 institution. Taxes, license fees, tuition, and other  
4 statutorily prescribed revenues ~~may shall-not~~ be subject to a  
5 service fee or surcharge.

6           2. The minimum public disclosure requirements to  
7 persons who elect to pay taxes, license fees, tuition, and  
8 other statutorily prescribed revenues by credit card which are  
9 subject to a surcharge pursuant to this section. Any state  
10 agency or unit of local government that surcharges a person  
11 who pays by credit card shall be subject to the minimum public  
12 disclosure requirements adopted by the Treasurer pursuant to  
13 this subparagraph.

14           (c) All service fees payable to financial institutions  
15 when practicable shall be invoiced and paid by state warrant  
16 in accordance with s. 215.422.

17           (d) Submission of information to the Treasurer  
18 concerning the acceptance of credit cards by all state  
19 agencies.

20           (3) The Treasurer is authorized to establish contracts  
21 with one or more financial institutions or credit card  
22 companies, in a manner consistent with chapter 287, for  
23 processing credit card collections for deposit into the State  
24 Treasury or another qualified public depository. Any state  
25 agency which accepts payment by credit card shall use at least  
26 one of the contractors established by the Treasurer unless the  
27 state agency obtains authorization from the Treasurer to use  
28 another contractor which is more financially advantageous to  
29 such state agency. Such contracts may authorize a unit of  
30 local government to use the services upon the same terms and  
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1 conditions for deposit of credit card transactions into its  
 2 qualified public depositories.

3 (4) A unit of local government is authorized to accept  
 4 credit cards in payment of financial obligations which are  
 5 owing to such unit of local government and to surcharge the  
 6 person who uses a credit card in payment of taxes, license  
 7 fees, tuition, or other statutorily prescribed revenues an  
 8 amount sufficient to pay the service fee charges by the  
 9 financial institution or credit card company for such  
 10 services.

11 (5) Credit card account numbers in the possession of a  
 12 state agency or unit of local government are confidential and  
 13 exempt from the provisions of chapter 119. This exemption is  
 14 subject to the Open Government Sunset Review Act in accordance  
 15 with s. 119.14.

16 Section 2. This act shall take effect upon becoming a  
 17 law.

18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
 19 COMMITTEE SUBSTITUTE FOR  
 20 Senate Bill 956

21 Authorizes units of local government to accept credit cards  
 22 and to charge a service fee for authorized revenues and to  
 remit the service fee to financial institutions.

23 Requires the State Treasurer to adopt rules for state  
 24 agencies and local governments to provide public disclosure  
 regarding service fees added to payments made by credit card.  
 25 Authorizes the Treasurer to establish contracts with  
 financial institutions, pursuant to the bidding requirements  
 26 contained in ch. 287, F.S., for processing credit card  
 payments collected by agencies of the state and local  
 27 governments. Provides that agencies may, with authorization  
 from the Treasurer, use other financial institutions, if  
 doing so is advantageous to the agency.

28 Exempts records of credit card numbers contained in the  
 29 records of state and local government agencies from the  
 provisions of ch. 119, F.S., the Public Records Law.  
 30 Schedules the exemption for future review and repeal under  
 the Open Government Sunset Review Act, s. 119.14, F.S.



By Senators Woodson, Myers and Dudley

THIS PUBLICATION WAS PRODUCED AT AN AVERAGE COST OF 1.5 CENTS PER PAGE FOR THE INFORMATION OF MEMBERS OF THE SENATE AND THE PUBLIC.

A bill to be entitled

An act relating to the local government half-cent sales tax; amending s. 218.65, F.S.; revising requirements for qualification of county governments for emergency distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund; increasing the annual appropriation to the fund; creating s. 218.66, F.S.; providing for emergency distributions to municipalities from the fund; specifying requirements for qualification for such distributions; providing for an annual appropriation to the fund; providing an effective date.

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

Section 1. Section 218.65, Florida Statutes, is amended to read:

218.65 Emergency distribution; counties.--

(1) Each county government which meets the provisions of subsection (2) and which participates in the local government half-cent sales tax shall receive an emergency distribution from the Local Government Half-cent Sales Tax Clearing Trust Fund in addition to its regular monthly distribution as provided in this part.

(2) The Legislature hereby finds and declares that a fiscal emergency exists in any county which meets ~~all~~ of the following criteria specified in paragraph (a), if applicable, and the criterion specified in paragraph (b).

~~(a) --its population is less than 50,000-~~

1 (a) If the county has a population of 50,000 or above:

2 ~~(b)1.~~ In any year from 1977 to 1981, inclusive, the  
3 value of net new construction and additions placed on the tax  
4 roll for that year was less than 2 percent of the taxable  
5 value for school purposes on the roll for that year, exclusive  
6 of such net value; or

7 2. The percentage increase in county taxable value  
8 from 1979 to 1980, 1980 to 1981, or 1981 to 1982 was less than  
9 3 percent.

10 ~~(b)2.~~ The moneys estimated to be distributed to the  
11 county government pursuant to s. 218.62 for the year will be  
12 less than the current \$20 per capita limitation, based on the  
13 population of that county.

14 (3) Qualification under this section shall be  
15 determined annually prior to the start of the local government  
16 fiscal year. Emergency moneys shall be distributed monthly  
17 with other moneys provided pursuant to this part.

18 (4) For the local government fiscal year beginning  
19 October 1, 1988, the per capita limitation shall be \$24.60.  
20 Thereafter, commencing with the local government fiscal year  
21 which begins October 1, 1989, this limitation shall be  
22 adjusted annually for inflation. The annual adjustment to the  
23 per capita limitation for each fiscal period shall be the  
24 percentage change in the state and local government price  
25 deflator for purchases of goods and services, all items, 1983  
26 equals 100, or successor reports for the preceding calendar  
27 year as initially reported by the United States Department of  
28 Commerce, Bureau of Economic Analysis, as certified by the  
29 Florida Consensus Estimating Conference.

30 ~~(5)4.~~ The moneys appropriated for emergency  
31 distribution shall be divided equally per capita among

1 qualified county governments; however, such moneys, when  
 2 combined with other moneys distributed pursuant to this part,  
 3 shall not exceed the current \$20 per capita limitation, based  
 4 on the population of each for-any county government. Any  
 5 excess shall be redistributed in the same fashion to remaining  
 6 qualified county governments; however, in no event shall the  
 7 current per capita limitation ~~\$20-limitation~~ be exceeded.

8       (6)+5) There is hereby annually appropriated from the  
 9 General Revenue Fund to the Local Government Half-cent Sales  
 10 Tax Clearing Trust Fund \$4.2 ~~\$2.5~~ million to be used for  
 11 emergency distributions pursuant to this section and to be  
 12 expended during the local government fiscal year. If any  
 13 excess exists pursuant to subsection (5)+4) at the end of the  
 14 local government fiscal year after all qualified county  
 15 governments have reached the current per capita limitation  
 16 ~~\$20-limitation~~, it shall revert to the General Revenue Fund.

17       (7)+6)(a) Any county eligible for an emergency  
 18 distribution pursuant to this section the inmate population of  
 19 which in any year is greater than 7 percent of the total  
 20 population of the county is eligible for a supplemental  
 21 distribution for that year from funds expressly appropriated  
 22 therefor. The sum of such supplemental distribution plus all  
 23 other moneys distributed pursuant to this part may not exceed  
 24 the current \$20 per capita limitation, based on the total  
 25 population of the county. Any balance of moneys appropriated  
 26 for such purposes remaining at the end of the local government  
 27 fiscal year shall revert to the state General Revenue Fund.  
 28 If moneys appropriated for such purposes are insufficient to  
 29 meet the current limit-of-\$20 per capita limitation for the of  
 30 total population of eligible counties, such moneys shall be  
 1 prorated among eligible counties. The distributions

1 authorized pursuant to this subsection shall be made monthly  
2 during the local government fiscal year in combination with  
3 other moneys distributed pursuant to this part.

4 (b) For the purposes of this subsection, the term:

5 1. "Inmate population" means inmates and patients  
6 residing in institutions operated by the Federal Government,  
7 the Department of Corrections, or the Department of Health and  
8 Rehabilitative Services.

9 2. "Total population" includes inmate population and  
10 noninmate population.

11 Section 2. Section 218.66, Florida Statutes, is  
12 created to read:

13 218.66 Emergency distribution; municipalities.--

14 (1) Each municipal government which meets the  
15 provisions of subsection (2) and which participates in the  
16 local government half-cent sales tax shall receive an  
17 emergency distribution from the Local Government Half-cent  
18 Sales Tax Clearing Trust Fund in addition to its regular  
19 monthly distribution as provided in this part.

20 (2) The Legislature hereby finds and declares that a  
21 fiscal emergency exists in any municipality where the moneys  
22 estimated to be distributed to the municipal government  
23 pursuant to s. 218.62 for the year will be less than the  
24 current per capita limitation, based on the population of that  
25 municipality.

26 (3) Qualification under this section shall be  
27 determined annually prior to the start of the local government  
28 fiscal year. Emergency moneys shall be distributed monthly  
29 with other moneys provided pursuant to this part.

30 (4) For the local government fiscal year beginning  
31 October 1, 1988, the per capita limitation shall be \$24.60.

1 Thereafter, commencing with the local government fiscal year  
2 which begins October 1, 1989, this limitation shall be  
3 adjusted annually for inflation. The annual adjustment to the  
4 per capita limitation for each fiscal period shall be the  
5 percentage change in the state and local government price  
6 deflator for purchases of goods and services, all items, 1983  
7 equals 100, or successor reports for the preceding calendar  
8 year as initially reported by the United States Department of  
9 Commerce, Bureau of Economic Analysis, as certified by the  
10 Florida Consensus Estimating Conference.

11 (5) The moneys appropriated for emergency distribution  
12 shall be divided equally per capita among qualified municipal  
13 governments; however, such moneys, when combined with other  
14 moneys distributed pursuant to this part, shall not exceed the  
15 current per capita limitation, based on the population of each  
16 municipality. Any excess shall be redistributed in the same  
17 fashion to remaining qualified municipal governments; however,  
18 in no event shall the current per capita limitation be  
19 exceeded.

20 (6) There is hereby annually appropriated from the  
21 General Revenue Fund to the Local Government Half-cent Sales  
22 Tax Clearing Trust Fund \$2.1 million to be used for emergency  
23 distributions pursuant to this section and to be expended  
24 during the local government fiscal year. If any excess exists  
25 pursuant to subsection (5) at the end of the local government  
26 fiscal year after all qualified municipal governments have  
27 reached the current per capita limitation, it shall revert to  
28 the General Revenue Fund.

29 Section 3. This act shall take effect upon becoming a  
30 law.

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LEGISLATIVE SUMMARY

Revises requirements for qualification of county governments for emergency distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund, including the per capita limitation, and increases the annual appropriation to the fund for such distributions.

Provides for emergency distributions to municipalities from the fund and specifies requirements for qualification for such distributions. Provides an annual appropriation to the fund for such distribution.

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by Senator Deratany

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled  
An act relating to taxation; amending s.  
212.06, F.S.; prescribing the method of  
calculating the taxable cost of personal  
property manufactured by a person for his own  
use; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section  
212.06, Florida Statutes, as amended by sections 20 and 21 of  
chapter 87-548, Laws of Florida, is amended to read:

212.06 Sales, storage, use tax; collectible from  
dealers; "dealer" defined; dealers to collect from purchasers;  
legislative intent as to scope of tax.--

(1)

(b) Except as otherwise provided, any person who  
manufactures, produces, compounds, processes, or fabricates in  
any manner at a plant or manufacturing facility tangible  
personal property for his own use shall pay a tax upon the  
cost of the product manufactured, produced, compounded,  
processed, or fabricated, which cost shall include only the  
total direct costs of labor, materials, and the use value of  
equipment used in the manufacturing, production, compounding,  
processing, or fabrication process, upon which labor,  
materials, or use value of equipment such person has not paid  
any sales tax imposed under this chapter and which labor,  
materials, or use value of equipment is not otherwise exempt  
from any tax imposed by this chapter. ~~without any deduction~~  
~~therefrom on account of the cost of material used, labor or~~  
~~service costs, or transportation charges, notwithstanding the~~

~~provisions of s. 212-02 defining "cost-price."~~ However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a qualified motion picture. For purposes of this part, the term "qualified motion picture" means all or any part of a series of related images, either on film, tape, or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted, or altered for exploitation in, on, or through any medium or device and at any location, primarily for entertainment, commercial, industrial, or educational purposes. A person who manufactures factory-built buildings for his own use in the



1 performance of contracts for the construction or improvement  
2 of real property shall pay a tax only upon the person's cost  
3 price of items used in the manufacture of such buildings.

4 Section 2. This act shall take effect upon becoming a  
5 law.

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SENATE SUMMARY

Prescribes the method of calculating the "cost," for purposes of use taxes, of personal property produced by a taxpayer for his own use. "Cost" will include only the direct costs of labor and materials, and the use value of equipment used, upon which sales taxes have not otherwise been paid, and which are not otherwise exempt from sales and use taxes.

by the Committee on Finance, Taxation and Claims and Senator Deratany

This publication was produced at a average cost of 1.5 cents per page for the information of members of Legislature and the public.

1 A bill to be entitled

2 An act relating to taxation; amending s.

3 212.06, F.S.; providing a method for

4 calculating the use tax on asphalt manufactured

5 for one's own use; amending s. 212.054, F.S.;

6 providing additional criteria for determining

7 the location of a sales transaction; providing

8 an effective date.

9

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

11

12 Section 1. Paragraph (c) is added to subsection (1) of

13 section 212.06, Florida Statutes, as amended by sections 20

14 and 21 of chapter 87-548, Laws of Florida, to read:

15 212.06 Sales, storage, use tax; collectible from

16 dealers; "dealer" defined; dealers to collect from purchasers;

17 legislative intent as to scope of tax.--

18 (1)

19 (c) Notwithstanding the provisions of paragraph (b),

20 the use tax on asphalt manufactured for one's own use shall be

21 calculated with respect to such paragraph only upon the cost

22 of commercial materials which become a component part or which

23 are an ingredient of the finished asphalt and for the

24 transportation of such components and ingredients and of the

25 finished asphalt. In addition, an indexed tax of 30 cents per

26 ton of such manufactured asphalt shall be due at the time and

27 in the manner of taxes due pursuant to paragraph (b).

28 Beginning July 1, 1989, the indexed tax shall be adjusted each

29 July 1 to an amount equal to the product of 30 cents

30 multiplied by a fraction, the numerator of which is the annual

31 average of the "materials and components for construction"

1 series of the producers price index, as calculated and  
 2 published by the U.S. Department of Labor, Bureau of  
 3 Statistics, for the previous calendar year and the denominator  
 4 is the annual average of said index for calendar year 1988.

5 Section 2. Paragraph (a) of subsection (3) of section  
 6 212.054, Florida Statutes, as amended by sections 10 and 11 of  
 7 chapter 87-548, Laws of Florida, is amended to read:

8 212.054 Discretionary sales surtax; limitations,  
 9 administration, and collection.--

10 (3) For the purpose of this section, a transaction  
 11 shall be deemed to have occurred in a county imposing the  
 12 surtax when:

13 (a) The dealer is located in the county, delivery is  
 14 made to a location within the county, and the sale includes  
 15 tangible personal property, except as otherwise provided  
 16 herein; provided, that the sale of any motor vehicle or mobile  
 17 home of a class or type which is required to be registered in  
 18 this state or in any other state shall be deemed to have  
 19 occurred only in the county identified as the residence  
 20 address of the purchaser on the registration or title document  
 21 for such property;

22 Section 3. This act shall take effect upon becoming a  
 23 law.

24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
 25 COMMITTEE SUBSTITUTE FOR  
 26 Senate Bill 1309

27 The provisions relating to the manufacturers' use tax are  
 28 narrowed to only apply to asphalt manufacturers. Only  
 29 transportation and "commercial" materials for asphalt  
 30 manufacturers would be subject to the use tax. In addition,  
 31 such manufacturers would have to pay an indexed tax of 30  
 cents per ton.

Provisions are added relating to the criteria for taxable  
 sales under the local option sales tax. Sales by a dealer  
 located in a taxing county but delivered to a location  
 outside that county would no longer be subject to the local  
 option sales tax.

By Senator Margolis, Grant, Stuart, Johnson and Brown

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled  
An act relating to infrastructure funding and  
impact fees; amending s. 212.055, F.S.;  
authorizing a county governing body to enact  
the local government infrastructure sales  
surtax by specified methods; establishing the  
amount of the surtax; providing that local  
school boards must be a party to certain  
interlocal agreements; specifying uses of  
revenue; amending s. 218.65, F.S.; increasing  
the maximum population that a county may have  
in order to receive an emergency distribution  
from the Local Government Half-cent Sales Tax  
Clearing Trust Fund; increasing the per capita  
limitation on moneys distributed to counties;  
providing for the annual adjustment for  
inflation of the per capita limitation;  
creating s. 206.607, F.S.; providing for a  
statewide local government tax on motor fuel;  
specifying the amount of such tax; providing  
for the uses and the distribution of the tax;  
providing protection for bonds, or other  
instruments of indebtedness, backed by taxes  
levied under ss. 336.021 and 336.025, F.S.;  
amending s. 206.87, F.S.; providing for a  
statewide local government tax on special fuel;  
specifying the amount of, and the procedure for  
collecting, such tax; amending s. 206.47, F.S.;  
redefining the term "taxable gallons  
attributable to each county"; amending s.  
206.875, F.S.; applying the administrative

1 provisions of s. 206.607, F.S., to the  
2 statewide local government tax on special fuel  
3 levied under s. 206.87, F.S.; creating s.  
4 336.027, F.S.; providing that a county may  
5 impose a local option public transit gas tax by  
6 specified procedures; specifying the amount of  
7 the tax; providing for the collection,  
8 administration, and distribution of the tax;  
9 providing for depositing the proceeds of such  
10 tax into the Local Option Public Transit Gas  
11 Tax Trust Fund; providing that bonds may be  
12 issued pursuant to the State Bond Act pledging  
13 the revenues from the tax; providing that  
14 eligible governmental entities may use the  
15 proceeds of the tax for public transit  
16 projects; prohibiting the Department of  
17 Transportation from reducing its program  
18 allocations in those counties or municipalities  
19 which have contributed revenues from the tax  
20 for state projects; amending s. 212.235, F.S.;  
21 specifying matching grants to local governments  
22 from the State Infrastructure Trust Fund to  
23 encourage participation in the Local Government  
24 Cooperative Assistance Program regarding local  
25 improvements to the State Highway System;  
26 amending s. 335.20, F.S.; modifying provisions  
27 of the Local Government Cooperative Assistance  
28 Program; providing that projects must be  
29 identified in the locally adopted capital  
30 improvements element; increasing the Department  
31 of Transportation's initial contribution,

1           expressed as a percentage of the cost of a  
2           project; providing for reimbursement by the  
3           department of the remaining local contribution;  
4           providing an appropriation from the State  
5           Infrastructure Fund, including certain money  
6           appropriated to the Department of  
7           Transportation for the purpose of carrying out  
8           the Local Government Cooperative Assistance  
9           Program; creating part II of chapter 205, F.S.;  
10          creating the "Gap Tax Act"; providing for  
11          legislative intent, rate, taxable  
12          consideration, and definitions; providing for  
13          late payments and for penalties, distribution  
14          of proceeds, and expenditure of funds;  
15          requiring the Division of Statutory Revision  
16          and Indexing of the Joint Legislative  
17          Management Committee to redesignate certain  
18          sections of the Florida Statutes pertaining to  
19          selective excise taxes; creating part IV of  
20          chapter 205, F.S.; creating the "Local Option  
21          Interim Proprietary and General Services Fee  
22          Act"; providing for legislative intent,  
23          authorization for levy and administration of  
24          the tax, and expenditure of tax proceeds;  
25          providing that the tax applies to governmental  
26          leaseholds; amending s. 218.21, F.S.; providing  
27          for recalculating certain local governments'  
28          guaranteed entitlement under municipal revenue  
29          sharing; amending ss. 199.292, 210.20, F.S.;  
30          providing for the disposition of intangible  
31          personal property taxes and the distribution of

1 cigarette taxes; amending ss. 205.033, 205.043,  
 2 F.S.; authorizing counties and municipalities  
 3 to adjust occupational license tax rates and  
 4 classifications to achieve a more equitable  
 5 distribution of the tax burden, subject to  
 6 specified terms and conditions; creating s.  
 7 320.0802, F.S.; authorizing a nonrefundable fee  
 8 on certain motor vehicle registration  
 9 transactions; specifying the amount of the fee;  
 10 providing for exemptions, for deposit of the  
 11 fees into the State Infrastructure Fund, and  
 12 for use of the proceeds; creating s. 163.3203,  
 13 F.S.; creating the "Florida Impact Fee  
 14 Authorization Act"; providing definitions;  
 15 providing the authority to impose impact fees;  
 16 providing fee requirements; providing for  
 17 methodology and ordinance disclosure; providing  
 18 for the time of assessment and collection of  
 19 impact fees; providing for compliance; amending  
 20 s. 163.3202, F.S.; clarifying the application  
 21 of the concurrency doctrine as specified by  
 22 law; repealing ss. 336.021, 336.025, F.S.,  
 23 relating to the levy of a local option gas tax;  
 24 providing for severability; providing an  
 25 effective date.

26  
 27 Be It Enacted by the Legislature of the State of Florida:

28  
 29 Section 1. Subsection (2) of section 212.055, Florida  
 30 Statutes, as amended by section 12 of chapter 87-548, Laws of  
 31 Florida, is amended to read:

1           212.055 Discretionary sales surtaxes; legislative  
2 intent; authorization and use of proceeds.--It is the  
3 legislative intent that any authorization for imposition of a  
4 discretionary sales surtax shall be published in the Florida  
5 Statutes as a subsection of this section, irrespective of the  
6 duration of the levy. Each enactment shall specify the types  
7 of counties authorized to levy; the rate or rates which may be  
8 imposed; the maximum length of time the surtax may be imposed,  
9 if any; the procedure which must be followed to secure voter  
10 approval, if required; the purpose for which the proceeds may  
11 be expended; and such other requirements as the Legislature  
12 may provide. Taxable transactions and administrative  
13 procedures shall be as provided in s. 212.054.

14           (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

15           (a) The governing authority in each county may levy,  
16 for a period of up to 15 years from the date of levy, a  
17 discretionary sales surtax of one-half of one percent or one  
18 percent. The levy of the surtax shall be pursuant to one of  
19 the following methods:

20           1. An ordinance enacted by a majority of the members  
21 of the county governing authority, provided that the county  
22 governing authority and the governing bodies of municipalities  
23 representing a majority of the county's municipal population  
24 enter into an interlocal agreement regarding the distribution  
25 of the proceeds of the surtax; or

26           2. ~~and approved by a majority of the electors of the~~  
27 ~~county voting in a referendum on the surtax;--if~~ The governing  
28 bodies of the municipalities representing a majority of the  
29 county's municipal population may adopt uniform resolutions  
30 establishing the rate of the surtax and calling for a  
31 referendum on the surtax, in which case the levy of the surtax



1 shall be placed on the ballot and shall take effect if  
 2 approved by a majority of the electors of the county voting in  
 3 the referendum on the surtax.

4  
 5 The methods for enacting provided in this paragraph do not  
 6 prevent a county commission from choosing to condition the  
 7 effectiveness of the ordinance on approval at a referendum if  
 8 it so desires. In no instance may the referendum be held ~~No~~  
 9 ~~referendum-election-called-pursuant-to-the-provisions-of-this~~  
 10 ~~subsection-shall-be-held~~ between March 9 and December 31,  
 11 1988.

12 (b) A county governing body that enacts the tax by  
 13 majority vote pursuant to ordinance shall follow the regular  
 14 enactment procedure for ordinances as set out in s. 125.66,  
 15 except that the advertisement must contain a statement which  
 16 includes a brief general description of the projects to be  
 17 funded by the surtax. If the surtax is enacted pursuant to a  
 18 referendum, a statement which includes a brief general  
 19 description of the projects to be funded by the surtax and  
 20 which conforms to the requirements of s. 101.161 shall be  
 21 placed on the ballot by the governing authority of any county  
 22 which enacts an ordinance calling for a referendum on the levy  
 23 of the surtax or in which the governing bodies of the  
 24 municipalities representing a majority of the county's  
 25 municipal population adopt uniform resolutions calling for a  
 26 referendum on the surtax. The following question shall be  
 27 placed on the ballot:

28                   ...FOR the                   ...-cent sales tax

29                   ...AGAINST the                   ...-cent sales tax

30 (c) Pursuant to s. 212.054(4), if the surtax has been  
 31 enacted by a referendum, the proceeds of the surtax levied

1 under this subsection shall be distributed to the county and  
2 the municipalities within such county in which the surtax was  
3 collected, according to:

4 1. An interlocal agreement between the county  
5 governing authority and the governing bodies of the  
6 municipalities representing a majority of the county's  
7 municipal population; or

8 2. If there is no interlocal agreement, according to  
9 the formula provided in s. 218.62.

10 (d) In all instances, local school boards shall be a  
11 party to interlocal agreements pursuant to this section. The  
12 interlocal agreement may provide for the distribution to local  
13 school boards of up to 25 percent of the surtax for the  
14 purposes of construction or maintenance and repair of capital  
15 projects and to retire or service indebtedness incurred for  
16 bonds issued.

17 (e)1. The proceeds of the surtax authorized by this  
18 subsection and any interest accrued thereto shall be expended  
19 within the county and municipalities within the county, or, in  
20 the case of a negotiated joint county agreement, within  
21 another county, to finance, plan, and construct  
22 infrastructure. Neither the proceeds nor any interest accrued  
23 thereto shall be used for operational expenses of any  
24 infrastructure, except that the proceeds and any interest  
25 accrued thereto may be used for planning purposes in the  
26 development and implementation of the Local Government  
27 Comprehensive Planning and Land Development Regulation Act,  
28 pursuant to part II of chapter 163. Counties and  
29 municipalities, as defined in s. 125.011(1), may, in addition,  
30 use the proceeds to retire or service indebtedness incurred  
31

1 for bonds issued ~~prior to July 17, 1967~~ for infrastructure  
2 purposes.

3 2. For the purposes of this paragraph,  
4 "infrastructure" means any fixed capital expenditure or fixed  
5 capital costs associated with the construction,  
6 reconstruction, or improvement of public facilities which have  
7 a life expectancy of 5 or more years and any land acquisition,  
8 land improvement, design, and engineering costs related  
9 thereto.

10 ~~(f)~~(e) Counties and municipalities receiving proceeds  
11 under the provisions of this subsection may pledge such  
12 proceeds for the purpose of servicing new bond indebtedness  
13 incurred pursuant to law. Local governments may use the  
14 services of the Division of Bond Finance of the Department of  
15 General Services pursuant to the State Bond Act to issue any  
16 bonds through the provisions of this subsection. In no case  
17 may a jurisdiction issue bonds pursuant to this subsection  
18 more frequently than once per year. Counties and  
19 municipalities may join together for the issuance of bonds  
20 authorized by this subsection.

21 ~~(g)~~(f) Counties and municipalities shall not use the  
22 surtax proceeds to supplant or replace user fees or to reduce  
23 ad valorem taxes existing prior to the levy of the surtax  
24 authorized by this subsection.

25 (h) Such surtax may not be enacted

26 ~~(g)--No referendum proposing the levying of such surtax~~  
27 ~~shall be held after November 30, 1992.~~

28 (i)~~(h)~~ Notwithstanding s. 212.054(5), the surtax must  
29 take effect on the first day of a month, as fixed by the  
30 ordinance ~~adopted pursuant to paragraph (a)~~, and may not take  
31

1 effect until at least 60 days after the date of enactment that  
2 ~~the referendum approving the levy is held.~~

3 Section 2. Section 218.65, Florida Statutes, is  
4 amended to read:

5 218.65 Emergency distribution; counties.--

6 (1) Each county government which meets the provisions  
7 of subsection (2) and which participates in the local  
8 government half-cent sales tax shall receive an emergency  
9 distribution from the Local Government Half-cent Sales Tax  
10 Clearing Trust Fund in addition to its regular monthly  
11 distribution as provided in this part.

12 (2) The Legislature hereby finds and declares that a  
13 fiscal emergency exists in any county which meets all of the  
14 following criteria:

15 (a) Its population is less than 55,000 ~~50,000~~.

16 (b)1. In any year from 1977 to 1981, inclusive, the  
17 value of net new construction and additions placed on the tax  
18 roll for that year was less than 2 percent of the taxable  
19 value for school purposes on the roll for that year, exclusive  
20 of such net value; or

21 2. The percentage increase in county taxable value  
22 from 1979 to 1980, 1980 to 1981, or 1981 to 1982 was less than  
23 3 percent.

24 (c) The moneys estimated to be distributed to the  
25 county government pursuant to s. 218.62 for the year will be  
26 less than the current ~~\$20~~ per capita limitation, based on the  
27 population of that county.

28 (3) Qualification under this section shall be  
29 determined annually prior to the start of the local government  
30 fiscal year. Emergency moneys shall be distributed monthly  
31 with other moneys provided pursuant to this part.

1           (4) For local government fiscal years beginning  
 2 October 1, 1988, and after, the per capita limitation shall be  
 3 \$24.60. Thereafter, commencing October 1, 1989, this  
 4 limitation shall be adjusted annually for inflation. The  
 5 annual adjustment to the per capita limitation for each fiscal  
 6 period shall be the percentage change in the state and local  
 7 government price deflator for purchases of goods and services,  
 8 all items, 1983 equals 100, or successor reports for the  
 9 preceding calendar year as initially reported by the United  
 10 States Department of Commerce, Bureau of Economic Analysis,  
 11 and as certified by the Florida Consensus Estimating  
 12 Conference.

13           (5)†4† The moneys appropriated for emergency  
 14 distribution shall be divided equally per capita among  
 15 qualified county governments; however, such moneys, when  
 16 combined with other moneys distributed pursuant to this part,  
 17 shall not exceed the current \$20 per capita limitation, based  
 18 on the population of each county for-any-county-government.  
 19 Any excess shall be redistributed in the same fashion to  
 20 remaining qualified county governments; however, in no event  
 21 shall the current per capita limitation \$20-limitation be  
 22 exceeded.

23           (6)†5† There is hereby annually appropriated from the  
 24 General Revenue Fund to the Local Government Half-cent Sales  
 25 Tax Clearing Trust Fund \$4.2 \$2.5 million to be used for  
 26 emergency distributions pursuant to this section and to be  
 27 expended during the local government fiscal year. If any  
 28 excess exists pursuant to subsection (5) †4† at the end of the  
 29 local government fiscal year after all qualified county  
 30 governments have reached the current per capita limitation  
 31 \$20-limitation, it shall revert to the General Revenue Fund.

1           (7)(6)(a) Any county eligible for an emergency  
 2 distribution pursuant to this section the inmate population of  
 3 which in any year is greater than 7 percent of the total  
 4 population of the county is eligible for a supplemental  
 5 distribution for that year from funds expressly appropriated  
 6 therefor. The sum of such supplemental distribution plus all  
 7 other moneys distributed pursuant to this part may not exceed  
 8 the current \$20 per capita limitation, based on the total  
 9 population of the county. Any balance of moneys appropriated  
 10 for such purposes remaining at the end of the local government  
 11 fiscal year shall revert to the state General Revenue Fund.  
 12 If moneys appropriated for such purposes are insufficient to  
 13 meet the current limit-of-\$20 per capita limitation for the of  
 14 total population of eligible counties, such moneys shall be  
 15 prorated among eligible counties. The distributions  
 16 authorized pursuant to this subsection shall be made monthly  
 17 during the local government fiscal year in combination with  
 18 other moneys distributed pursuant to this part.

19           (b) For the purposes of this subsection, the term:

20           1. "Inmate population" means inmates and patients  
 21 residing in institutions operated by the Federal Government,  
 22 the Department of Corrections, or the Department of Health and  
 23 Rehabilitative Services.

24           2. "Total population" includes inmate population and  
 25 noninmate population.

26           Section 3. Section 206.607, Florida Statutes, is  
 27 created to read:

28           206.607 Local government tax on motor fuel.--

29           (1) In addition to all other taxes imposed by law, a  
 30 tax of 7 cents per gallon is imposed upon the first sale or  
 31 first removal from storage, after importation into this state,

1 of motor fuel. For purposes of this subsection, the term  
 2 "first sale" does not include exchanges of loans, gallon-for-  
 3 gallon, of motor fuel between licensed refiners before the  
 4 fuel has been sold or removed through the loading rack or  
 5 transfers between terminal facilities owned by the same  
 6 taxpayer. The tax on motor fuel first imported into this  
 7 state by a licensed refiner storing such fuel in a terminal  
 8 facility is imposed when the product is first removed through  
 9 the loading rack. The tax shall be remitted by the licensed  
 10 refiner who owned the motor fuel immediately prior to removal  
 11 of such fuel from storage. Revenues from the taxes imposed by  
 12 this section become state funds at the moment collected by any  
 13 person. Each refiner, importer, jobber, retail dealer, or  
 14 wholesaler, is an agent for the state in collecting such  
 15 taxes, whether or not he is the ultimate seller.

16 (2) The proceeds of such tax, after deducting the  
 17 service charge pursuant to chapter 215, shall be deposited  
 18 into the Local Government Gas Tax Trust Fund, which is hereby  
 19 created in the Department of Revenue.

20 (3) Funds available under this section including  
 21 expenditures of bond proceeds relating thereto shall be used  
 22 first for payment on any existing indebtedness issued under s.  
 23 336.021 or s. 336.025 and then only for the following  
 24 "transportation expenditure" programs:

25 (a) Public transportation operations and maintenance.

26 (b) Roadway and right-of-way maintenance, drainage,  
 27 and equipment.

28 (c) Streetlighting, traffic signs, traffic engineering  
 29 signalization, and pavement marking.

30 (d) Bridge maintenance and operation.  
 31

1 (e) Debt service and current expenditures for  
2 transportation capital projects in the foregoing program  
3 areas, including construction or reconstruction of roads.

4 (4)(a) The proceeds of such tax shall be distributed  
5 each month by the Department of Revenue to the counties in  
6 proportion to gallons attributable to the counties, calculated  
7 as provided in this paragraph:

8 1. Taxable gallons attributable to each county shall  
9 be the sum of taxable gallons attributable to the county in  
10 state fiscal year 1984-1985 plus growth gallons attributable  
11 to the county.

12 2. Growth gallons attributable to the county shall be  
13 a proportion of the statewide change in taxable gallons from  
14 state fiscal year 1984-1985, hereafter referred to as the base  
15 year, to the most recently completed such year, hereafter  
16 referred to as the current year.

17 3. The proportion shall be the sum of 80 percent of a  
18 population factor plus 10 percent of a tourism factor plus 10  
19 percent of a commercial activity factor.

20 4. The population factor shall be the change from the  
21 base year to the current year in county population, adjusted  
22 as provided in subparagraph 7., divided by the sum of such  
23 numbers for all counties.

24 5. The tourism factor shall be the change from the  
25 base year to the current year in total taxable sales reported  
26 pursuant to chapter 212 for all establishments in the county  
27 classified as transient rental facilities by the Department of  
28 Revenue, divided by the sum of such numbers for all counties.

29 6. The commercial activity factor shall be the change  
30 from the base year to the current year in total taxable sales  
31



1 reported pursuant to chapter 212 for all establishments in the  
2 county, divided by the sum of such numbers for all counties.

3 7. If the current-year population for the county is  
4 less than 50 per square mile area of the county, then the  
5 change in the county's population shall be multiplied by ten  
6 times the inverse of the county's current-year population per  
7 square mile area.

8  
9 Such distribution shall under no circumstances materially or  
10 adversely affect the rights of holders of outstanding bonds  
11 which are backed by taxes authorized in s. 336.021 or s.  
12 336.025, and the amounts distributed to each county government  
13 and each municipality pursuant to this subsection shall not be  
14 reduced below the amount necessary for the payment of  
15 principal and interest and reserves for principal and interest  
16 as required under the covenants of any bond resolution  
17 outstanding, issued pursuant to s. 336.021 or s. 336.025 prior  
18 to the effective date of the repeal of those sections.

19 (b) Upon receipt of the proceeds of such tax, the  
20 county shall divide the entire proceeds among the county  
21 government and all municipalities within the county in the  
22 following manner:

23 1. The county may establish by interlocal agreement  
24 with one or more of the municipalities located therein,  
25 representing a majority of the population of the incorporated  
26 area within the county, a distribution formula for dividing  
27 the entire proceeds of the local government motor fuel tax  
28 among the county government and all municipalities within the  
29 county.

30 2. If no interlocal agreement is adopted, the proceeds  
31 of the tax shall be distributed among the county government

1 and municipalities based on the transportation expenditures of  
2 each for the immediately preceding 5 fiscal years, as a  
3 proportion of the total of such expenditures for the county  
4 and all municipalities within the county.

5 (c) Any newly incorporated municipality is entitled to  
6 receive a share of the tax proceeds. Distribution of such  
7 proceeds to a newly incorporated municipality shall begin in  
8 the first full local fiscal year following incorporation. The  
9 distribution to a newly incorporated municipality shall be:

10 1. Equal to the county's per lane mile expenditure in  
11 the previous year times the lane miles within the jurisdiction  
12 or responsibility of the municipality, in which case the  
13 county's share shall be reduced proportionately; or

14 2. Determined by the local act incorporating the  
15 municipality.

16  
17 Notwithstanding the provisions of this paragraph, in no  
18 instance shall the distribution to a newly incorporated  
19 municipality materially or adversely affect the rights of  
20 holders of outstanding bonds which are backed by taxes  
21 authorized in this section, and in no instance shall the  
22 county or any municipality's share be reduced below the amount  
23 necessary for the payment of principal and interest and  
24 reserves for principal and interest as required under the  
25 covenants of any bond resolution outstanding on the date of  
26 the redistribution.

27 (d) By July 1 of each year, the county shall provide  
28 the department with a certified copy of the interlocal  
29 agreement with distribution proportions established by such  
30 agreement or other arrangement for distribution established  
31 under this subsection. Any dispute as to the determination by

1 the county of distribution proportions shall be resolved  
2 through an appeal to the Administration Commission in  
3 accordance with procedures developed by the commission.  
4 Pending final disposition of such proceeding, the tax shall be  
5 collected pursuant to this section, and such funds shall be  
6 held in escrow by the clerk of the circuit court of the county  
7 until final disposition.

8 (5) The Department of Transportation shall not reduce  
9 its program allocations from the State Transportation Trust  
10 Fund in those counties and municipalities which elect to  
11 contribute revenues from the proceeds of the tax imposed under  
12 this section for state highway and transit projects.

13 (6) For the purposes of taxes levied under s. 336.021  
14 or s. 336.025 prior to the effective date of repeal of those  
15 sections, this section shall supersede those levies. However,  
16 the state does hereby covenant with holders of bonds or other  
17 instruments of indebtedness issued by local governments  
18 pursuant to s. 336.021 or s. 336.025 prior to the effective  
19 date of the repeal of those sections, that it is not the  
20 intent of this part to adversely affect the rights of said  
21 holders or to relieve local governments of the duty to meet  
22 their obligations as a result of previous pledges or  
23 assignments or trusts entered into which obligated funds  
24 received from revenue sources which funds shall henceforth be  
25 paid for from distributions from the Local Government Gas Tax  
26 Trust Fund pursuant to this section.

27 Section 4. Paragraph (b) of subsection (5) of section  
28 206.47, Florida Statutes, is amended to read:

29 206.47 Distribution of constitutional gas tax pursuant  
30 to State Constitution.--

31 (5)

1 (b) For the purpose of this section, "taxable gallons  
 2 attributable to each county" shall be calculated as provided  
 3 in s. 206.607(4)(a) a consumption factor for each county  
 4 divided by the sum of such consumption factors for all  
 5 counties, and multiplied by the total gallons statewide upon  
 6 which a tax was paid pursuant to s. 206.41. For each county  
 7 imposing a tax pursuant to s. 336.021 or s. 336.025, the  
 8 consumption factor shall be the gallons upon which the  
 9 county's tax was paid under either or both of said sections.  
 10 For each other county, the consumption factor shall be  
 11 calculated as the taxable gallons yielding the tax amount  
 12 certified pursuant to this section for fiscal year 1984-1985  
 13 for the county, multiplied by the quotient of the statewide  
 14 total taxes collected pursuant to s. 206.41 for the current  
 15 year divided by the statewide total taxes certified pursuant  
 16 to this section for fiscal year 1984-1985.

17 Section 5. Subsection (1) of section 206.87, Florida  
 18 Statutes, as amended by section 45 of chapter 87-548, Laws of  
 19 Florida, is amended to read:

20 206.87 Levy of tax.--

21 (1)(a) An excise tax of 4 cents per gallon is hereby  
 22 imposed upon every gallon of special fuel used or sold in this  
 23 state for use, except alternative fuels which are subject to  
 24 the fee imposed by s. 206.877. Unless expressly provided to  
 25 the contrary in this part, every sale shall be deemed to be  
 26 for use in this state. This levy of tax shall be paid upon  
 27 the first sale or transfer of title within this state by a  
 28 dealer, except as expressly provided in this part, who shall  
 29 act as agent for the state in the collection of such tax  
 30 whether he is the ultimate seller or not.

1           (b) In addition to the excise tax levied under  
 2 paragraph (a), and excise tax of 7 cents is hereby imposed  
 3 upon every gallon of special fuel used or sold in this state  
 4 for use, except alternative fuels which are subject to the fee  
 5 imposed by s. 206.877. Unless expressly provided to the  
 6 contrary in this part, every sale shall be deemed to be for  
 7 use in this state. The tax shall be paid upon the first sale  
 8 or transfer of title within this state by a dealer, except as  
 9 expressly provided in this part, who is an agent of the state  
 10 in collecting such tax whether he is the ultimate seller of  
 11 the special fuel or not.

12           Section 6. Section 206.875, Florida Statutes, as  
 13 amended by section 45 of chapter 87-548, Laws of Florida, is  
 14 amended to read:

15           206.875 Allocation of tax.--

16           (1) All moneys derived from the taxes imposed by this  
 17 part shall be paid into the State Treasury by the department  
 18 for deposit in the Gas Tax Collection Trust Fund, which fund  
 19 is created and from which the following transfers shall be  
 20 made: After withholding \$10,000 from the proceeds of 4 cents  
 21 of such tax, to be used as a revolving cash balance, all other  
 22 moneys shall be transferred in the same manner and for the  
 23 same purpose as provided by law for allocation of the taxes  
 24 levied in part I, including transfer to the General Revenue  
 25 Fund of the service charge provided for in s. 215.20.

26           (2) It is the intent of the Legislature that this  
 27 section be construed to provide for the distribution of the  
 28 appropriate portion of the special fuels tax imposed by this  
 29 part, in the same manner as provided by ss. 206.41, 206.45,  
 30 206.60, 206.605, and 206.625.

1           (3) Notwithstanding the provisions of subsections (1)  
2 and (2), the department shall pay over to the State Treasurer  
3 all funds received and collected by it under the provisions of  
4 s. 206.87(1)(b) to be credited to the account of the Local  
5 Government Gas Tax Trust Fund established pursuant to s.  
6 206.607. Such funds shall be distributed according to s.  
7 206.607.

8           Section 7. Section 336.027, Florida Statutes, is  
9 created to read:

10           336.027 County transportation system; levy of local  
11 option public transit gas tax on motor fuel and special  
12 fuel.--

13           (1)(a) In addition to other taxes allowed by law,  
14 there may be imposed as provided in this section a 1-cent  
15 local option public transit gas tax upon every gallon of motor  
16 fuel and special fuel sold in a county and taxed under the  
17 provisions of part I or part II of chapter 206.

18           (b) The tax shall be imposed before July 1 to be  
19 effective September 1 of any year for a period not to exceed  
20 30 years, and the applicable method of distribution shall be  
21 established pursuant to subsection (3) or subsection (4).  
22 Upon expiration, the tax may be reimposed if a redetermination  
23 of the method of distribution is made as provided in this  
24 section.

25           (c) Moneys collected pursuant to this section shall be  
26 used only for public transportation expenditures by counties,  
27 municipalities, transit authorities, or other eligible  
28 governmental entities. For purposes of this section, "public  
29 transportation" is fixed-route transit service or service  
30 provided by coordinated community transportation providers  
31 designated under chapter 427.

1 (d) Any tax imposed pursuant to this section may be  
2 extended on a majority vote of the governing body of the  
3 county. The method of distribution must be redetermined, for  
4 the period of extension or for the additional tax, pursuant to  
5 subsection (3) or subsection (4), if the tax is extended or  
6 the tax rate changed.

7 (e) Local governments may use the services of the  
8 Division of Bond Finance of the Department of General Services  
9 pursuant to the State Bond Act to issue any bonds under this  
10 section and may pledge the revenues from the local option  
11 public transit gas tax to secure the payment of the bonds. A  
12 local government may not issue bonds pursuant to this section  
13 more frequently than once per year. Counties and  
14 municipalities may join together to issue bonds pursuant to  
15 this section.

16 (2)(a) The tax shall be collected and remitted by any  
17 person engaged in selling at retail motor fuel or using or  
18 selling at retail special fuel within a county in which the  
19 tax is authorized and shall be distributed monthly by the  
20 Department of Revenue to the county where collected. The tax  
21 remitted to the Department of Revenue pursuant to this section  
22 shall be transferred to the Local Option Public Transit Gas  
23 Tax Trust Fund, which fund is created for distribution to the  
24 county and eligible municipal governments within the county in  
25 which the tax was collected and which fund is subject to the  
26 service charge imposed in chapter 215. The Department of  
27 Revenue shall prescribe and publish all forms upon which  
28 reports must be made to it and other forms and records it  
29 deems necessary for proper administration and collection of  
30 the tax and shall adopt such rules as are necessary to enforce  
31 this section. Chapter 206, including, but not limited to,

1 | those sections relating to timely filing of reports and tax  
2 | collected, suits for collection of unpaid taxes, department  
3 | warrants for collection of unpaid taxes, penalties, interest,  
4 | retention of records, inspection of records, liens on  
5 | property, foreclosure, and enforcement and collection also  
6 | apply to the tax authorized in this section.

7 |       (b) The provisions for refund provided in s. 206.625  
8 | are not applicable to such tax levied by any county. Any  
9 | person licensed under part I or part II of chapter 206 who  
10 | uses motor fuel or special fuel or who engages in selling  
11 | motor fuel or special fuel at retail may deduct from the  
12 | amount of tax shown by the report to be payable an amount  
13 | equivalent to 3 percent of the tax on motor fuel or special  
14 | fuel imposed by this section. If the amount of taxes due and  
15 | remitted to the Department of Revenue for the reporting period  
16 | exceeds \$1,000, the 3-percent allowance shall be reduced to 1  
17 | percent for all amounts in excess of \$1,000. However, this  
18 | allowance is not deductible unless payment of the tax is made  
19 | on or before the 20th day of the month as required. The  
20 | United States post office date stamped on the envelope in  
21 | which the report is submitted shall be considered as the date  
22 | on which the report is received by the Department of Revenue.  
23 | The provisions for refund in s. 212.67(1)(a) and (e) apply to  
24 | such tax, and the refund shall be administered in accordance  
25 | with s. 212.67. However, the amount refunded shall be  
26 | deducted from moneys in the Local Option Public Transit Gas  
27 | Tax Trust Fund otherwise distributed to the county area in  
28 | which the tax is levied.

29 |       (3) The tax shall be imposed using either of the  
30 | following procedures:  
31 |



1 (a) The tax may be levied by an ordinance adopted by a  
2 majority vote of the governing body of a county or upon  
3 approval by referendum. Such ordinance shall be adopted in  
4 accordance with the requirements imposed under one of the  
5 following circumstances, whichever is applicable:

6 1. The county may, prior to June 1, establish by  
7 interlocal agreement with one or more of the eligible  
8 municipalities, transit authorities, or other eligible  
9 governmental entities located therein, representing a majority  
10 of the population of the incorporated area within the county,  
11 a distribution formula for dividing the entire proceeds of the  
12 local option public transit gas tax among the county  
13 governments, if eligible, and all eligible municipalities,  
14 transit authorities, or other governmental entities within the  
15 county. If no interlocal agreement exists, a new interlocal  
16 agreement may be established prior to June 1 of any year  
17 pursuant to this subparagraph. However, any interlocal  
18 agreement agreed to under this subparagraph after the initial  
19 imposition of the tax or extension of the tax authorized in  
20 this section may not materially or adversely affect the rights  
21 of holders of outstanding bonds which are backed by taxes  
22 authorized by this section, and the amounts distributed to the  
23 county government and each municipality may not be reduced  
24 below the amount necessary for the payment of principal and  
25 interest and reserves for principal and interest as required  
26 under the covenants of any bond resolution outstanding on the  
27 date of establishment of the new interlocal agreement.

28 2. If an interlocal agreement has not been executed  
29 pursuant to subparagraph 1., the county may, prior to June 10,  
30 adopt a resolution of intent to levy the tax allowed in this  
31 section.

1 (b) If no interlocal agreement or resolution is  
2 adopted pursuant to subparagraph (a)1. or subparagraph (a)2.,  
3 municipalities representing more than 50 percent of the county  
4 population may, prior to June 20, adopt uniform resolutions  
5 approving the local option public transit gas tax,  
6 establishing the duration of the levy and the rate authorized  
7 in paragraph (1)(a), and setting the date for a countywide  
8 referendum on whether to impose the tax. A referendum must be  
9 held in accordance with the provisions of such resolution and  
10 applicable state law, and the county shall bear the costs  
11 thereof. The tax shall be imposed and collected countywide on  
12 September 1 following 30 days after voter approval.

13 (4)(a) If the tax imposed under the circumstances of  
14 subparagraph (3)(a)2. or paragraph (3)(b), the proceeds of the  
15 tax shall be distributed among the county governments, if  
16 eligible, and eligible municipalities, transit authorities, or  
17 eligible governmental entities based on the public transit  
18 expenditures of each for the immediately preceding 5 fiscal  
19 years, as a proportion of the total of such expenditures for  
20 the county and all other eligible governmental entities within  
21 the county. After the initial imposition of a tax being  
22 distributed pursuant to this paragraph, the proportions shall  
23 be annually recalculated based on the public transit  
24 expenditures of the immediately preceding fiscal year. The  
25 amounts distributed to the county government and each eligible  
26 governmental entity shall not be reduced below the amount  
27 necessary for the payment of principal and interest and  
28 reserves for principal and interest as required under the  
29 covenants of any bond resolution outstanding on the date of  
30 the recalculation.

31

1 (b) Any new governmental entity with public transit  
2 service or any newly incorporated municipality which is  
3 eligible for participation in the distribution of moneys under  
4 parts II and VI of chapter 218 and which is located in a  
5 county levying the tax imposed pursuant to this section is  
6 entitled to receive a share of the tax revenues. Distribution  
7 of such revenues to the eligible governmental entity shall  
8 begin in the first full local fiscal year following the  
9 beginning of service. The distribution to a newly eligible  
10 governmental entity shall be:

11 1. Equal to the newly eligible governmental entity's  
12 public transit expenditure in the previous year in proportion  
13 to the public transit expenditures of all previously eligible  
14 parties in that county, whose shares shall be decreased  
15 proportionally; or

16 2. Determined by interlocal agreement between the  
17 eligible parties.

18  
19 Such distribution may not materially or adversely affect the  
20 rights of holders of outstanding bonds which are backed by  
21 taxes authorized in this section, and the amounts distributed  
22 to the county government and each municipality may not be  
23 reduced below the amount necessary for the payment of  
24 principal and interest and reserves for principal and interest  
25 as required under the covenants of any bond resolution  
26 outstanding on the date of the redistribution.

27 (5)(a) By July 1 of each year, the county shall notify  
28 the Department of Revenue of the tax levied and of its  
29 decision to rescind the tax, if applicable, and provide the  
30 department with a certified copy of the interlocal agreement  
31 established under subparagraph (3)(a)1., including the

1 distribution proportions established by such agreement or  
2 pursuant to subsection (4), if applicable. An ordinance or  
3 resolution to rescind the tax may not take effect sooner than  
4 60 days after the county notifies the Department of Revenue of  
5 such passage of such ordinance or resolution.

6 (b) Any dispute as to the determination by the county  
7 of distribution proportions shall be resolved through an  
8 appeal to the Administration Commission in accordance with  
9 procedures developed by the commission. Pending final  
10 disposition of such proceeding, the tax shall be collected  
11 pursuant to this section, and such funds shall be held in  
12 escrow by the clerk of the circuit court of the county until  
13 final disposition.

14 (6) Public transit authorities and only those  
15 municipalities and counties eligible for participation in the  
16 distribution of moneys under parts II and VI of chapter 218  
17 are eligible to receive moneys under this section. Any funds  
18 undistributed because of ineligibility shall be distributed to  
19 eligible governments within the county in proportion to other  
20 moneys distributed pursuant to this section.

21 (7) The Department of Transportation may not reduce  
22 its program allocations from the State Transportation Fund in  
23 those counties which elect to contribute revenues from the  
24 proceeds of the tax imposed under this section for state  
25 public transit projects.

26 Section 8. Section 212.235, Florida Statutes, as  
27 amended by section 40 of chapter 87-548, Laws of Florida, is  
28 amended to read:

29 212.235 State Infrastructure Fund; deposits.--

30 (1) Notwithstanding the provisions of ss. 212.20(1)  
31 and 218.61, in fiscal year 1987-1988 an amount equal to 2

1 percent, and in each fiscal year thereafter an amount equal to  
2 5 percent, of the proceeds remitted pursuant to this part by a  
3 dealer, or the sums sufficient to provide the maximum receipts  
4 specified herein, shall be transferred into the State  
5 Infrastructure Fund, which is created in the State Treasury.  
6 "Proceeds" means all funds collected and received by the  
7 Department of Revenue, including any interest and penalties.  
8 However, any receipts of the fund, including those received  
9 pursuant to ss. 201.15(5) and 206.875(3) and interest earned,  
10 in excess of \$200 million in fiscal year 1987-1988, and \$550  
11 million thereafter, shall revert to the General Revenue Fund.

12 (2) Subject to an appropriation each year by the  
13 Legislature, moneys in the fund shall only be used for the  
14 purposes of:

- 15 (a) Acquiring the right-of-way for and constructing  
16 state highways and bridges;
- 17 (b) Constructing public education capital facilities;
- 18 (c) Financing state projects for beach restoration or  
19 renourishment or lake, river, or other water body restoration,  
20 including the restoration of bays and estuaries;
- 21 (d) Constructing state correctional facilities;
- 22 (e) Dollar-for-dollar matching grants to local  
23 government to enable local participation in the local  
24 government cooperative assistance program by allowing local  
25 governments to accumulate a total amount which shall be  
26 contributed as the local portion or match in the local  
27 government cooperative assistance program, if the local  
28 governments meet the eligibility requirements in s. 335.20.  
29 Local governments may use any source of money, including  
30 proceeds of gas tax money or proceeds of the bonds pledged by  
31

1 the local gas tax money for the initial match; assist in  
2 ~~meeting the requirements as set forth in sr-163-3177.~~

3 (f) Constructing other infrastructure projects; or

4 (g) Issuing revenue bonds to finance state capital  
5 outlay projects authorized by this section. Such bonds shall  
6 be payable solely from legislative appropriations from the  
7 State Infrastructure Fund and shall not be a debt of the  
8 state, and the state shall not be liable thereon. Neither the  
9 taxing power, the credit, nor the revenues of the state shall  
10 be pledged to pay any obligation issued pursuant to this  
11 subsection.

12 Section 9. Subsections (6), (9), and (12) of section  
13 335.20, are amended to read:

14 335.20 Short title; local government cooperative  
15 assistance program.--

16 (6) Each district shall conduct an initial screening  
17 of all applications within the district to determine  
18 eligibility. Criteria to be considered in such screening  
19 shall include, but shall not be limited to, determination  
20 that:

21 (a) The application is sufficient and consistent with  
22 such rules promulgated pursuant to this section.

23 (b) Such project:

24 1. Is located on the State Highway System; or  
25 2. Can be shown to substantially alleviate the need  
26 for construction or improvements to the State Highway System  
27 provided that such alleviation meets minimum requirements as  
28 shall be established by rule by the department.

29 (c) Such project is consistent with the state  
30 transportation plan; the comprehensive transportation plan of  
31

1 the metropolitan planning organization, where applicable; and  
 2 any appropriate local government comprehensive plan.

3 (d) Any project for which the money is to be used must  
 4 be identified and appear in the locally adopted capital  
 5 improvements element of the local comprehensive plan which is  
 6 found by the Department of Community Affairs to be in  
 7 compliance or, until such plan is found to be in compliance,  
 8 in an adopted capital improvements program which allocates  
 9 infrastructure expenditures for a period of at least 5 years.

10 (9) Funding shall be provided to those projects in  
 11 order of rank assigned pursuant to subsection (8) to the  
 12 extent that funds are available. The department shall assign  
 13 highest priority to those projects identified in the 1983 5-  
 14 year transportation plan of the department. All projects on  
 15 the State Highway System must be conducted through the  
 16 provisions of this section and shall-be-carried-out-by-the  
 17 department pursuant to all other prevailing laws law-which-may  
 18 prevail.

19 (12) The department shall initially provide 50 ~~20~~  
 20 percent of the cost of any project funded pursuant to this  
 21 ~~section, provided that the applying county has adopted, the~~  
 22 ~~county within which the applying municipality is located has~~  
 23 ~~adopted, or the county or counties where in the applying~~  
 24 ~~expressway or transportation authority has jurisdiction have~~  
 25 ~~adopted at least 4 cents of the local option gas taxes on~~  
 26 ~~motor fuel and special fuel, as provided in s. 336.025.~~ Local  
 27 governments may use only the accumulated amount obtained  
 28 pursuant to s. 212.235(2)(e), as well as proceeds of the local  
 29 government motor fuel tax and the tax on special fuel option  
 30 gas tax or the proceeds of the bonds pledged by the local  
 31 option gas tax for matching purposes. The department shall

1 enter into an interlocal agreement with the appropriate local  
2 government which shall state the time when the department  
3 shall rebate to the local government their portion of the  
4 match. Any portion of the department's 50-percent match or  
5 50-percent rebate may be funded out of the State  
6 Infrastructure Fund, pursuant to s. 212.235.

7           Section 10. There is hereby appropriated \$258 million  
8 from the State Infrastructure Fund, including money  
9 appropriated pursuant to section 320.0802, Florida Statutes,  
10 to the Department of Transportation for the purpose of  
11 carrying out the Local Government Cooperative Assistance  
12 Program pursuant to section 335.20, Florida Statutes.

13           Section 11. Part II of chapter 205, Florida Statutes,  
14 consisting of sections 205.200, 205.201, and 205.202, Florida  
15 Statutes, is created to read:

16           205.200 Title; legislative intent.--

17           (1) This part may be cited as the "Gap Tax Act."

18           (2) The Legislature hereby recognizes that real estate  
19 turnover attributable to growth contributes to the cost of  
20 providing governmental services. The Legislature further  
21 recognizes that property owners receive a direct benefit from  
22 the sale of property in an economy which is subject to rapid  
23 growth. It is, therefore, the legislative intent to impose a  
24 tax on the privileges associated with growth.

25           205.201 Levy of tax; administration.--

26           (1) There is hereby levied an excise tax at the rate  
27 of 50 cents per \$100 taxable consideration paid for the  
28 purchase of lands, tenements, or other realty, or any interest  
29 therein. The tax does not apply to consideration paid for the  
30 first sale of residential property subsequent to its first  
31



1 improvement, if the most recent assessment, as of the date of  
2 such sale, applied to the property as unimproved.

3 (2) The tax imposed under subsection (1) is due and  
4 payable by the seller of property, and shall be paid to the  
5 county tax collector within 7 days after the due date of the  
6 excise tax on documents levied pursuant to s. 201.02.

7 (3) Taxable consideration, for the purposes of this  
8 part, is the net proceeds of the total consideration paid,  
9 less an amount equal to the assessed value of the realty for  
10 the current local government fiscal year, if any, provided  
11 that the amount deducted may not exceed the net proceeds of  
12 the total consideration paid. For purposes of this part, the  
13 net proceeds is the net value of the sale of property as  
14 defined on the closing statement.

15 (4) As used in this part, the term:

16 (a) "Assessed value" means "just value" as that term  
17 is used in section 4 of Article VII of the State Constitution,  
18 and is that amount established in accordance with the  
19 provisions of chapters 192, 193, and 194.

20 (b) "Assessed value of the realty for the current  
21 local government fiscal year" means the value of the realty as  
22 of January 1 immediately preceding the start of the current  
23 local government fiscal year as shown on the county assessment  
24 roll or as otherwise established by law.

25 (c) "Local government fiscal year" means the period  
26 October 1, through and including the following September 30.

27 (5) If consideration subject to the tax imposed by  
28 this part is for realty which has been subdivided or otherwise  
29 apportioned since it was assessed for the current local  
30 government fiscal year, the amount deducted pursuant to  
31 subsection (3) shall be a proportion of the assessed value of

1 the undivided realty, calculated by multiplying such assessed  
2 value by the ratio of the acreage of the realty for which the  
3 consideration is paid divided by the acreage of the undivided  
4 realty, or, if the basis of the subdivision is other than  
5 surface land area, by such other ratio as the department may  
6 prescribe by rule.

7           205.202 Late payments and penalties; distribution of  
8 proceeds; expenditure of funds.--

9           (1) Late payments shall accrue interest at the rate of  
10 12 percent per annum. There shall be a penalty for failure to  
11 pay of 5 percent per month or fraction thereof, not to exceed  
12 a maximum of 25 percent of the amount due.

13           (2) The tax collector shall remit 50 percent of the  
14 tax proceeds which are collected in any municipality to the  
15 municipality with the remaining 50 percent to be remitted to  
16 the county. Proceeds of the tax which are collected in  
17 unincorporated areas shall be remitted to the county.

18           (3) The county tax collector shall file a quarterly  
19 report with the Department of Revenue showing the distribution  
20 of proceeds and the total moneys collected.

21           (4) Each participating unit of local government shall  
22 set aside the moneys received pursuant to this part in a  
23 separate account and shall expend such moneys only for  
24 infrastructure or capital improvement projects necessary to  
25 fulfill plans adopted under s. 163.3177.

26           Section 12. The Division of Statutory Revision and  
27 Indexing of the Joint Legislative Management Committee is  
28 hereby directed to designate sections 205.013 through  
29 205.1965, Florida Statutes, as part I of chapter 205.

1           Section 13. Part IV of chapter 205, Florida Statutes,  
2 consisting of sections 205.3012, 205.3015 and 205.302, Florida  
3 Statutes, is created to read:

4           205.3012 Title; legislative intent.--

5           (1) This part may be cited as the "Local Option  
6 Interim Proprietary and General Services Fee Act."

7           (2) The Legislature hereby finds that the cost of  
8 providing certain local services exceeds the fees charged for  
9 said services and that those costs are borne in a large part  
10 through ad valorem taxation. These services which a  
11 municipality or county provides include, but are not limited  
12 to, police protection, fire protection, public works,  
13 administrative services, and capital projects. The  
14 Legislature further recognizes that, from the time a new  
15 building or structure is completed and occupied until the  
16 improvements are included on the tax roll as of the ensuing  
17 January 1st, a municipality or county is obligated to provide  
18 these services, as well as providing other direct services for  
19 which compensation for no part of the cost of the services is  
20 received. The purpose of the Local Option Interim Proprietary  
21 and General Services Fee, therefore, is to defray the cost to  
22 a municipality or county of providing services to newly  
23 improved property prior to the imposition of ad valorem taxes  
24 on such property. The fee is not in any manner, directly or  
25 indirectly, intended as an ad valorem tax, nor is the amount  
26 of the fee established by this part related in any way to the  
27 valuation of the property receiving such services.

28           205.3015 Authorization for levy; administration.--

29           (1) Each county and municipality may levy a Local  
30 Option Interim Proprietary and General Services Fee which  
31 shall apply to those properties for which a certificate of

1 occupancy is issued, either permanent or temporary, for full  
2 or partial use of the premises, and which shall apply from the  
3 first day of the month following the date upon which such  
4 certificate of occupancy is issued until the ensuing October  
5 1st of the local government fiscal year in which the property  
6 is included in the governmental tax base.

7 (2) The ordinance that establishes the fee must set  
8 forth a rate per square foot or per unit type per month or  
9 such other appropriate measure as is determined by the  
10 municipality or county. The fee must be based on the cost of  
11 providing services and upon adopted budgeted expenditures less  
12 anticipated franchise fees, utility taxes, fines and  
13 forfeitures, charges for services, and other revenues from  
14 "user-based fees" as may be appropriate, divided by the  
15 estimated number of units and prorated on a monthly basis;  
16 however, the fee may not be increased by more than 25 percent  
17 from 1 year to the next except upon the adoption of a  
18 resolution by a municipality or county approving such  
19 increase.

20 (3) Payment of the Local Option Interim Proprietary  
21 and General Services Fee shall be made either upon the  
22 issuance of a certificate of occupancy or monthly. Monthly  
23 billings from a municipality shall be included with municipal  
24 utility bills where practical. A municipality or county shall  
25 determine the appropriate entity within its organization to  
26 whom the fee is to be paid. A municipality or county shall  
27 file a quarterly report with the Department of Revenue showing  
28 the rate schedule and the total moneys collected.

29 (4) The municipality or county shall revise the Local  
30 Option Proprietary and General Services Fee rate at the  
31 beginning of each fiscal year.

1 (5) The Local Option Interim Proprietary and General  
2 Services Fee may not be levied upon:

3 (a) Any improvement for which a building permit  
4 application was filed prior to the effective date of this  
5 part; or

6 (b) Any improvement to property which would otherwise  
7 be exempt from ad valorem taxation by Florida law.

8 (6) Notwithstanding the provisions of this section,  
9 the fee must be imposed against governmental leaseholds as  
10 defined in s. 199.023(1)(d), and shall apply until October 1st  
11 of the local government fiscal year in which the property, if  
12 it had not been a governmental leasehold, would have been  
13 included in the government's tax base.

14 205.302 Expenditure of proceeds.--Each county or  
15 municipality imposing the fee shall expend the proceeds so  
16 that appropriate public facilities and services as determined  
17 by the local government are available to support the property.

18 Section 14. Subsection (6) of section 218.21, Florida,  
19 is amended to read:

20 218.21 Definitions.--As used in this part, the  
21 following words and terms shall have the meanings ascribed  
22 them in this section, except where the context clearly  
23 indicates a different meaning:

24 (6) "Guaranteed entitlement" means the amount of  
25 revenue which must be shared with an eligible unit of local  
26 government so that:

27 (a) No eligible county shall receive less funds from  
28 the Revenue Sharing Trust Fund for Counties in any fiscal year  
29 than the amount received in the aggregate from the state in  
30 fiscal year 1971-1972 under the provisions of the then  
31 existing s. 210.20(2)(c), tax on cigarettes; s. 323.16 (4),

1 road tax; and s. 199.292(4), tax on intangible personal  
2 property.

3 (b) No eligible municipality shall receive less funds  
4 from the Revenue Sharing Trust Fund for Municipalities in any  
5 fiscal year than the aggregate amount it received from the  
6 state in fiscal year 1971-1972 under the provisions of the  
7 then existing s. 210.20(2)(a), tax on cigarettes; s.  
8 323.16(3), road tax; and s. 206.605, tax on motor fuel; except  
9 that any government exercising municipal powers pursuant to s.  
10 6(f), Art. VIII of the State Constitution shall not receive  
11 less funds from any such revenue sharing trust fund than the  
12 aggregate amount it received from the state in the preceding  
13 state fiscal year under the provisions of this part, plus a 7  
14 percent increase in such amount for fiscal year 1987-1988.  
15 Effective fiscal year 1988-1989 and thereafter, the guaranteed  
16 entitlement for such government shall not be less than the  
17 aggregate amount it received from the Revenue Sharing Trust  
18 Fund for Municipalities in the previous fiscal year, plus a  
19 percentage increase in such an amount equal to the percentage  
20 increase of the Revenue Sharing Trust Fund for Municipalities.

21 Section 15. Subsection (3) of section 199.292, Florida  
22 Statutes, is amended to read:

23 199.292 Disposition of intangible personal property  
24 taxes.--All intangible personal property taxes collected  
25 pursuant to this chapter shall be placed in a special fund  
26 designated as the "Intangible Tax Trust Fund." The fund shall  
27 be disbursed as follows:

28 (3) An amount equal to 55 percent of the remaining  
29 intangible personal property taxes collected shall be  
30 transferred to the Revenue Sharing Trust Fund for Counties.  
31 An amount equal to 45 percent of the remaining taxes collected

1 shall be transferred to the Revenue Sharing Trust Fund for  
2 Municipalities General Revenue Fund of the state.

3 Section 16. Subsection (2) of section 210.20, Florida  
4 Statutes, is amended to read:

5 210.20 Employees and assistants; distribution of  
6 funds.--

7 (2) As collections are received by the division from  
8 such cigarette taxes, it shall pay the same into a trust fund  
9 in the State Treasury designated "Cigarette Tax Collection  
10 Trust Fund" which shall be paid and distributed as follows:

11 (a) The division shall from month to month certify to  
12 the Comptroller the amount derived from the cigarette tax  
13 imposed by s. 210.02, less the service charge provided for in  
14 s. 215.22, specifying the amounts to be transferred from the  
15 Cigarette Tax Collection Trust Fund and credited on the basis  
16 of two twenty-fourths of the net collections to the Municipal  
17 Financial Assistance Trust Fund, ~~eleven-twenty-fourths of the~~  
18 ~~net collections to the Revenue Sharing Trust Fund for~~  
19 ~~Municipalities~~; and one twenty-fourth of the net collections  
20 to the Revenue Sharing Trust Fund for Counties.

21 (b) The division shall from month to month certify to  
22 the Comptroller the amount derived from the cigarette tax  
23 imposed by s. 210.02 on all cigarettes sold at retail on any  
24 property of the Inter-American Center Authority, created by  
25 chapter 554, and such amount, less the service charge provided  
26 for in s. 215.22, shall be paid to said Inter-American Center  
27 Authority by warrant drawn by the Comptroller upon the State  
28 Treasury, which amount is hereby appropriated monthly out of  
29 such Cigarette Tax Collection Trust Fund.

30 Section 17. Subsection (1) of section 205.033, Florida  
31 Statutes, is amended to read:

1 205.033 Conditions for levy; counties.--

2 (1) The following conditions are hereby imposed on the  
3 authority of a county governing body to levy an occupational  
4 license tax:

5 (a) The tax shall be based upon reasonable  
6 classifications and shall be uniform throughout any class.

7 (b) No occupational license tax levied hereunder shall  
8 be at a rate greater than the rate provided by chapter 205 in  
9 effect for the year beginning October 1, 1971; however,  
10 beginning October 1, 1980, the county governing body may  
11 increase occupational license taxes authorized by chapter 205.  
12 The amount of such increase above the license tax rate levied  
13 on October 1, 1971, for license taxes levied at a flat rate  
14 may be up to 100 percent for occupational license taxes which  
15 are \$100 or less; 50 percent for occupational license taxes  
16 which are between \$101 and \$300; and 25 percent for  
17 occupational license taxes which are more than \$300.  
18 Beginning October 1, 1982, such increase shall not exceed 25  
19 percent for license taxes levied at graduated or per unit  
20 rates. Such authority to increase occupational license taxes  
21 shall not apply to licenses granted to any utility franchised  
22 by the county for which a franchise fee is paid.

23 (c) Notwithstanding paragraph (b), on or after  
24 September 1, 1988, a county may adjust the classifications and  
25 rates for occupational licenses, using one or more measures of  
26 economic size, magnitude, or scope of activity, with the  
27 purpose of achieving a more equitable distribution of the tax  
28 burden, subject to the following terms and conditions.

29 1. As used in this paragraph.  
30  
31



1           a. "Adjusting ordinance" means the county ordinance  
2 which adjusts the classifications and rates in accordance with  
3 this paragraph.

4           b. "Base date" means a date at least 60 days prior to  
5 the effective date of the adjusting ordinance.

6           c. "Base classifications" means the classifications of  
7 occupational licenseholders in effect in the county on the  
8 base date.

9           d. "Base rates" means the rates for each base  
10 classification in effect in the county on the base date.

11           e. "Base licenseholders" means the holders of  
12 occupational licenses in the county on the base date.

13           f. "Base total revenue" means the total figure  
14 calculated by adding together each of the products obtained by  
15 multiplying the number of base licenseholders in each base  
16 classification times the base rate for the classification.

17           g. "Adjusted classifications" means the  
18 classifications of occupational licenseholders as provided in  
19 the adjusting ordinance.

20           h. "Adjusted rates" means the rates for each adjusted  
21 classification as provided in the adjusting ordinance.

22           1. "Adjusted total revenue" means the total figure  
23 calculated by adding together each of the products obtained by  
24 multiplying the number of base licenseholders in each adjusted  
25 classification times the adjusted rate for the classification.

26           2. The county shall select a base date prior to  
27 adopting the adjusting ordinance.

28           3. The county shall determine the number of base  
29 licenseholders in each base classification on the base date,  
30 and the county shall then calculate the base total revenue.

31

1       4. The county shall determine the number of base  
2 licenseholders in each adjusted classification on the base  
3 date, and the county shall then calculate the adjusted total  
4 revenue.

5       5. The adjusted total revenue may not exceed 120  
6 percent of the base total revenue.

7       6. The information required in subparagraphs 2., 3.,  
8 and 4. shall be recited in the adjusting ordinance, and the  
9 data used by the county to establish this information shall be  
10 preserved as a public record pursuant to chapter 119.

11       7. A classification may not be increased by more than  
12 50 percent.

13       (d)(e) No license shall be issued for more than 1  
14 year, and all licenses shall expire on October 1 of each year,  
15 except as otherwise provided by law.

16       Section 18. Subsection (1) of section 205.043, Florida  
17 Statutes, is amended to read:

18       205.043 Conditions for levy; municipalities.--

19       (1) The following conditions are hereby imposed on the  
20 authority of a municipal governing body to levy an  
21 occupational license tax:

22       (a) The tax shall be based upon reasonable  
23 classifications and shall be uniform throughout any class.

24       (b) No occupational license tax levied hereunder shall  
25 be at a rate greater than that in effect in such municipality  
26 for the year beginning October 1, 1971; however, beginning  
27 October 1, 1980, the municipal governing body may increase  
28 occupational license taxes authorized by chapter 205. The  
29 amount of such increase above the license tax rate levied on  
30 October 1, 1971, for license taxes levied at a flat rate may  
31 be up to 100 percent for occupational license taxes which are

1 \$100 or less; 50 percent for occupational license taxes which  
 2 are between \$101 and \$300; and 25 percent for occupational  
 3 license taxes which are more than \$300. Beginning October 1,  
 4 1982, such increase shall not exceed 25 percent for license  
 5 taxes levied at graduated or per unit rates. Such authority  
 6 to increase occupational license taxes shall not apply to  
 7 licenses granted to any utility franchised by the municipality  
 8 for which a franchise fee is paid.

9 (c) Notwithstanding paragraph (b), on or after  
 10 September 1, 1988, a municipality may adjust the  
 11 classifications and rates for occupational licenses, using one  
 12 or more measures of economic size, magnitude, or scope of  
 13 activity, with the purpose of achieving a more equitable  
 14 distribution of the tax burden, subject to the following terms  
 15 and conditions:

16 1. As used in this paragraph:

17 a. "Adjusting ordinance" means the municipal ordinance  
 18 which adjusts the classifications and rates in accordance with  
 19 this paragraph.

20 b. "Base date" means a date at least 60 days prior to  
 21 the effective date of the adjusting ordinance.

22 c. "Base classifications" means the classifications of  
 23 occupational licenseholders in effect in the municipality on  
 24 the base date.

25 d. "Base rates" means the rates for each base  
 26 classification in effect in the municipality on the base date.

27 e. "Base licenseholders" means the holders of  
 28 occupational licenses in the municipality on the base date.

29 f. "Base total revenue" means the total figure  
 30 calculated by adding together each of the products obtained by  
 31

1 multiplying the number of base licenseholders in each base  
2 classification times the base rate for the classification.

3 g. "Adjusted classifications" means the  
4 classifications of occupational licenseholders as provided in  
5 the adjusting ordinance.

6 h. "Adjusted rates" means the rates for each adjusted  
7 classification as provided in the adjusting ordinance.

8 1. "Adjusted total revenue" means the total figure  
9 calculated by adding together each of the products obtained by  
10 multiplying the number of base licenseholders in each adjusted  
11 classification times the adjusted rate for the classification.

12 2. The municipality shall select a base date prior to  
13 adopting the adjusting ordinance.

14 3. The municipality shall determine the number of base  
15 licenseholders in each base classification on the base date,  
16 and the municipality shall then calculate the base total  
17 revenue.

18 4. The municipality shall determine the number of base  
19 licenseholders in each adjusted classification on the base  
20 date, and the municipality shall then calculate the adjusted  
21 total revenue.

22 5. The adjusted total revenue may not exceed 120  
23 percent of the base total revenue.

24 6. The information required in subparagraphs 2., 3.,  
25 and 4. shall be recited in the adjusting ordinance, and the  
26 data used by the municipality to establish this information  
27 shall be preserved as a public record pursuant to chapter 119.

28 7. A classification may not be increased by more than  
29 50 percent.

1           ~~(d)(e)~~ No license shall be issued for more than 1 year  
2 and all licenses shall expire on October 1 of each year,  
3 except as otherwise provided by law.

4           Section 19. Section 320.0802, Florida Statutes, is  
5 created to read:

6           320.0802 Additional fee imposed on certain motor  
7 vehicle registration transactions.--

8           (1) In order to meet the state's increasing  
9 transportation needs resulting from population growth in a  
10 systematic and orderly manner and to assist local governments  
11 in accommodating this growth, a nonrefundable fee of \$100  
12 shall be imposed, except as provided in subsection (2), on  
13 each owner or registrant upon initial application for  
14 registration pursuant to s. 320.06, of a motor vehicle  
15 classified in s. 320.08(2), (3)(a), (b), (c) or (f), (6), or  
16 (9)(c) or (d).

17           (2) The fee imposed by subsection (1) does not apply  
18 to:

19           (a) Any registration renewal transaction;

20           (b) Any transfer of a registration license plate that  
21 has not been expired for a period greater than 6 months from  
22 the date of expiration from a motor vehicle disposed of to a  
23 newly acquired motor vehicle in accordance with s. 320.0609;

24           (c) Any exchange of a registration license plate  
25 between a motor vehicle classified by s. 320.08(2)(b), (c), or  
26 (d) and a motor vehicle classified by s. 320.08(3)(a), (b), or  
27 (c);

28           (d) Any initial registration resulting from transfer  
29 of title between coowners as provided by s. 319.22, transfer  
30 of ownership by operation of law as provided by s. 319.28, or  
31

1 transfer of title from a person to a member of that person's  
2 immediate family as defined in s. 657.002;

3 (e) Any motor vehicle owned by and operated  
4 exclusively for the personal use of any member of the United  
5 States Armed Forces who is not a resident of this state and  
6 who is stationed in this state while in compliance with  
7 military or naval orders, providing such member is stationed  
8 in this state for a period of less than 6 months.

9 (f) Any motor vehicle owned or exclusively operated by  
10 the state or by any county, municipality, or other  
11 governmental entity.

12 (g) Any person temporarily employed in this state for  
13 a period of less than 6 months who provides evidence of such  
14 temporary employment to the department.

15 (3) Each tax collector or other duly authorized agent  
16 of the department shall make prompt remittance of all moneys  
17 collected under this section to the department to be deposited  
18 in the State Infrastructure Fund for the purpose of carrying  
19 out the Department of Transportation's Local Government  
20 Cooperative Assistance Program, defined in s. 335.20. The  
21 money deposited pursuant to this section shall be in addition  
22 to other money appropriated for purposes of carrying out the  
23 Local Government Cooperative Assistance Program.

24 (4) The department shall adopt rules to implement this  
25 section.

26 Section 20. Section 163.3203, Florida Statutes, is  
27 created to read:

28 163.3203 Impact fees.--

29 (1) SHORT TITLE.--This section may be cited as "The  
30 Florida Impact Fee Authorization Act."

31 (2) DEFINITIONS.--As used in this section:

1 (a) A "capital improvement component, element, or  
2 program" is that component of a comprehensive plan required by  
3 s. 163.3177(3).

4 (b) A "comprehensive plan" is a plan as defined in s.  
5 163.3164(3).

6 (c) "Credits" are the present value of past or future  
7 payments made by new developments toward the cost of existing  
8 or future public facilities capital improvements.

9 (d) A "developer" is a person, corporation,  
10 organization, or other legal entity that constructs or creates  
11 new development.

12 (e) The "discount rate" is that interest rate,  
13 expressed in terms of percentage per annum, which is used to  
14 adjust past or future financial or monetary payments to  
15 present value.

16 (f) "Impact fees" are charges imposed upon new  
17 development by local government to fund all or a portion of  
18 the public facilities capital improvements required by the new  
19 development from which it is collected or to recoup the cost  
20 of existing public facilities capital improvements made in  
21 anticipation of the needs of new development.

22 (g) "Local government" is any county or municipality  
23 having land-use control power, and includes the Reedy Creek  
24 Improvement District.

25 (h) "New development" is any building activity or  
26 mining operation, any material alteration of the use or  
27 appearance of any structure or land, or any division of land  
28 into three or more parcels.

29 (i) An "offset" is a reduction in impact fees designed  
30 to fairly reflect the value of non-site-related public  
31 facilities capital improvements provided by a developer

1 pursuant to any local government land-use regulations or  
2 requirements.

3 (j) "Present value" is the value of past or future  
4 payments after they have been adjusted to a base period by a  
5 discount rate.

6 (k) "Proportionate share" is that portion of total  
7 public facility capital improvement costs which is reasonably  
8 attributable to new development less:

9 1. Any credits for past or future payments, adjusted  
10 to present value, for public facilities capital improvement  
11 costs made or reasonably anticipated to be made by new  
12 development toward public facilities capital improvement costs  
13 in the form of user fees, debt service payments, taxes, or  
14 other payments; and

15 2. Offsets for non-site-related public facilities  
16 capital improvements provided by a developer pursuant to any  
17 local government land-use regulations or requirements.

18 (l) "Public facilities capital improvement costs"  
19 include, but are not limited to, capital improvement costs  
20 associated with the construction of new, expanded, or  
21 otherwise enhanced publicly owned facilities and the costs of  
22 equipment, land acquisition, land improvement, design, and  
23 engineering related thereto. Public facilities capital  
24 improvement costs do not include routine and periodic  
25 maintenance expenditures or personnel, training, or other  
26 operating costs.

27 (m) "Reasonable benefit" is a benefit received from  
28 the provision of a public facility capital improvement which  
29 is greater than that afforded the general public in the  
30 jurisdiction imposing impact fees. Incidental benefit to  
31



1 other developments shall not negate a "reasonable benefit" to  
2 a new development.

3 (n) "Recoupment" means the proportionate share of the  
4 public facilities capital improvement costs of excess capacity  
5 in existing capital facilities where such excess capacity has  
6 been provided in anticipation of the needs of new development.

7 (o) "Site-related improvements" are land dedications  
8 or provisions of public facilities capital improvements which  
9 include, but are not limited to, site driveways, right and  
10 left turns leading to those driveways, internal roads, median  
11 cuts, and other improvements in the public right-of-way  
12 necessitated by development for the principal use or benefit  
13 of a new development or which are for the principal purpose of  
14 safe and adequate provisions of public facilities to the  
15 particular new development.

16 (3) AUTHORITY TO IMPOSE IMPACT FEES.--

17 (a) The local governments of this state may assess,  
18 impose, levy, and collect impact fees on all new development.  
19 After the effective date of this section, impact fees may only  
20 be imposed by local governments pursuant to the requirements  
21 and limitations set forth in this section.

22 (b) Impact fees may be imposed only for those types of  
23 public facility capital improvements specifically identified  
24 in or covered by a local government comprehensive plan. These  
25 plans shall specify level of service standards for each  
26 facility or categorical type of facility which is to be the  
27 subject of an impact fee, and impact fees must be applied  
28 consistently with the standards in the plan for all  
29 development.

30 (4) IMPACT FEE CALCULATION.--

31

1 (a) Local governments considering the adoption of  
2 impact fees shall conduct an assessment of the needs for the  
3 type of public facility or public facilities for which impact  
4 fees are to be levied. The assessment must identify level of  
5 service standards, project public facilities capital  
6 improvements needs, and distinguish existing needs from future  
7 needs.

8 (b) The data sources and methodology upon which the  
9 assessments of the needs and the impact fees are based shall  
10 be made available to the public upon request.

11 (c) The amount of each impact fee imposed shall be  
12 based upon actual capital costs of public facilities  
13 expansion, or reasonable estimates thereof, to be incurred by  
14 the local government as a result of new development.

15 (d) An impact fee must meet the following two tests:

16 1. The provision of new, expanded, or otherwise  
17 enhanced public facilities, for which an impact fee is  
18 charged, must be reasonably related to the needs created by  
19 new development;

20 2. The impact fees imposed must not exceed a  
21 proportionate share of the costs incurred or to be incurred by  
22 the local government in accommodating the development. The  
23 following seven factors shall be considered in determining a  
24 proportionate share of public facilities capital improvement  
25 costs:

26 a. The need for public facilities capital improvements  
27 required to serve new development, based on a capital  
28 improvement component, element, or program which shows  
29 deficiencies in capital facilities serving existing  
30 development, and the means, other than impact fees, by which  
31 any existing deficiencies will be eliminated within a

1 reasonable period of time, and which shows additional demands  
2 anticipated to be placed on specified capital facilities by  
3 new development.

4         b. The availability of other means of funding public  
5 facilities capital improvements, including, but not limited  
6 to, user charges, taxes, intergovernmental transfers and other  
7 revenue, and special taxation or assessments.

8         c. The cost of existing public facilities capital  
9 improvements.

10         d. The methods by which the existing public facilities  
11 capital improvements were financed.

12         e. The extent to which new development required to pay  
13 impact fees has, during at least the past 5 years, contributed  
14 to the cost of existing public facilities capital  
15 improvements, and received no reasonable benefit therefrom,  
16 and any credits that may be due new development because of  
17 such past payments.

18         f. The extent to which new development required to pay  
19 impact fees may reasonably be anticipated, for at least the  
20 next 20 years, to contribute to the cost of existing public  
21 facilities capital improvements through user fees, debt  
22 service payments, or other payments and any credits due new  
23 development because of such future payments.

24         g. The extent to which new development required to pay  
25 impact fees is required as a condition of development or  
26 construction approval to provide non-site-related public  
27 facilities capital improvements and any offsets due new  
28 development because of such provision.

29         (5) COLLECTION AND EXPENDITURE OF IMPACT FEES.--The  
30 collection and expenditure of impact fees must be reasonably  
31 related to the benefits accruing to the development paying the

1 fees. In order to satisfy this test, the ordinance must  
2 specifically consider the following requirements:

3 (a) Upon collection, impact fees must be deposited in  
4 a special trust fund, which shall be invested with all  
5 interest accruing to the trust fund. That portion of impact  
6 fees which is recoupment may be transferred to any appropriate  
7 fund.

8 (b) The collection and expenditure of impact fees  
9 shall be localized to provide a reasonable benefit to the  
10 development paying the fees. Local governments should  
11 consider establishing geographically limited benefit zones for  
12 this purpose, but zones are not required if a reasonable  
13 benefit can be provided in the absence of such zones. Any  
14 benefit zones established must be appropriate to the nature of  
15 the particular public facility and of the local government of  
16 jurisdiction. Local governments shall explain in writing and  
17 disclose at public hearing their reasons for establishing or  
18 not establishing benefit zones.

19 (c) Except for recoupment, impact fees may not be  
20 collected from a development until adoption of a capital  
21 improvement component, element, or program which sets out  
22 planned expenditures bearing a reasonable relationship to the  
23 needs created by the development.

24 (d) Impact fees may only be used for the type of  
25 facility for which they are collected and may only be used for  
26 public facilities capital improvements which are of reasonable  
27 benefit to the development with respect to which the fees were  
28 paid.

29 (e) Within 5 years after the date of collection,  
30 impact fees must be expended or encumbered for the  
31 construction of public facilities capital improvements of

1 reasonable benefit to developments paying the fees and which  
2 are consistent with the capital improvement component,  
3 element, or program.

4 (f) If the expenditure or encumbrance of fees is not  
5 feasible within 5 years, the local government may retain  
6 impact fees for a longer period of time, if the local  
7 government enters into a development agreement with the  
8 developer pursuant to the Florida Local Government Development  
9 Agreement Act to phase and schedule the development or the  
10 expenditure or encumbrance of impact fees beyond the initial  
11 5-year encumbrance period, pursuant to such agreement. In the  
12 absence of a development agreement, impact fees may not be  
13 retained longer than 5 years.

14 (6) REFUND OF IMPACT FEES.--

15 (a) If impact fees are not expended or encumbered  
16 within the period established in subsection (5), local  
17 governments shall refund to the fee payer or successor in  
18 title the amount of the fee paid and the accrued interest.  
19 Application for a refund must be submitted to the local  
20 government within 1 year after the date on which the right to  
21 claim a refund arises. All refunds due and not claimed within  
22 1 year shall be retained in the special trust funds and  
23 expended as provided in subsection (5).

24 (b) When a local government seeks to abolish any  
25 impact fee, all unexpended or unencumbered funds accruing  
26 therefrom must be refunded as in paragraph (a). Upon the  
27 finding that any fee is to be abolished, the local government  
28 shall place a notice thereof and of the availability of  
29 refunds in a newspaper of general circulation in the area  
30 affected at least 2 times. All funds available for refund  
31 must be retained for a period of 1 year. At the end of 1

1 year, any remaining funds may be transferred to the general  
2 fund and used for any public purpose. A local government is  
3 released from this notice requirement if there are no  
4 unexpended or unencumbered balances which accrued from the fee  
5 being abolished.

6 (c) Any portion of an impact fee which represents  
7 recoupment is exempt from paragraphs (a) and (b).

8 (7) PUBLIC HEARINGS.--Impact fees must be imposed  
9 pursuant to an ordinance, which may be adopted or amended only  
10 by the affirmative vote of not less than a majority of the  
11 total membership of the governing body, in the manner  
12 prescribed by law.

13 (8) TIME OF ASSESSMENT AND COLLECTION OF IMPACT  
14 FEES.--All impact fees imposed under this section must be  
15 assessed prior to or as a condition for the issuance of a  
16 building permit or other appropriate permission to proceed  
17 with development and must be collected in full by no later  
18 than the date that the certificate of occupancy or other final  
19 action authorizing the intended use of a structure is issued.  
20 The local government may select the time of assessment and  
21 collection consistent with this section.

22 (9) COMPLIANCE.--

23 (a) By the date that its comprehensive plan is found  
24 by the Department of Community Affairs to be in compliance, a  
25 local government must conform all its impact fee ordinances  
26 existing on the effective date of this section to the  
27 provisions of this section. Prior to such conformation, the  
28 failure of an impact fee adopted prior to the effective date  
29 of this section to meet the requirements of a valid impact fee  
30 set forth in this section does not constitute grounds for  
31 challenging its validity.

1 (b) Local governments that require impact fees must  
2 incorporate such fee requirements into their broader system of  
3 development and land-use regulations in such a manner that new  
4 developments, either collectively or individually, are not  
5 required to ultimately pay or otherwise ultimately contribute  
6 more than a proportionate share of public facilities capital  
7 improvement costs.

8 (c) Upon the adoption of a comprehensive plan which is  
9 found by the Department of Community Affairs to be in  
10 compliance, a local government may not require a developer, as  
11 a condition of development approval, to contribute or pay for  
12 land acquisition or for construction or expansion of public  
13 facilities or portions thereof (except site-related  
14 improvements) unless the local government has enacted an  
15 ordinance requiring all new developments similar in land-use  
16 category or nature of impact to contribute a proportionate  
17 share of the funds, land, or public facilities necessary to  
18 accommodate any impacts through the payment of impact fees as  
19 described in this section or through other appropriate means.

20 (d) Prior to certification of compliance of local  
21 plans, a local government may not be precluded from adoption  
22 of a new impact fee ordinance based on the parameters  
23 contained in this act, if such impact fee ordinance is  
24 consistent with this section.

25 Section 21. Subsection (2) of section 163.3202,  
26 Florida Statutes, is amended, present subsections (3), (4),  
27 and (5) of said section are renumbered as subsections (4),  
28 (5), and (6), respectively, and a new subsection (3) is added  
29 to said section to read:

30 163.3202 Land development regulations.--  
31

1 (2) Local land development regulations shall contain  
2 specific and detailed provisions necessary or desirable to  
3 implement the adopted comprehensive plan and shall as a  
4 minimum:

5 (a) Regulate the subdivision of land;

6 (b) Regulate the use of land and water for those land  
7 use categories included in the land use element and ensure the  
8 compatibility of adjacent uses and provide for open space;

9 (c) Provide for protection of potable water  
10 wellfields;

11 (d) Regulate areas subject to seasonal and periodic  
12 flooding and provide for drainage and stormwater management;

13 (e) Ensure the protection of environmentally sensitive  
14 lands designated in the comprehensive plan;

15 (f) Regulate signage;

16 (g) Provide that public facilities and services meet  
17 or exceed the standards established in the capital  
18 improvements element required by s. 163.3177 and are available  
19 when needed for the development, or that development orders  
20 and permits are conditioned on the availability of these  
21 public facilities and services necessary to serve the proposed  
22 development. Not later than 1 year after its due date  
23 established by the state land planning agency's rule for  
24 submission of local comprehensive plans pursuant to s.  
25 163.3167(2), a local government shall not issue a development  
26 order or permit which results in a reduction in the level of  
27 services for the affected public facilities below the level of  
28 services provided in the comprehensive plan of the local  
29 government, except as provided in subsection (3).

30 (h) Ensure safe and convenient onsite traffic flow,  
31 considering needed vehicle parking.



1           (3) In meeting the requirements of this section and s.  
 2 163.3177(10)(h), a local government may permit development  
 3 which does not degrade existing service levels for  
 4 transportation facilities so long as the local government has  
 5 an adopted capital improvements element which clearly  
 6 indicates how the adopted levels of service will be achieved  
 7 within 5 years after the plan is adopted. This capital  
 8 improvements element must:

9           (a) Specify revenue sources and dollar amounts, that  
 10 are currently available and are expected to be available, to  
 11 fund the needed transportation facilities within the 5-year  
 12 period.

13           (b) Identify specific projects, costs, and timing that  
 14 will be completed to meet the adopted level of service which  
 15 is provided in the comprehensive plan of the local government.

16           (c) Be reviewed annually and, if necessary, amended to  
 17 reflect additional requirements based on permitted activities  
 18 during the previous year.

19  
 20 Any amendment to the capital improvements element which  
 21 relates to development permitted under this subsection shall  
 22 be considered a plan amendment which is adopted and considered  
 23 pursuant to s. 163.3187, regardless of the requirements of s.  
 24 163.3177(3)(b). Developers are entitled to rely on  
 25 development orders and permits issued under this section  
 26 within the 5-year period following plan adoption under s.  
 27 163.3167(2)(a) and (b), subject to ss. 163.3184(9) and  
 28 163.3215.

29           Section 22. Sections 336.021 and 336.025, Florida  
 30 Statutes, are hereby repealed.

1           Section 23. Severability.--If any provision of this  
2 act or the application thereof to any person or circumstance  
3 is held invalid, the invalidity shall not affect other  
4 provisions or applications of the act which can be given  
5 effect without the invalid provision or application, and to  
6 this end the provisions of this act are declared severable.

7           Section 24. Effective date.--This act shall take  
8 effect upon becoming a law, except that section 10 shall take  
9 effect October 1, 1988.

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## SENATE SOMMARY

Relates to infrastructure funding and impact fees. Authorizes a county governing body to enact the one-half of one percent local government infrastructure sales surtax. Provides that local school boards must be a party to certain interlocal agreements. Specifies the uses of the revenue from such surtax. Increases the maximum population that a county may have in order to receive an emergency distribution from the Local Government Half-cent Sales Tax Clearing Trust Fund. Increases the per capita limitation on moneys distributed to counties. Provides for the annual adjustment for inflation of the per capita limitation.

Provides for a statewide local government tax on motor fuel. Specifies the amount of such tax. Provides for the uses and the distribution of the tax. Provides protection for bonds, or other instruments of indebtedness, backed by taxes levied under ss. 336.021 and 336.025, F.S. Provides for a statewide 7-cent local government tax on special fuel. Specifies the procedures for collecting such tax.

Applies the administrative provisions of s. 206.607, F.S., to the statewide local government tax on special fuel levied under s. 206.87, F.S. Provides that a county may impose a local option public transit gas tax by a majority vote of the county governing body. Specifies the amount of the tax. Provides for the collection, administration, and distribution of the tax. Provides for depositing the proceeds of such tax into the Local Option Public Transit Gas Tax Trust Fund. Provides that bonds may be issued pursuant to the State Bond Act pledging the revenues from the tax. Provides that eligible governmental entities may use the proceeds of the tax for public transit projects. Prohibits the Department of Transportation from reducing its program allocations in those counties or municipalities which have contributed revenues from the tax for state projects.

Provides for matching grants to local governments from the State Infrastructure Fund to encourage participation in the Local Government Cooperative Assistance Program regarding local improvements to the State Highway System. With respect to the Local Government Cooperative Assistance Program, provides that projects must be identified in the locally adopted capital improvements element. Increases the Department of Transportation's initial contribution from 20 to 50 percent of the cost of a project. Provides for reimbursement by the department of the remaining local contribution pursuant to an agreement.

Appropriates \$258 million from the State Infrastructure Fund, including money appropriated pursuant to newly created s. 320.0802, F.S., to the Department of Transportation for the purpose of carrying out the Local

1 Government Cooperative Assistance Program pursuant to s.  
2 335.20, F.S.

3 Creates the "Gap Tax Act." Provides for legislative  
4 intent, rate, taxable consideration, and definitions.  
Provides for late payments and penalties, distribution of  
proceeds, and expenditure of funds.

5 Creates the "Local Option Interim Proprietary and General  
6 Services Fee Act." Provides for legislative intent,  
7 authorization for the levy and administration of the tax,  
8 and expenditure of tax proceeds. Provides that the tax  
9 applies to governmental leaseholds. Provides for  
recalculating certain local governments' guaranteed  
entitlement under municipal revenue sharing. Provides  
for the disposition of intangible personal property taxes  
and the distribution of cigarette taxes.

10 Authorizes counties and municipalities to adjust  
11 occupational license tax rates and classifications to  
12 achieve a more equitable distribution of the tax burden,  
13 subject to specified terms and conditions. Authorizes a  
14 nonrefundable fee of \$100 on certain motor vehicle  
15 registration transactions. Provides for exemptions, for  
16 deposit of the fees into the State Infrastructure Fund,  
17 and for use of the proceeds.

18 Creates the "Florida Impact Fee Authorization Act."  
19 Provides definitions. Provides the authority to impose  
20 impact fees. Provides fee requirements. Provides for  
21 methodology and ordinance disclosure. Provides for the  
22 time of assessment and collection of impact fees.  
23 Provides for compliance.

24 Clarifies the application of the concurrency doctrine as  
25 specified by law. Repeals ss. 336.021 and 336.025, F.S.,  
26 relating to the levy of a local option gas tax.  
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By the Committee on Finance, Taxation and Claims and Senator Deratany

A bill to be entitled

An act relating to fuel taxes; creating ss. 206.101, 206.102, F.S.; consolidating state taxes on motor fuel and local option taxes on motor fuel; providing for collection, enforcement, and administration of such taxes; providing collection allowances; renumbering and amending ss. 206.23, 206.02, 206.021, 206.404, 206.055, 206.026, 206.027, 206.028, 206.03, 206.04, 206.05, 206.065, 206.43, 206.09, 206.10, 206.48, 206.485, 206.62, 206.42, 206.41, 206.425, 212.67, 206.11, 206.44, 206.426, 206.56, 206.14, 206.18, 206.06, 206.07, 206.075, 206.19, 206.21, 206.215, 206.24, 206.27, 206.59, 206.406, 206.45, 206.47, 206.60, 206.605, 212.69, 206.89, 206.90, 206.91, 206.87, 206.877, 206.875, 206.879, 206.97, F.S.; creating ss. 206.703, F.S.; amending ss. 206.01, 206.9915, 206.9825, 206.9845, 206.9931, 206.9441, 206.9442, 207.003, 207.026, 212.05, 212.08, 336.021, 336.025, 336.026, F.S.; consolidating and reorganizing provisions of chapters 206, 212, 336, F.S., relating to the taxation of motor fuel; providing for the return of certain taxes paid by a school district to such school district; revising certain tax exemptions relating to special fuels; revising certain cross-references; revising certain definitions; creating s. 206.178, F.S.; authorizing certain importers and jobbers to self-accrue and remit

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1 taxes under certain circumstances; providing an  
 2 exemption from paying certain taxes;  
 3 renumbering ss. 206.022, 206.025, 206.095,  
 4 206.12, 206.15, 206.16, 206.17, 206.175,  
 5 206.20, 206.204, 206.205, 206.22, 206.28,  
 6 206.405, 206.445, 206.46, 206.61, 206.85,  
 7 206.86, 206.88, 206.92, 206.96, F.S.; amending  
 8 ss. 7.52, 163.3184, 207.023, 207.026, 212.235,  
 9 215.22, 218.21, 336.024, 376.301, 849.092,  
 10 F.S.; correcting cross-references; repealing  
 11 ss. 206.08, 206.25, 206.41, 206.49, 206.625,  
 12 206.63, 206.64, 206.93, 206.94, 206.945,  
 13 212.60, 212.61, 212.62, 212.6201, 212.63,  
 14 212.635, 212.64, 212.65, 212.66, F.S., relating  
 15 to the motor fuel tax and the sales tax on  
 16 motor fuel and special fuel; providing an  
 17 effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

20  
 21 Section 1. Section 206.101, Florida Statutes, is  
 22 created to read:

23 206.101 State gas taxes on motor fuel.--

24 (1) The following taxes are levied on the first sale  
 25 or first removal from storage of motor fuel after importation  
 26 into this state:

27 (a) An excise tax of 2 cents per gallon, which is the  
 28 tax levied by s. 16, Art. IX of the Constitution of 1885, as  
 29 amended, and continued by s. 9(c), Art. XII of the 1968  
 30 Constitution, as amended, which is therein referred to as the  
 31

1 "second gas tax," and which is designated as the  
2 "constitutional gas tax";

3 (b) An additional tax of 1 cent per gallon, which is  
4 designated the "county gas tax";

5 (c) An additional tax of 1 cent per gallon, which is  
6 designated the "municipal gas tax"; and

7 (d) An additional tax equal to 5 percent of the total  
8 retail price per gallon, rounded to the nearest tenth of a  
9 cent, but not less than 5.7 cents per gallon, which tax is a  
10 tax on the privilege of selling motor fuel. Before July 1 of  
11 each year, the department shall determine the appropriate tax  
12 rate applicable to the retail price per gallon of motor fuel  
13 as follows:

14 1. The department shall determine the appropriate  
15 total motor fuel and special fuel price, including federal,  
16 state, and local excise taxes on such fuel, for the  
17 forthcoming 12-month period beginning July 1, by adjusting the  
18 initially established price by the percentage change in the  
19 average monthly gasoline price component of the Consumer Price  
20 Index issued by the United States Department of Labor for the  
21 most recent 12-month period ending March 31, compared to the  
22 average for the 12-month period ending March 31, 1984.

23 2. The initially established price is \$1.148 per  
24 gallon.

25 3. The department shall notify each refiner, importer,  
26 jobber, or wholesaler before July 1 of each year, as to any  
27 change in the tax rate, as determined by the Consumer Price  
28 Index.

29 (2) Revenues from the taxes imposed by this section  
30 become state funds at the moment collected by any person.  
31 Each refiner, importer, jobber, retail dealer, or wholesaler,

1 shall act as an agent for the state in collecting such taxes  
2 whether or not he is the ultimate seller.

3 (3) For purposes of this section, the term "first  
4 sale" does not include exchanges or loans, gallon-for-gallon,  
5 of motor fuel between licensed refiners before the fuel has  
6 been sold or removed through the loading rack or transfers  
7 between terminal facilities owned by the same taxpayer. The  
8 tax on motor fuel first imported into this state by a licensed  
9 refiner storing such fuel in a terminal facility shall be  
10 imposed when the product is first removed through the loading  
11 rack. The tax shall be remitted by the licensed refiner who  
12 owned the motor fuel immediately prior to removal of such fuel  
13 from storage.

14 Section 2. Section 206.102, Florida Statutes, is  
15 created to read:

16 206.102 Local option taxes on motor fuel.--

17 (1) Any county in the state, at the discretion of its  
18 governing body and subject to a referendum, may impose,  
19 pursuant to s. 336.021, in addition to all other taxes  
20 required or allowed by law, a 1-cent voted gas tax upon every  
21 gallon of motor fuel sold in such county and taxed under the  
22 provisions of s. 206.101(1)(a), (b), or (c) for the purpose of  
23 paying the costs and expenses of establishing, operating, and  
24 maintaining a transportation system and related facilities and  
25 the cost of acquisition, construction, reconstruction, and  
26 maintenance of roads and streets. The referendum may limit  
27 the number of years the tax will remain in effect.

28 (2) In addition to other taxes allowed by law, there  
29 may be imposed as provided in s. 336.025 a 1-cent, 2-cent, 3-  
30 cent, 4-cent, 5-cent, or 6-cent local option gas tax upon  
31



1 every gallon of motor fuel sold in a county and taxed under  
2 the provisions of s. 206.101(1)(a), (b), or (c).

3 (3) In addition to other taxes allowed by law,  
4 including the local option gas tax on motor fuel as provided  
5 in subsection (2), there may be imposed, as provided in s.  
6 336.026, a 1-cent, 2-cent, 3-cent, or 4-cent local option gas  
7 tax upon every gallon of motor fuel sold in a regional ground  
8 transportation area as defined in s. 163.803(4) and taxed  
9 pursuant to s. 206.101(1)(a), (b), or (c).

10 (4) Each refiner, importer, wholesaler, jobber, or  
11 retail dealer who is engaged in using or selling at retail or  
12 at the consumer level, motor fuel within a county or a  
13 regional ground transportation area in which any tax  
14 authorized in this section is imposed shall collect and remit  
15 the tax to the department. On or before the 20th day of each  
16 calendar month, each such person shall, on forms prescribed by  
17 the department, report to the department all purchases or  
18 other acquisitions and sales or other dispositions of motor  
19 fuel during the preceding calendar month, and remit the taxes  
20 pursuant to this section. Any such person who owns a chain of  
21 retail stations shall file and remit taxes pursuant to this  
22 section by location or on a consolidated tax return, by  
23 county, prescribed by the department.

24 (5) Any refiner, importer, wholesaler, jobber, or  
25 retail dealer who collects any tax authorized under subsection  
26 (1) or subsection (2) shall deduct from the amount of tax  
27 shown by the report to be payable an amount equivalent to 3  
28 percent of the tax on motor fuels imposed by this section,  
29 which deduction is hereby allowed on account of services and  
30 expenses in complying with the provisions of the law. If the  
31 amount of taxes due and remitted to the department for the

1 reporting period exceeds \$1,000, the 3-percent allowance shall  
2 be reduced to 1 percent for all amounts in excess of \$1,000.  
3 However, this allowance shall not be deductible unless payment  
4 of the tax is made on or before the 20th day of the month as  
5 required. The United States post office date stamped on the  
6 envelope in which the report is submitted shall be considered  
7 as the date the report is received by the department.

8 (6)(a) The department shall deposit any tax collected  
9 pursuant to subsection (1) into the Voted Gas Tax Trust Fund,  
10 which fund is created for distribution of such tax to the  
11 county in which collected.

12 (b) The department shall deposit any tax collected  
13 pursuant to subsection (2) or subsection (3) into the Local  
14 Option Gas Tax Trust Fund, which fund is created for  
15 distribution to the county and eligible municipalities within  
16 the county in which the tax imposed under subsection (2) was  
17 collected and for distribution to the Metropolitan  
18 Transportation Authority in the regional ground transportation  
19 area in which the tax imposed under subsection (3) was  
20 collected. The Local Option Gas Tax Trust Fund is subject to  
21 the service charge imposed in chapter 215.

22 (c) Each month the department shall distribute to such  
23 counties, municipalities, and authorities moneys from such  
24 funds collected in such counties, municipalities, and regional  
25 ground transportation areas. However, any amount refunded  
26 under the provisions of s. 206.285(1)(a) or (e) shall be  
27 deducted from moneys in the Local Option Gas Tax Trust Fund  
28 otherwise distributed to the county area or authority in the  
29 regional ground transportation area in which the tax is  
30 levied.

1 Section 3. Section 206.23, Florida Statutes, is  
 2 renumbered as section 206.125, Florida Statutes, and amended  
 3 to read:

4 206.125 ~~206.23~~ Tax; must be stated separately; invoice  
 5 to show tax paid.--

6 (1) Any person engaged in selling motor fuel shall add  
 7 the amount of the gas tax levied under s. 206.101 or s.  
 8 206.102 to the price of the motor fuel sold by him and shall  
 9 state the tax separately from the price of the motor fuel on  
 10 all invoices. However, this section shall not apply to retail  
 11 sales by a retail service station.

12 (2) Each retailer shall conspicuously display on the  
 13 outside housing of each pump or other dispensing device a  
 14 notice that the price stated on the pump includes any  
 15 applicable taxes.

16 Section 4. Section 206.02, Florida Statutes, is  
 17 renumbered as section 206.151, Florida Statutes, and amended  
 18 to read:

19 206.151 ~~206.02~~ Application for license; provisional  
 20 license; refiners, importers, jobbers, and wholesalers.--

21 (1) It is unlawful for any person to engage in  
 22 business as a refiner, importer, jobber, or wholesaler of  
 23 motor fuel within this state unless such person is the holder  
 24 of an unrevoked license issued by the department to engage in  
 25 such business. A person is engaging in such business if he:

26 (a) Imports or causes any motor fuel to be imported  
 27 and sells such fuel at wholesale, retail, or otherwise within  
 28 this state.

29 (b) Imports and withdraws for use within this state by  
 30 himself or others any motor fuel from the tank car, truck, or  
 31

1 other original container or package in which such motor fuel  
2 was imported into this state.

3 (c) Manufactures, refines, produces, or compounds any  
4 motor fuel and sells such fuel at wholesale or retail, or  
5 otherwise within this state for use or consumption within this  
6 state.

7 (d) Imports into this state from any other state or  
8 foreign country, or receives by any means into this state, any  
9 motor fuel which is intended to be used for consumption in  
10 this state and keeps such fuel in storage in this state for a  
11 period of 24 hours or more after it loses its interstate or  
12 foreign commerce character as a shipment in interstate or  
13 foreign commerce.

14 (e) Is primarily liable under the gas tax laws of this  
15 state for the payment of motor fuel taxes.

16 (f) Purchases or receives in this state motor fuel  
17 ~~upon which the tax has not been paid.~~

18 (2) To procure a refiner of motor fuel license, a  
19 person shall file with the department an application under  
20 oath, and in such form as the department may prescribe,  
21 setting forth:

22 (a) The name under which the person will transact  
23 business within the state.

24 (b) The location, with street number address, of his  
25 principal office or place of business within this state and  
26 the location where records will be made available for  
27 inspection.

28 (c) The name and complete residence address of the  
29 owner or the names and addresses of the partners, if such  
30 person is a partnership, or of the principal officers, if such  
31 person is a corporation or association; and, if such person is

1 a corporation organized under the laws of another state,  
2 territory, or country, he shall also file with the application  
3 a certified copy of the certificate or license issued by the  
4 Department of State showing that such corporation is  
5 authorized to transact business in the state.

6 (d) The location or locations of the refinery owned by  
7 such person, and the volume of each refined petroleum product  
8 produced at such refinery.

9  
10 The application shall require a \$30 license tax. Each license  
11 shall be renewed annually through application, including an  
12 annual \$30 license tax.

13 (3) To procure an importer of motor fuels license, a  
14 person shall file with the department an application under  
15 oath, and in such form as the department may prescribe,  
16 setting forth:

17 (a) The name under which the person will transact  
18 business within the state.

19 (b) The location, with street number address, of his  
20 principal office or place of business and the location where  
21 records will be made available for inspection.

22 (c) The name and complete residence address of the  
23 owner or the names and addresses of the partners, if such  
24 person is a partnership, or of the principal officers, if such  
25 person is a corporation or association; and, if such person is  
26 a corporation organized under the laws of another state,  
27 territory, or country, he shall also file with the application  
28 a certified copy of the certificate or license issued by the  
29 Department of State showing that such corporation is  
30 authorized to transact business in the state.

31

1 (d) A statement that such person's business is not  
2 located in the state.

3  
4 The application shall require a \$30 license tax. Each license  
5 shall be renewed annually through application, including an  
6 annual \$30 license tax.

7 (4) To procure a wholesaler or jobber of motor fuel  
8 license, a person shall file with the department an  
9 application under oath and in such form as the department may  
10 prescribe, setting forth:

11 (a) The name under which the person will transact  
12 business within the state.

13 (b) The location, with street number address, of his  
14 principal office or place of business within this state or in  
15 another state and the location where records will be made  
16 available for inspection.

17 (c) The name and complete residence address of the  
18 owner or the names and addresses of the partners, if such  
19 person is a partnership, or of the principal officers, if such  
20 person is a corporation or association; and, if such person is  
21 a corporation organized under the laws of another state,  
22 territory, or country, he shall also file with the application  
23 a certified copy of the certificate or license issued by the  
24 Department of State showing that such corporation is  
25 authorized to transact business in the state.

26  
27 The application shall require a \$30 license tax. Each license  
28 shall be renewed annually through application, including an  
29 annual \$30 license fee.

30 (5) Any importer who establishes a business location  
31 in this state must, prior to beginning business in the state,

1 apply for and be issued a jobber's or a wholesaler's license.  
 2 An importer's license becomes invalid on the date business  
 3 operations begin from a location within this state.

4 (6) Upon the filing of an application for a license  
 5 and concurrently therewith, a bond of the character stipulated  
 6 and in the amount provided for shall be filed with the  
 7 department. No license shall be issued ~~issue~~ upon any  
 8 application unless accompanied by such a bond, except as  
 9 provided in s. 206.174(1), ~~s.--206-05(1)~~.

10 (7)(a) A person, partnership, or private corporation  
 11 which is beginning a new business and which applies for a  
 12 license as a refiner, importer, jobber, or wholesaler shall be  
 13 issued a provisional license. Once the department's  
 14 background investigation is completed and the department has  
 15 determined that the applicant is of good moral character and  
 16 has not been convicted of any offense specified in s. 206.164  
 17 ~~s.--206-026(1)(b)~~, a permanent license shall be issued.

18 (b) A publicly held corporation, the securities of  
 19 which are regularly traded on a national securities exchange  
 20 and not over the counter, which begins a new business and  
 21 which applies for a license as a refiner, importer, jobber, or  
 22 wholesaler shall be issued such a license without the  
 23 department's background investigation.

24 Section 5. Section 206.021, Florida Statutes, is  
 25 renumbered as section 206.152, Florida Statutes, and amended  
 26 to read:

27 206.152 ~~206-021~~ Application for license; jobbers-and  
 28 carriers.--

29 (1) It is unlawful for any person to engage in  
 30 business as a jobber-or carrier of motor fuel within this  
 31

1 state unless he is the holder of an unrevoked license issued  
2 by the department to engage in such business.

3 (2) To procure such license, a person shall file with  
4 the department an application under oath and in such form as  
5 the department may prescribe, setting forth:

6 (a) The name under which the person will transact  
7 business within the state.

8 (b) The location, with street number address, of his  
9 principal office or place of business within this state and  
10 the location where records will be made available for  
11 inspection.

12 (c) The name and complete residence address of the  
13 owner or the names and addresses of the partners, if such  
14 person is a partnership, or of the principal officers, if such  
15 person is a corporation or association; and, if such person is  
16 a corporation organized under the laws of another state,  
17 territory, or country, he shall also file with the application  
18 a certified copy of the certificate or license issued by the  
19 Department of State showing that such corporation is  
20 authorized to transact business in the state.

21 (3) The application shall require a \$30 license tax.  
22 Each license shall be renewed annually through application,  
23 including an annual \$30 license tax.

24 Section 6. Section 206.404, Florida Statutes, is  
25 renumbered as section 206.156, Florida Statutes, and amended  
26 to read:

27 206.156 ~~206.404~~ License tax upon retail dealers;  
28 dealer transfer fee; monthly reports; penalty.--

29 (1) Every retail dealer shall pay a license tax of \$5  
30 per annum to the state. No license shall be transferred  
31



1 without an application having been filed with the department  
2 and payment of a fee of \$5.

3 ~~(2)(a) -- On or before the 20th day of each calendar~~  
4 ~~month each retail dealer shall on forms prescribed by the~~  
5 ~~department, report to the department all purchases or other~~  
6 ~~acquisition and sales or other disposition of motor fuel~~  
7 ~~during the preceding calendar month and remit the taxes~~  
8 ~~pursuant to ss 336.0217-336.0257 and 336.0267~~

9 ~~(b) -- If any person required to file under this~~  
10 ~~subsection fails to make a complete report, the department may~~  
11 ~~impose, in addition to any other penalty or interest due, a~~  
12 ~~penalty in the amount of \$307~~

13 Section 7. Section 206.055, Florida Statutes, is  
14 renumbered as section 206.161, Florida Statutes, and paragraph  
15 (c) of subsection (1) of said section is amended to read:

16 206.161 ~~206.055~~ Department may cancel licenses;  
17 surrender of bond.--

18 (1) If a refiner, importer, jobber, retail dealer, or  
19 wholesaler at any time:

20 (c) Fails to pay the gas tax as required by part I or  
21 part II of this chapter ~~or the sales tax required under part~~  
22 ~~II of chapter 212~~ and the laws of the state;

23  
24 the department may cancel the license of the refiner,  
25 importer, jobber, retail dealer, or wholesaler.

26 Section 8. Section 206.026, Florida Statutes, is  
27 renumbered as section 206.164, Florida Statutes, and amended  
28 to read:

29 206.164 ~~206.026~~ Certain persons prohibited from  
30 holding a refiner, importer, jobber, or wholesaler license;  
31 suspension and revocation.--

1           (1) No corporation, except a publicly held corporation  
2 regularly traded on a national securities exchange and not  
3 over the counter, general or limited partnership, sole  
4 proprietorship, business trust, joint venture or  
5 unincorporated association, or other business entity shall  
6 hold a refiner, importer, jobber, or wholesaler license in  
7 this state if any one of the persons or entities specified in  
8 paragraph (a) has been determined by the department not to be  
9 of good moral character or has been convicted of any offense  
10 specified in paragraph (b):

11           (a)1. The licenseholder.

12           2. The sole proprietor of the licenseholder.

13           3. A corporate officer or director of the  
14 licenseholder.

15           4. A general or limited partner of the licenseholder.

16           5. A trustee of the licenseholder.

17           6. A member of an unincorporated association  
18 licenseholder.

19           7. A joint venturer of the licenseholder.

20           8. The owner of any equity interest in the  
21 licenseholder, whether as a common shareholder, general or  
22 limited partner, voting trustee, or trust beneficiary.

23           9. An owner of any interest in the license or  
24 licenseholder, including any immediate family member of the  
25 owner, or holder of any debt, mortgage, contract, or  
26 concession from the licenseholder, who by virtue thereof is  
27 able to control the business of the licenseholder.

28           (b)1. A felony in this state.

29           2. Any felony in any other state which would be a  
30 felony if committed in this state under the laws of Florida.

31           3. Any felony under the laws of the United States.

1           (2)(a) If the applicant for a license as specified  
2 under subsection (1) or a licenseholder as specified in  
3 paragraph (1)(a) has received a full pardon or a restoration  
4 of civil rights with respect to the conviction specified in  
5 paragraph (1)(b), then the conviction shall not constitute an  
6 absolute bar to the issuance or renewal of a license or ground  
7 for the revocation or suspension of a license.

8           (b) A corporation which has been convicted of a felony  
9 shall be entitled to apply for and receive a restoration of  
10 its civil rights in the same manner and on the same grounds as  
11 an individual.

12           (3) After notice and hearing, the department shall  
13 refuse to issue or renew, or shall suspend, as appropriate,  
14 any license found in violation of subsection (1). The order  
15 shall become effective 120 days after service of the order  
16 upon the licenseholder and shall be amended to constitute a  
17 final order of revocation unless the licenseholder has, within  
18 that period of time, either caused the divestiture, or agreed  
19 with the convicted person upon a complete immediate  
20 divestiture, of his holding, or has petitioned the circuit  
21 court as provided in subsection (4), or, in the case of  
22 corporate officers or directors of the holder or employees of  
23 the holder, has terminated the relationship between the  
24 licenseholder and those persons mentioned. If no action has  
25 been taken by the licenseholder within the 120-day period  
26 following the issuance of the order of suspension, the  
27 department shall, without further notice or hearing, enter a  
28 final order of revocation of the license.

29           (4) The circuit courts shall have jurisdiction to  
30 decide a petition brought by a holder of a license who shows  
31 that his or its license is in jeopardy of suspension or

1 revocation under subsection (3) and that such licenseholder is  
 2 unable to agree upon the terms of divestiture of interest with  
 3 the person specified in subparagraphs (1)(a)3.-9. who has been  
 4 convicted of an offense specified in paragraph (1)(b). The  
 5 court shall determine the reasonable value of the interest of  
 6 the convicted person and order a divestiture upon such terms  
 7 and conditions as it finds just. In determining the value of  
 8 the interest of the convicted person, the court may consider,  
 9 among other matters, the value of the assets of the  
 10 licenseholder, its good will and value as a going concern,  
 11 recent and expected future earnings, and other criteria usual  
 12 and customary in the sale of like enterprises.

13 (5) The department shall make such rules for the  
 14 photographing, fingerprinting, and obtaining of personal data  
 15 of individuals described in paragraph (1)(a) and the obtaining  
 16 of such data regarding the business entities described in  
 17 paragraph (1)(a) as are necessary to effectuate the provisions  
 18 of this section.

19 Section 9. Section 206.027, Florida Statutes, is  
 20 renumbered as section 206.166, Florida Statutes, and amended  
 21 to read:

22 206.166 ~~206-027~~ Licenses not assignable.--

23 (1) No license granted under the provisions of this  
 24 chapter shall be transferred or assigned except upon  
 25 application to, and written consent and approval of the  
 26 transferee by, the department pursuant to the provisions of s.  
 27 206.164 ~~s. 206-026~~.

28 (2) At all times prior to approval of a transfer or  
 29 assignment of the license the transferor shall be deemed to be  
 30 the licenseholder.  
 31

1           (3) Whenever a license is held by a corporation or  
2 business entity other than an individual, no transfer of the  
3 stock or other evidence of ownership or equity in the  
4 licenseholder shall be made, absent the prior approval of the  
5 transferee by the department pursuant to the provisions of s.  
6 206.164 ~~s. 206-026~~.

7           Section 10. Section 206.028, Florida Statutes, is  
8 renumbered as section 206.168, Florida Statutes, and  
9 subsection (1) of said section is amended to read:

10           206.168 ~~206-028~~ Costs of investigation; department to  
11 charge applicants.--

12           (1) The department is authorized to charge any  
13 anticipated costs incurred by the department in determining  
14 the eligibility of any person or entity specified in s.  
15 206.164(1)(a) ~~s. 206-026(1)(a)~~ to hold a license against such  
16 person or entity.

17           Section 11. Section 206.03, Florida Statutes, is  
18 renumbered as section 206.171, Florida Statutes, and amended  
19 to read:

20           206.171 ~~206-03~~ Licensing of refiners, importers,  
21 jobbers, and wholesalers.--

22           (1) The application in proper form having been  
23 accepted for filing, the filing fee paid, and the bond  
24 accepted and approved, except as provided in s. 206.174(1) ~~s.~~  
25 ~~206-05(1)~~, the department shall issue to such person a license  
26 to transact business in the state, subject to cancellation of  
27 such license as provided by law.

28           (2) The license so issued by the department shall not  
29 be assignable except pursuant to s. 206.166 ~~s. 206-027~~, shall  
30 be valid only for the person in whose name it has been issued,  
31

1 and shall be displayed conspicuously in the principal place of  
2 business in the state.

3 (3) The department shall keep and file all  
4 applications and bonds with an alphabetical index thereof,  
5 together with a record of all duly licensed persons.

6 Section 12. Section 206.04, Florida Statutes, is  
7 renumbered as section 206.172, Florida Statutes, and amended  
8 to read:

9 206.172 ~~206.04~~ License number and cards; penalties.--  
10 Each refiner, importer, jobber, and wholesaler shall be  
11 assigned a license number upon qualifying for a license  
12 hereunder, and the department shall issue to each such  
13 licensee separate license cards for each tank truck operated  
14 by that person. Such license card shall indicate the license  
15 number so assigned, the motor number of the truck authorized  
16 to be operated under such license card, and such other  
17 information as the department may prescribe. The license card  
18 shall be conspicuously displayed in the vehicle to which it is  
19 assigned, and any person operating a tank truck in this state  
20 conveying or transporting motor fuel without such license card  
21 or, if a common carrier, a bill of lading is guilty of a  
22 felony of the third degree, punishable as provided in s.  
23 775.082, s. 775.083, or s. 775.084.

24 Section 13. Section 206.05, Florida Statutes, is  
25 renumbered as section 206.174, Florida Statutes, and amended  
26 to read:

27 206.174 ~~206.05~~ Bond required of licensed refiner,  
28 importer, jobber, or wholesaler.--

29 (1) Each refiner, importer, jobber, or wholesaler,  
30 except a municipality, county, school board, state agency,  
31 federal agency, or special district which is licensed under

1 this part, shall file with the department a bond in a penal  
2 sum of not more than \$100,000, such sum to be approximately 3  
3 times the average monthly ~~gas-tax-and-sales~~ tax imposed  
4 pursuant to s. 206.101 on motor fuel paid or due during the  
5 preceding 12 calendar months under the laws of this state.  
6 The bond shall be in such form as may be approved by the  
7 department, executed by a surety company duly licensed to do  
8 business under the laws of the state as surety thereon, and  
9 conditioned upon the prompt filing of true reports and the  
10 payment to the department of any and all gas taxes ~~and-sales~~  
11 ~~taxes~~ on motor fuel ~~collected-pursuant-to-chapter-212~~ which  
12 are now or which hereafter may be levied or imposed by the  
13 state, together with any and all penalties and interest  
14 thereon, and generally upon faithful compliance with the  
15 provisions of the gas tax ~~and-sales-tax~~ laws of the state.  
16 The licensee shall be the principal obligor, and the state  
17 shall be the obligee. An assigned time deposit or irrevocable  
18 letter of credit may be accepted in lieu of a surety bond.

19 (2) In the event that liability upon the bond thus  
20 filed with the department is discharged or reduced, whether by  
21 judgment rendered, payment made, or otherwise, or if in the  
22 opinion of the department any surety on the bond theretofore  
23 given has become unsatisfactory or unacceptable, then the  
24 department may require a new bond with satisfactory sureties  
25 in the same amount, failing which the department shall  
26 forthwith cancel the license. If such new bond is furnished  
27 as above provided, the department shall cancel and surrender  
28 the bond of the person for which such new bond is substituted.

29 (3) In the event that the department decides that the  
30 amount of the existing bond is insufficient to ensure payment  
1 to the state of the amount of the tax and any penalties and

1 interest for which the person is or may at any time become  
2 liable, then that person shall forthwith, upon the written  
3 demand of the department, file additional bond in the same  
4 manner and form with like security thereon as hereinbefore  
5 provided, and the department shall forthwith cancel the  
6 license of anyone failing to file an additional bond as herein  
7 provided.

8 (4) Any surety on any bond furnished by a person, as  
9 above provided, shall be released and discharged from any and  
10 all liability to the state accruing on such bond after the  
11 expiration of 60 days from the date upon which such surety has  
12 filed with the department written request to be released and  
13 discharged. However, such request shall not operate to  
14 relieve, release, or discharge such surety from any liability  
15 already accrued, or which shall accrue, before the expiration  
16 of the 60-day period. The department shall, promptly on  
17 receipt of notice of such request, notify the licensee who  
18 furnished the bond, and, unless the licensee on or before the  
19 expiration of the 60-day period files with the department a  
20 new bond with a surety company satisfactory to the department  
21 in the amount and form hereinbefore in this section provided,  
22 the department shall forthwith cancel the license. If the new  
23 bond is furnished as above provided, the department shall  
24 cancel and surrender the bond of the licensee for which the  
25 new bond is provided.

26 Section 14. Section 206.065, Florida Statutes, is  
27 renumbered as section 206.176, Florida Statutes, and  
28 subsections (1) and (2) of said section are amended to read:

29 206.176 ~~206-065~~ Purchases by licensed wholesalers;  
30 authority to self-accrue and remit tax.--  
31



1 (1) A licensed wholesaler may, after obtaining written  
 2 consent of the executive director of the department, self-  
 3 accrue and remit the tax imposed by this part. Thereafter,  
 4 the wholesaler may purchase motor fuel from importers or  
 5 refiners and pay the tax due on such purchases directly to the  
 6 department. The tax shall be due and remitted as provided in  
 7 s. 206.202 ~~sr-206-43~~.

8 (2) A wholesaler may self-accrue and remit the tax  
 9 under subsection (1) only if he:

10 (a) Made average monthly sales of not less than  
 11 150,000 gallons for the preceding 12-month period prior to  
 12 applying for the authority;

13 (b) Has been registered and filed timely reports and  
 14 made timely payments of the tax due for a period of 12 months  
 15 in accordance with the provisions of s. 206.202 ~~sr-206-43~~;

16 (c) Complies with the requirements of s. 206.174 ~~sr~~  
 17 ~~206-05~~; however, the department may increase the amount of the  
 18 bond or other security to equal the total amount of tax  
 19 remitted for the previous 3-month period if the wholesaler  
 20 repeatedly remitted such tax late;

21 (d) Files a written statement under oath with the  
 22 department stating that the wholesaler meets the requirements  
 23 of this subsection; and

24 (e) Submits proper forms to the department as the  
 25 department may require.

26 Section 15. Section 206.178, Florida Statutes, is  
 27 created to read:

28 206.178 Purchases by licensed importers and jobbers;  
 29 authority to self-accrue and remit.--

30 (1) A licensed importer or jobber may, after obtaining  
 31 written consent of the executive director of the department,

1 self-accrue and remit the tax imposed by this part.  
2 Thereafter, the importer or jobber may purchase motor fuel  
3 from refiners or importers and pay any tax due on such  
4 purchases directly to the department. The tax shall be due  
5 and remitted as provided in s. 206.202.

6 (2) An importer or jobber may self-accrue and remit  
7 the tax under subsection (1), only if he:

8 (a) Exports that volume of fuel which would generate a  
9 monthly refund of motor fuel tax of at least \$1,000;

10 (b) Files with the department a bond in an amount  
11 equal to three times the average monthly tax due on gallons  
12 acquired within the preceding 12 calendar months;

13 (c) Files with the department each year an application  
14 for an exporter exemption permit;

15 (d) Provides his supplier with a copy of his exporter  
16 exempt permit and his current license number; and

17 (e) Files a copy of the tax return of the state to  
18 which the fuel is exported and any documentation concerning  
19 such fuel such as waybills, manifests, and any other documents  
20 that may be required to be filed with the monthly Florida  
21 wholesaler tax return.

22 (3) The privilege to self-accrue and remit tax shall  
23 be revoked at any time if the licensed importer or jobber:

24 (a) Fails to report and remit the tax in a timely  
25 manner;

26 (b) Fails to respond to renewal requests,

27 (c) Fails to comply with any notice of intent to audit  
28 or other notice issued by the department;

29 (d) Fails to receive approval by the department for  
30 any change of name, transfer of ownership, merger, or other  
31 like transaction; or

1 (e) Engages in any activity jeopardizing the  
2 collection and remittance of taxes.

3 (4) The provisions in s. 206.176(7) apply to this  
4 section.

5 (5) An importer or jobber who exports motor fuel out  
6 of Florida is exempt from any tax imposed under s. 206.101 if  
7 he provides his supplier with an affidavit stating that the  
8 fuel is for export but that he will, for fuel which is not  
9 exported, collect and remit such tax on any sales made in  
10 Florida.

11 Section 16. Section 206.43, Florida Statutes, is  
12 renumbered as section 206.202, Florida Statutes, and amended  
13 to read:

14 206.202 ~~206.43~~ Refiner, importer, jobber, and  
15 wholesaler to report to department monthly; deduction.--The  
16 taxes levied and assessed as provided in this part shall be  
17 paid to the department monthly in the following manner:

18 (1) Taxes are due on the first day of the succeeding  
19 month and shall be paid on or before the 20th day of each  
20 month. The refiner, importer, jobber, or wholesaler shall  
21 mail to the department verified reports on forms prescribed by  
22 the department of the number of gallons of such products sold  
23 by him during the preceding month and shall at the same time  
24 pay to the department the amount of tax computed to be due.  
25 However, if the 20th day falls on a Saturday, a Sunday, or a  
26 federal or state legal holiday, returns shall be accepted if  
27 postmarked on the next succeeding workday. The refiner,  
28 importer, jobber, or wholesaler shall deduct from the amount  
29 of tax shown by the report to be payable an amount equivalent  
30 to 6 percent of the tax on motor fuels imposed by s.  
31 206.101(1)(b) and (c) ~~this part~~ not exceeding 500,000 taxable

1 gallons, and less an amount equivalent to 3 percent of the tax  
2 on motor fuels imposed by s. 206.101(1)(b) and (c) this part  
3 in excess of 500,000 gallons but not exceeding 1 million  
4 taxable gallons, which deduction is hereby allowed to the  
5 refiner, importer, jobber, or wholesaler on account of  
6 services and expenses in complying with the provisions of the  
7 law. However, this allowance shall not be deductible unless  
8 payment of the tax is made on or before the 20th day of the  
9 month as herein required. The United States post-office date  
10 stamped on the envelope in which the report is submitted shall  
11 be considered as the date the report is received by the  
12 department. Nothing in this subsection shall be construed to  
13 authorize a deduction from the constitutional gas tax.

14 (2) Such report shall show in detail the number of  
15 gallons so sold or removed from storage and delivered by the  
16 refiner, importer, jobber, or wholesaler in the state, and the  
17 destination as to the county in the state to which the motor  
18 fuel was delivered for resale at retail or use shall be  
19 specified in the report. The total taxable gallons sold shall  
20 agree with the total gallons reported to the county  
21 destinations for resale at retail or use. All gallons of  
22 motor fuel sold shall be invoiced and shall name the county of  
23 destination for resale at retail or use.

24 (3) All refiners, importers, jobbers, and wholesalers  
25 shall report monthly:

26 (a) The consumption of motor fuel by the licensee and  
27 the county or counties in which the gallons of motor fuel were  
28 consumed.

29 (b) All sales to the ultimate consumer and the county  
30 or counties to which the gallons of motor fuel were delivered.  
31

1 (c) All sales to retail dealers and service stations  
2 and the county or counties to which the gallons of motor fuel  
3 were delivered.

4 ~~(4)--The taxes herein levied and assessed shall be in~~  
5 ~~addition to any and all other taxes authorized, imposed,~~  
6 ~~assessed, or levied on motor fuel under any laws of this~~  
7 ~~state.~~

8 Section 17. Section 206.09, Florida Statutes, is  
9 renumbered as section 206.206, Florida Statutes, and  
10 subsections (1) and (4) of said section are amended to read:

11 206.206 ~~206.09~~ Reports from carriers transporting  
12 motor fuel or similar products.--

13 (1) Every railroad company, pipeline company, water  
14 transportation company, and common carrier transporting motor  
15 fuel, casinghead gasoline, natural gasoline, naphtha, or  
16 distillate, either in interstate or intrastate or foreign  
17 commerce, to points within Florida, and every person  
18 transporting motor fuel, casinghead gasoline, natural  
19 gasoline, naphtha, or distillate, by whatever manner, to a  
20 point in Florida from any point outside of said state, who is  
21 not required by the provisions of part I, part II, or part III  
22 of this chapter to be licensed under s. 206.151 ~~s. 206.02~~ or  
23 by the laws of Florida to make reports shall file a statement  
24 setting forth:

25 (a) The name under which such person is transacting  
26 business within the state.

27 (b) The location with street number address of such  
28 person's principal office or place of business within the  
29 state.

30 (c) The name and address of the owner or the names and  
31 addresses of the partners, if such person is a partnership, or

1 the principal officers, if such person is a corporation or  
2 association.

3 ~~(4)--If any such person or company required to file~~  
4 ~~under this section fails to make a complete report, the~~  
5 ~~department shall impose, in addition to any other penalty or~~  
6 ~~interest due, a penalty in the amount of \$100.~~

7 Section 18. Section 206.10, Florida Statutes, is  
8 renumbered as section 206.225, Florida Statutes, and amended  
9 to read:

10 206.225 ~~206.10~~ Reports to be filed whether taxes due  
11 or not.--All statements or reports required by part I or part  
12 II of this chapter and the gas tax laws of this state to be  
13 made to the department monthly shall be filed each month,  
14 regardless of whether or not a gas tax is due under the  
15 provisions of the laws of Florida.

16 Section 19. Section 206.48, Florida Statutes, is  
17 renumbered as section 206.235, Florida Statutes, and amended  
18 to read:

19 206.235 ~~206.48~~ Reports required of refiners,  
20 importers, jobbers, and wholesalers.--Each refiner, importer,  
21 jobber, or wholesaler of motor fuels shall, when making his  
22 report to the Department of Revenue of the amount of such  
23 products sold or removed from storage in this state upon which  
24 the tax provided is due and payable by him to the department,  
25 at the same time report to the department each and every sale  
26 made by such person of any quantity of motor fuel which shall  
27 not have been at the time of such sale divested of its  
28 interstate or foreign character, which report shall show the  
29 name and business location of the person to whom the same is  
30 sold in this state. Every refiner, importer, jobber, or  
31 wholesaler shall, at the time other reports are required to be

1 made to the department, report to the department each and  
 2 every purchase of such products not theretofore divested of  
 3 their interstate or foreign character made by such person upon  
 4 which the tax is shown by the invoice thereof to have been  
 5 assumed for report and payment by the refiner, importer,  
 6 jobber, or wholesaler selling to him.

7 Section 20. Section 206.485, Florida Statutes, is  
 8 renumbered as section 206.245, Florida Statutes, and amended  
 9 to read:

10 206.245 ~~206-485~~ Tracking system reporting  
 11 requirements.--The information required for tracking movements  
 12 of petroleum products pursuant to ss. 206.206, 206.213, and  
 13 206.235 ~~ss.-206-007-206-097-206-0957-and-206-48~~ shall be  
 14 submitted in the manner prescribed by the executive director  
 15 of the department by rule. The rule shall include, but not be  
 16 limited to, the data elements, the format of the data  
 17 elements, and the method and medium of transmission to the  
 18 department.

19 Section 21. Section 206.62, Florida Statutes, is  
 20 renumbered as section 206.253, Florida Statutes, and  
 21 subsections (1), (2), (3), (4), (5), and (6) of said section  
 22 are amended to read:

23 206.253 ~~206-62~~ Certain sales to United States tax  
 24 exempt; rules and regulations.--

25 (1) All motor fuel sold to the United States or its  
 26 departments or agencies is exempt from any tax imposed by s.  
 27 206.101 or s. 206.102 ~~Every-refiner-or-importer-of-motor-fuels~~  
 28 ~~shall-be-exempt-from-the-payment-of-all-excise-taxes-upon~~  
 29 ~~motor-fuels-sold-by-such-person-in-the-state-to-the-United~~  
 30 ~~States-or-its-departments-or-agencies~~ when the motor fuel is  
 31 sold and delivered by-the-refiner-or-importer in bulk lots of

1 not less than 500 gallons in each delivery to and for the  
2 exclusive use by the United States or its departments or  
3 agencies.

4 (2) Every refiner, importer, jobber, or wholesaler of  
5 motor fuels who has purchased such fuel tax exempt from a  
6 refiner or importer shall be exempt from the payment of all  
7 excise taxes upon untaxed motor fuels sold by such licensee in  
8 the state to the United States or its departments or agencies  
9 when the motor fuel is sold and delivered by such licensee in  
10 bulk lots of not less than 500 gallons in each delivery to and  
11 for the exclusive use by the United States or its departments  
12 or agencies.

13 (3) Every wholesaler, refiner, importer, or jobber of  
14 motor fuels who has purchased such fuel tax paid shall be  
15 entitled to a monthly refund of all excise taxes paid upon  
16 motor fuels sold in the state to the United States or its  
17 departments or agencies when the motor fuel is sold and  
18 delivered by such licensee in bulk lots of not less than 500  
19 gallons in each delivery to and for the exclusive use by the  
20 United States or its departments or agencies.

21 (4) Wholesalers, refiners, importers, or jobbers may,  
22 instead of filing a refund request, take credit for taxes paid  
23 on such sales to the United States Government against tax due  
24 on monthly returns.

25 (5) Refiners, importers, wholesalers, and jobbers are  
26 not exempt from the tax levied under this part ~~or part of~~  
27 ~~chapter 212~~ on motor fuel sold or delivered to post exchanges  
28 located on United States military reservations.

29 (6) All purchases of motor fuel by the United States  
30 or its departments or agencies when sold through or by post  
31 exchanges located on United States military reservations are



1 subject to the tax levied under this part ~~or part II of~~  
2 ~~chapter 212.~~

3 Section 22. Section 206.42, Florida Statutes, is  
4 renumbered as section 206.255, Florida Statutes, and amended  
5 to read:

6 206.255 ~~206-42~~ Aviation gasoline exempt from excise  
7 tax.--

8 (1) Each and every retail dealer in aviation fuel  
9 gasoline in the state by whatever name designated who  
10 purchases from any refiner, importer, jobber, or wholesaler,  
11 and sells, aviation gasoline (A.S.T.M. specification D-910 or  
12 current specification), of such quality not adapted for use in  
13 ordinary motor vehicles, being designed for and sold and  
14 exclusively used for aircraft, is exempted from the payment of  
15 taxes levied under this part, but is subject to the tax levied  
16 under part III.

17 (2) A refiner, importer, jobber, or wholesaler may be  
18 entitled to a refund of taxes paid under this chapter on all  
19 gallons of aviation ~~motor~~ fuel sold to aviation retail dealers  
20 monthly. A refiner, importer, jobber, or wholesaler may  
21 instead of refund take credit for taxes paid on his monthly  
22 returns.

23 (3) All sales of aviation motor fuel must be in  
24 compliance with s. 206.275 ~~s. 206-425~~ to qualify for the  
25 exemption.

26 Section 23. Section 206.41, Florida Statutes, is  
27 renumbered as section 206.263, Florida Statutes, and amended  
28 to read:

29 206.263 ~~206-41~~ Sale of motor fuel for export;  
30 exemptions ~~Constitutional-gas-tax-imposed.--~~

31

~~(1) An excise or license tax of 2 cents per gallon is imposed upon the first sale or first removal from storage, after importation into this state, of motor fuel upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. This tax, which is the tax as levied by s. 167, Art. IX of the Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 Constitution, as amended, and which is there in referred to as the "second gas tax," is hereby designated the "constitutional gas tax." Revenues from this levy of tax become state funds at the time of collection by the refiner, importer, or wholesaler, who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not. For purposes of this subsection, the term "first sale" does not include exchanges or loans, gallon for gallon, of motor fuel between licensed refiners before the fuel has been sold or removed through the loading rack or transfers between terminal facilities owned by the same taxpayer. The tax on motor fuel first imported into this state by a licensed refiner storing such fuel in a terminal facility shall be imposed when the product is first removed through the loading rack. The tax shall be remitted by the licensed refiner who owned the motor fuel immediately prior to removal of such fuel from storage.~~

~~(2)(a) The sale of motor fuel for export from the state by a refiner or importer is exempt from the taxes imposed by this part when exempted by any provision of the Constitution of the United States or of the State of Florida. The sale of motor fuel for export from the state which is not exempted from the taxes imposed by this part either by the Constitution of the United States or of the State of Florida~~

1 ~~shall also be exempt, but only if both the seller and the~~  
 2 ~~exporter of the motor fuel are duly licensed as a refiner or~~  
 3 ~~importer.~~

4 (1)(b)† The sale of motor fuel for export from this  
 5 state by a wholesaler, refiner, importer, or jobber is exempt  
 6 from the taxes imposed by this part when exempted by any  
 7 provision of the Constitution of the United States or of the  
 8 State of Florida. The sale of motor fuel for export from the  
 9 state which is not exempted from the taxes imposed by this  
 10 part either by the Constitution of the United States or of the  
 11 State of Florida shall also be exempt, ~~but only if the~~  
 12 ~~purchaser of the motor fuel is licensed as a refiner or~~  
 13 ~~importer.~~

14 ~~2. A refiner, importer, wholesaler, or jobber may be~~  
 15 ~~entitled to a refund of taxes paid on gallons of motor fuel~~  
 16 ~~exported by filing a refund request monthly. A refiner,~~  
 17 ~~importer, or wholesaler may, instead of refund, take credit~~  
 18 ~~for taxes paid on gallons exported on his monthly returns.~~

19 (2)(c)† A wholesaler, refiner, jobber, or importer may  
 20 export gallons of motor fuel to his own location tax exempt if  
 21 the licensee maintains complete and adequate shipping  
 22 documentation that the motor fuel was removed from the state.  
 23 Adequate shipping documentation shall include bills of lading  
 24 and delivery tickets provided by the seller or by a common  
 25 carrier hauling the fuel or by complete shipping logs provided  
 26 by the purchaser along with receiving records from the  
 27 location outside of the state.

28 (3)(d)† Violation of any provision of this section may  
 29 subject the licensee to both revocation of license and  
 30 liability for taxes on all fuel claimed as exported from the  
 31 state.

1           ~~(4)~~<sup>(3)</sup> Motor fuel in the fuel tanks in any motor  
 2 vehicle entering this state used to propel such motor vehicle  
 3 shall be exempt from the taxes imposed by this part. "Fuel  
 4 tanks" shall mean the reservoir or receptacle attached to the  
 5 motor vehicle by the manufacturer as the container for fuel  
 6 used to propel the vehicle.

7           Section 24. Section 206.425, Florida Statutes, is  
 8 renumbered as section 206.275, Florida Statutes, and amended  
 9 to read:

10           206.275 ~~206.425~~ Tax-exempt purchasers; refiner,  
 11 jobber, wholesaler, or importer to obtain affidavits or resale  
 12 certificates; relief from audit or assessment; refunds  
 13 authorized.--

14           (1) Each refiner, jobber, wholesaler, or importer  
 15 shall request signed affidavits or resale certificates of all  
 16 persons who purchase or obtain motor fuel from such refiner,  
 17 jobber, wholesaler, or importer and who are not required to  
 18 pay the tax imposed by s. 206.101 or s. 206.102(1) or (2) this  
 19 part at the time of such purchase. The affidavits or resale  
 20 certificates shall show the license number issued by the  
 21 department to purchasers who are authorized to buy motor fuel  
 22 tax exempt and to act as agents of the state in collecting and  
 23 remitting the tax. Such affidavits or resale certificates  
 24 should be executed by the refiner, jobber, wholesaler, or  
 25 importer before or at the time of the first sale or removal  
 26 from storage.

27           (2) A refiner, wholesaler, jobber, or importer may, in  
 28 lieu of obtaining an affidavit, include on the sale invoice or  
 29 other document evidencing title passage the license number of  
 30 the purchaser as well as the refiner's, wholesaler's,  
 31

1 jobber's, or importer's license number at the time of the sale  
2 to exempt a specific transaction.

3 (3) The provisions of this section shall apply to  
4 sales of aviation motor fuel to licensed aviation motor fuel  
5 retail dealers.

6 (4) In order to seek relief from an audit or  
7 assessment completed on or after June 24, 1984, a person may,  
8 through the informal protest procedure established under s.  
9 213.21 and the rules of the department, provide the department  
10 with evidence of the exempt status of a sale or removal  
11 transfer of motor fuel. The department shall accept resale  
12 certificates or affidavits properly executed when submitted  
13 during the protest period, but such certificates or affidavits  
14 may not be considered in proceedings instituted under chapter  
15 120 or in actions instituted in circuit court under chapter  
16 72, unless such certificates or affidavits have been submitted  
17 and considered by the department under the procedure  
18 established in s. 213.21.

19 (5) A request for review shall be made in writing to  
20 the executive director of the department. If it is found that  
21 any person applying for relief under this chapter has paid the  
22 tax and is entitled to a refund, the Comptroller may issue the  
23 refund to that person.

24 Section 25. Section 212.67, Florida Statutes, is  
25 renumbered as section 206.285, Florida Statutes, sections  
26 206.626 and 206.13, Florida Statutes, are transferred to said  
27 section as subsections (13) and (14), respectively, and said  
28 section is amended to read:

29 206.285 ~~212.67~~ Refunds.--  
30  
31

1 (1) The following refunds apply to the tax imposed by  
 2 part I and part II of this chapter ~~this part~~, to the extent  
 3 provided in this section:

4 (a) Refunds on fuel used for local transit  
 5 operations.--Any person who uses motor fuel ~~or special-fuel~~ on  
 6 which the taxes imposed by s. 206.101(1)(d), s. 206.102(2), or  
 7 s. 206.102(3) ~~this part~~ have been paid for any system of mass  
 8 public transportation authorized to operate within any city,  
 9 town, municipality, county, or transit authority region in  
 10 this state, as distinguished from any over-the-road or charter  
 11 system of public transportation, is entitled to a refund of  
 12 such taxes. A public transportation system or transit system  
 13 as defined above may operate outside its limits when such  
 14 operation is found necessary to adequately and efficiently  
 15 provide mass public transportation services for the city,  
 16 town, or municipality involved. A transit system as defined  
 17 above includes demand service that is an integral part of a  
 18 city, town, municipality, county, or transit or transportation  
 19 authority system but does not include independent taxicab or  
 20 limousine operations. The terms "city," "county," and  
 21 "authority" as used in this paragraph include any city, town,  
 22 municipality, county, or transit or transportation authority  
 23 organized in this state by virtue of any general or special  
 24 law enacted by the Legislature.

25 (b) Refunds to retail dealers for shrinkage of motor  
 26 fuel.--Every retail dealer licensed under s. 206.156 ~~s.~~  
 27 ~~206.404~~ is entitled to a refund of 1.4 percent of the tax  
 28 imposed by s. 206.101(1)(d) ~~this part~~ on motor fuel purchased  
 29 by such retail dealer to cover losses due to evaporation and  
 30 shrinkage of motor fuel. However, any retail dealer who sells  
 31 motor fuel within a county which imposes a tax under s.

1 206.102 shall ~~s. 336.021, s. 336.025, or s. 336.026~~ may take  
 2 as a credit against any tax due on his local option gas tax  
 3 return the amount to which he is entitled as a refund under  
 4 this paragraph. Nothing in this paragraph shall be construed  
 5 to allow this credit to be subtracted from the moneys  
 6 deposited in the Local Option Gas Tax Trust Fund or the Voted  
 7 Gas Tax Trust Fund.

8 (c) Return of taxes ~~tax~~ to municipalities and  
 9 counties.--The portions ~~portion~~ of the taxes ~~tax~~ imposed by s.  
 10 206.101(1)(b) or s. 206.101(1)(d) ~~this part~~ which results from  
 11 the collection of such taxes paid by a municipality or county  
 12 on motor fuel ~~or special fuel~~ for use in a motor vehicle  
 13 operated by it shall be returned to the governing body of such  
 14 municipality or county for the construction, reconstruction,  
 15 and maintenance of roads and streets within the municipality  
 16 or county.

17 (d) Return of taxes ~~tax~~ to school districts and  
 18 nonpublic schools.--

19 1. The portion of the tax imposed by s. 206.101(1)(b)  
 20 which results from the collection of such tax paid by a school  
 21 district or by a private contractor operating school buses for  
 22 a school district, on motor fuel for use in a motor vehicle  
 23 operated by such district or private contractor shall be  
 24 returned to the governing body of each such school district.

25 2. The portion of the tax imposed by s.  
 26 206.101(1)(d) this part which results from the collection of  
 27 such tax paid by a school district or a private contractor  
 28 operating school buses for a school district or by a nonpublic  
 29 school on motor fuel ~~or special fuel~~ for use in a motor  
 30 vehicle operated by such district, private contractor, or  
 31

1 nonpublic school shall be returned to the governing body of  
2 such school district or to such nonpublic school.

3 3.2 Funds returned to school districts shall be used  
4 to fund construction, reconstruction, and maintenance of roads  
5 and streets within the school district required as a result of  
6 the construction of new schools or the renovation of existing  
7 schools. The school board shall select the projects to be  
8 funded; however, the first priority shall be given to projects  
9 required as the result of the construction of new schools,  
10 unless a waiver is granted by the affected county or municipal  
11 government. Funds returned to nonpublic schools shall be used  
12 for transportation-related purposes.

13 (e) Refunds to farmers, fishermen, and  
14 aquaculturists.--

15 1. Any person who uses any motor fuel ~~or special-fuel~~  
16 for agricultural, aquacultural, or commercial fishing purposes  
17 on which fuel the tax imposed by s. 206.101(1)(c), s.  
18 206.101(1)(d), s. 206.102(2), or s. 206.102(3) ~~this part~~ has  
19 been paid is entitled to a refund of such tax.

20 2.a. For the purposes of this paragraph, "agricultural  
21 and aquacultural purposes" means motor fuel ~~or special-fuel~~  
22 used in any tractor, vehicle, or other farm equipment which is  
23 used exclusively on a farm or for processing farm products on  
24 the farm, and no part of which fuel is used in any vehicle or  
25 equipment driven or operated upon the public highways of this  
26 state. This restriction does not apply to the movement of a  
27 farm vehicle or farm equipment between farms. The  
28 transporting of bees by water and the operating of equipment  
29 used in the apiary of a beekeeper shall be also deemed an  
30 agricultural purpose.

31



1           b. For the purposes of this paragraph, "commercial  
2 fishing and aquacultural purposes" means motor fuel ~~or special~~  
3 ~~fuel~~ used in the operation of boats, vessels, or equipment  
4 used exclusively for the taking of fish, crayfish, oysters,  
5 shrimp, or sponges from salt or fresh waters under the  
6 jurisdiction of the state for resale to the public, and no  
7 part of which fuel is used in any vehicle or equipment driven  
8 or operated upon the highways of this state; but the term may  
9 in no way be construed to include fuel used for sport or  
10 pleasure fishing.

11           ~~(f)--Refunds to refiners, importers, and wholesalers on~~  
12 ~~fuel used in blending gasoline--Any refiner, importer, or~~  
13 ~~wholesaler who has paid the tax imposed by this part on~~  
14 ~~purchases of motor fuel which is blended with ethyl alcohol to~~  
15 ~~produce gasoline shall be entitled to a refund of 4 cents per~~  
16 ~~gallon of such tax until July 17, 1985, and then shall be~~  
17 ~~entitled to a refund of 2 cents per gallon of such tax through~~  
18 ~~June 30, 1987--Such person may choose to adjust any~~  
19 ~~overpayment authorized in this paragraph on the monthly motor~~  
20 ~~fuel tax report--This paragraph operates retroactively to~~  
21 ~~April 17, 1983, and applies to motor fuels blended with ethyl~~  
22 ~~alcohol on or after April 17, 1983.~~

23           ~~(g)--Refunds to wholesale blenders for fuel used in~~  
24 ~~blending gasoline--Any wholesale blender who is not licensed~~  
25 ~~as a refiner, importer, or wholesaler who purchases motor fuel~~  
26 ~~for blending with ethyl alcohol to produce gasoline shall be~~  
27 ~~entitled to apply for a refund of 4 cents per gallon of such~~  
28 ~~tax until July 17, 1985, and then shall be entitled to apply~~  
29 ~~for a refund of 2 cents per gallon of such tax through June~~  
30 ~~30, 1987--This paragraph operates retroactively to April 17~~  
31

1 ~~1983, and applies to motor fuels blended with ethyl alcohol on~~  
 2 ~~or after April 17, 1983:~~

3 (2)(a) To procure a permit, a person must file with  
 4 the department an application, on forms furnished by the  
 5 department, stating that he is entitled to a refund according  
 6 to the provisions of subsection (1) and that he intends to  
 7 file an application for refund for a calendar quarter during  
 8 the current calendar year, and must furnish the department  
 9 such other information as the department requests.

10 (b) No person, municipality, county, school district,  
 11 or nonpublic school may in any event be allowed a refund  
 12 unless he has filed the application provided for in paragraph

13 (a) with the department. A permit shall be effective for the  
 14 year issued by the department and shall be continuous from  
 15 year to year so long as the permitholder files refund claims  
 16 from year to year. In the event the permitholder fails to  
 17 file a claim for any year, he must apply for a new permit.

18 (c) If an applicant for a refund permit has violated  
 19 any provision of this section or any regulation pursuant  
 20 hereto; or has been convicted of bribery, theft, or false  
 21 swearing within the period of 5 years preceding the  
 22 application; or if the department has evidence of the  
 23 financial irresponsibility of the applicant, the department  
 24 may require the applicant to execute a corporate surety bond  
 25 of \$1,000 to be approved by the department, conditioned upon  
 26 the payment of all taxes, penalties, and fines for which such  
 27 applicant may become liable under this part.

28 (3)(a) When motor fuel ~~or special fuel~~ is sold to a  
 29 person who claims to be entitled to a refund under this  
 30 section, the seller of such motor fuel ~~or special fuel~~ shall  
 31

1 make out a sales invoice, which shall contain the following  
2 information:

- 3 1. The name, post-office address, and residence  
4 address of the purchaser.
- 5 2. The number of gallons purchased.
- 6 3. The date on which the purchase was made.
- 7 4. The price paid for the motor fuel ~~or-special-fuel~~.
- 8 5. The name and place of business of the seller of the  
9 motor fuel ~~or-special-fuel~~.
- 10 6. The license number, or other identification number,  
11 of the motor vehicle or boat of the purchaser.

12 (b) The sales invoice shall be retained by the  
13 purchaser for attachment to his application for a refund, as a  
14 part thereof. No refund will be allowed unless the seller has  
15 executed such an invoice and unless proof of payment of the  
16 taxes for which the refund is claimed is attached. The  
17 department may refuse to grant a refund if the invoice is  
18 incomplete and fails to contain the full information required  
19 in this subsection.

20 (c) No person may execute a sales invoice, as  
21 described in paragraph (a), except a refiner, importer,  
22 wholesaler, dealer, jobber, or retail dealer, or a duly  
23 authorized agent thereof. ~~No-refund-invoice-may-be-executed~~  
24 ~~for-a-purchase-from-a-retail-service-station~~

25 (d) ~~Notwithstanding-provisions-of-this-subsection-to~~  
26 ~~the-contrary~~, The department may ~~has-authority-to~~ designate  
27 certain retail service stations as agents of refiners,  
28 importers, wholesalers, jobbers, or dealers when no refiners,  
29 importers, wholesalers, jobbers, or dealers are available.

30 (e) Notwithstanding provisions of this subsection to  
31 the contrary, refunds to a school district for fuel consumed

1 by school buses operated for the district by private  
2 contractors shall be based on an estimate of taxes paid. The  
3 estimate shall be determined quarterly by dividing the total  
4 miles traveled by such vehicles for school purposes by their  
5 average miles per gallon, as determined by the department, and  
6 multiplying the result by the applicable tax rate per gallon.  
7 It is the responsibility of the school district to provide  
8 information relevant to this determination.

9 (4)(a) No refund may be authorized unless a sworn  
10 application therefor containing such information as the  
11 department may determine is filed with the department not  
12 later than the last day of the month following the quarter for  
13 which the refund is claimed. However, when a justified excuse  
14 for late filing is presented to the department and the last  
15 preceding claim was filed on time, the deadline for filing may  
16 be extended an additional month. No refund will be authorized  
17 unless the amount due is for \$5 or more for any refund period  
18 and unless application is made upon forms prescribed by the  
19 department.

20 (b) Claims made for refunds provided pursuant to  
21 subsection (1) shall be paid quarterly. The department shall  
22 deduct a fee of \$2 for each claim, which fee shall be  
23 deposited in the General Revenue Fund.

24 (5) The right to receive any refund under the  
25 provisions of this section is not assignable, except to the  
26 executor or administrator, or to the receiver, trustee in  
27 bankruptcy, or assignee in an insolvency proceeding, of the  
28 person entitled to the refund.

29 (6)(a) Each refiner, importer, wholesaler, jobber,  
30 dealer, or retail dealer shall, in accordance with the  
31 requirements of the department, keep at his principal place of

1 business in this state or at the bulk plant where the sale is  
2 made a complete record or duplicate sales tickets of all motor  
3 fuel ~~or special-fuel~~ sold by him for which a refund provided  
4 in this section may be claimed, which records shall give the  
5 date of each such sale, the number of gallons sold, the name  
6 of the person to whom sold, and the sale price. No refiner,  
7 importer, wholesaler, dealer, jobber, or retail dealer, or his  
8 agent or employee, may acknowledge or assist in the  
9 preparation of any claim for tax refund.

10 (b) Every person to whom a refund permit has been  
11 issued under this section shall, in accordance with the  
12 requirements of the department, keep at his residence or  
13 principal place of business in this state a record of each  
14 purchase of motor fuel ~~or special-fuel~~ from a refiner,  
15 importer, wholesaler, dealer, jobber, or retail dealer, or his  
16 authorized agent; the number of gallons purchased; the name of  
17 the seller; the date of the purchase; and the sale price.

18 (c) The records required to be kept under this  
19 subsection shall at all reasonable hours be subject to audit  
20 or inspection by the department or by any person duly  
21 authorized by it. Such records shall be preserved and may not  
22 be destroyed until 3 years after the date the motor fuel ~~or~~  
23 ~~special-fuel~~ to which they relate was sold or purchased.

24 (d) The department shall keep a permanent record of  
25 the amount of refund claimed and paid to each claimant. Such  
26 records shall be open to public inspection.

27 (7) Agents of the department are authorized to go upon  
28 the premises of any permitholder or refiner, importer, jobber,  
29 or wholesaler as defined in this part, or duly authorized  
30 agent thereof, to make inspection to ascertain any matter  
31 connected with the operation of this section or the

1 enforcement hereof. However, no agent may enter the dwelling  
2 of any person without the consent of the occupant or authority  
3 from a court of competent jurisdiction.

4 (8) If any taxes are refunded erroneously, the  
5 department shall advise the payee by registered mail of the  
6 erroneous refund. If the payee fails to reimburse the state  
7 within 15 days after the receipt of the letter, an action may  
8 be instituted by the department against such payee in the  
9 circuit court, and the department shall recover from the payee  
10 the amount of the erroneous refund plus a penalty of 25  
11 percent.

12 (9) No person shall:

13 (a) Knowingly make a false or fraudulent statement in  
14 an application for a refund permit or in an application for a  
15 refund of any taxes under this section;

16 (b) Fraudulently obtain a refund of such taxes;

17 (c) Knowingly aid or assist in making any such false  
18 or fraudulent statement or claim; or

19 (d) Buy motor fuel ~~or special fuel~~ to be used for any  
20 purpose other than as provided in this section.

21 (10) The refund permit of any person who violates any  
22 provision of this section shall be revoked by the department  
23 and may not be reissued until 2 years have elapsed from the  
24 date of such revocation. The refund permit of any person who  
25 violates any other provision of this part may be suspended by  
26 the department for any period, in its discretion, not  
27 exceeding 6 months.

28 (11) The department shall prescribe a permit form  
29 which shall be used to secure refunds under this section and  
30 under this chapter 206.  
31

1           (12) Any refiner, importer, jobber, or wholesaler  
 2 selling motor fuel to the United States Government or its  
 3 departments or agencies upon which an excise tax has been paid  
 4 may apply for a refund pursuant to s. 206.253.

5           (13) Any ethanol dealer who has paid the tax imposed  
 6 under this chapter on purchases of motor fuel used for  
 7 denaturing from a duty-license-refiner, importer, or  
 8 wholesaler is entitled to a refund. No refund permit is  
 9 required. Application for a refund shall be made on a form  
 10 prescribed by the department.

11           (14) When any taxes, interest, or penalties imposed by  
 12 part I, or part II, or part III of this chapter have been  
 13 erroneously paid or illegally collected, the department may  
 14 permit the refiner, importer, jobber, or wholesaler within 1  
 15 year to take credit against a subsequent tax report for the  
 16 amount of the erroneous or illegal amount overpaid, or such  
 17 person may apply for refund as provided by s. 215.26.

18           (15) A refiner, importer, jobber, or wholesaler is  
 19 entitled to a refund of taxes paid on gallons of motor fuel  
 20 exported by filing a refund request monthly and may, instead  
 21 of refund, take credit for taxes paid on gallons exported on  
 22 his monthly returns.

23           Section 26. Section 206.11, Florida Statutes, is  
 24 renumbered as section 206.303, Florida Statutes, and  
 25 subsection (2) of said section is amended to read:

26           206.303 ~~206.11~~ Penalties.--

27           (2) Any person:

28           (a) Who willfully refuses or neglects to make any  
 29 statement, report, or return required by the provisions of  
 30 this law;

1 (b) Who knowingly makes, or assists any other person  
2 in making, a false statement in a return or report or in  
3 connection with an application for refund of any tax;

4 (c) Who knowingly collects, or attempts to collect or  
5 causes to be paid to him or to any other person, either  
6 directly or indirectly, any refund of such tax without being  
7 entitled to the same; or

8 (d) Who violates any of the provisions of part I or  
9 part II of this chapter, a penalty for which is not otherwise  
10 provided,

11  
12 is guilty of a felony of the third degree, punishable as  
13 provided in s. 775.082, s. 775.083, or s. 775.084; and, in  
14 addition thereto, the department may revoke or suspend the  
15 license of any violator. Each day or part thereof during  
16 which any person engages in business without being the holder  
17 of an uncanceled license as provided by part I or part II of  
18 this chapter shall constitute a separate offense within the  
19 meaning of this section. In addition to the penalty imposed  
20 by part I or part II of this chapter, the defendant shall be  
21 required to pay all gas taxes, interest, and penalties due to  
22 the state. The penalties provided in this section shall be in  
23 addition to those provided for in s. 206.305 ~~s. 206.44~~.

24 Section 27. Section 206.44, Florida Statutes, is  
25 renumbered as section 206.305, Florida Statutes, and amended  
26 to read:

27 206.305 ~~206.44~~ Penalty and interest for failure to  
28 report on time, penalty and interest on tax deficiencies.--

29 (1) If any refiner, importer, jobber, or wholesaler  
30 fails to make a report or pay the taxes due as required by  
31 this chapter, the department shall add a penalty in the amount



1 of 5 percent of any unpaid tax if the failure is for not more  
 2 than 1 month, with an additional 5 percent of any unpaid tax  
 3 for each additional month or fraction thereof during which the  
 4 failure continues. However, such penalty may not exceed 25  
 5 percent in the aggregate of any unpaid tax. Furthermore, in  
 6 no event may the penalty assessed be less than \$5. The  
 7 department shall collect the tax, together with the penalty  
 8 and costs, in the same manner as other delinquent taxes are  
 9 collected. If any licensed refiner, importer, jobber,  
 10 wholesaler, carrier, or terminal facility fails to make a  
 11 complete report as required by this chapter, the department  
 12 shall impose, in addition to any other penalty and interest  
 13 due, a penalty in the amount of \$100. If a retail dealer  
 14 fails to make a complete report, the department shall impose a  
 15 penalty of \$30.

16 (2) Any payment that is not received by the department  
 17 on or before the due date as provided in ss. 206.102 and  
 18 206.202 ~~206-43~~ shall bear interest at the rate of 1 percent  
 19 per month, from the date due until paid. Interest on any  
 20 delinquent tax shall be calculated beginning on the 21st day  
 21 of the month for which the tax is due, except as otherwise  
 22 provided in this part.

23 Section 28. Section 206.426, Florida Statutes, is  
 24 renumbered as section 206.325, Florida Statutes, and amended  
 25 to read:

26 206.325 ~~206-426~~ Resale and exemption certificates;  
 27 offenses; penalties.--Any person who:

28 (1) Issues or assists in issuing a fraudulent resale  
 29 or exemption certificate to obtain nontaxed motor fuel from a  
 30 licensed refiner, importer, jobber, or wholesaler;

31

1 (2) Has issued a resale or exemption certificate and  
2 whose exempt status has become nonexempt and neglects, fails,  
3 or refuses to inform the licensed refiner, importer, jobber,  
4 or wholesaler to whom the certificate was issued of any such  
5 change in status;

6 (3) Has claimed exemption by issuing a license number  
7 at the time of purchase to obtain fuel tax exempt when not  
8 entitled by provisions of this chapter; or

9 (4) Has claimed to have exported gallons of motor fuel  
10 by affidavit or return and has no proof that said fuel was  
11 exported;

12  
13 is guilty of a felony of the third degree, punishable as  
14 provided in s. 775.082, s. 775.083, or s. 775.084. In  
15 addition, such person shall pay any tax, penalty, and interest  
16 assessed, plus a mandatory penalty of not less than \$500, or  
17 an amount equal to 100 percent of the tax, whichever is  
18 greater.

19 Section 29. Section 206.56, Florida Statutes, is  
20 renumbered as section 206.329, Florida Statutes, and amended  
21 to read:

22 206.329 ~~206-56~~ Failure to account for tax collected;  
23 embezzlement.--If any person, refiner, importer, jobber, or  
24 wholesaler collects from another, upon an invoice rendered,  
25 the tax in this part contemplated, and fails to report and pay  
26 the same to the department as provided, with intent to  
27 temporarily or permanently deprive the state of a right or  
28 benefit to such moneys or appropriate such moneys to his own  
29 use or that of another not entitled to such moneys, he shall  
30 be deemed to be guilty of embezzlement of funds, the property  
31

1 of the state, and upon conviction shall be punished as if  
2 convicted of larceny of a like sum.

3 Section 30. Section 206.14, Florida Statutes, is  
4 renumbered as section 206.355, Florida Statutes, and amended  
5 to read:

6 206.355 ~~206-14~~ Inspection of records; audits;  
7 hearings; forms; rules and regulations.--

8 ~~(1)--The department shall have the authority to~~  
9 ~~prescribe all forms upon which reports shall be made to it and~~  
10 ~~any other forms required for the proper administration of this~~  
11 ~~law and shall prescribe and publish all rules and regulations~~  
12 ~~for the enforcement of this part, which rules and regulations~~  
13 ~~shall have the force and effect of law.~~

14 (1)~~(2)~~ The department or any authorized deputy,  
15 employee, or agent is authorized to audit and examine the  
16 records, books, papers, and equipment of refiners, importers,  
17 wholesalers, jobbers, retail dealers, terminals, or common  
18 carriers to verify the truth and accuracy of any statement or  
19 report and ascertain whether or not the tax imposed by this  
20 law has been paid. No prior written notification is necessary  
21 when the department believes the tax imposed under this  
22 chapter ~~and part II of chapter 212~~ to be in jeopardy. The  
23 department may correct by credit or refund any overpayment of  
24 tax, penalty, or interest revealed by an audit and shall make  
25 assessment of any deficiency in tax, penalty, or interest  
26 determined to be due.

27 (2)~~(3)~~ The department or any of its duly authorized  
28 agents shall have the power in the enforcement of the  
29 provisions of this part to hold hearings, administer oaths to  
30 witnesses, and take sworn testimony of any person and cause it  
31 to be transcribed into writing; and for such purposes the

1 department is authorized to issue subpoenas and subpoenas  
2 duces tecum, compel the attendance of witnesses and records,  
3 and conduct such investigations as it may deem necessary.

4 ~~(3)~~(4) If any person unreasonably refuses access to  
5 such records, books, papers or other documents, or equipment,  
6 or if any person fails or refuses to obey such subpoenas duces  
7 tecum or to testify, except for lawful reasons, before the  
8 department or any of its authorized agents, the department  
9 shall certify the names and facts to the clerk of the circuit  
10 court of any county; and the circuit court shall enter such  
11 order against such person in the premises as the enforcement  
12 of this law and justice requires.

13 ~~(4)~~(5) In any action or proceeding for the collection  
14 of the tax and penalties or interest imposed in connection  
15 therewith, an assessment by the department of the amount of  
16 the tax, penalties, or interest due shall be prima facie  
17 evidence of the claim of the state, and the burden of proof  
18 shall be upon the person charged to show the assessment was  
19 incorrect and contrary to law.

20 Section 31. Section 206.18, Florida Statutes, is  
21 renumbered as section 206.363, Florida Statutes, and  
22 subsection (1) of said section is amended to read:

23 206.363 ~~206.18~~ Discontinuance or transfer of business;  
24 liability of tax, procedure; penalty for violation.--

25 (1) Whenever a person ceases to engage in business as  
26 a refiner, importer, jobber, retail dealer, or wholesaler  
27 within the state by reason of the discontinuance, sale, or  
28 transfer of the business, such person shall notify the  
29 department in writing at least 10 days prior to the time the  
30 discontinuance, sale, or transfer takes effect. Such notice  
31 shall give the date of discontinuance and, in the event of a

1 sale or transfer of the business, the date thereof and the  
 2 name and address of the purchaser or transferee. All gas  
 3 taxes, penalties, and interest not due and payable under the  
 4 provisions of the laws of this state shall, notwithstanding  
 5 such provisions, become due and payable concurrently with such  
 6 discontinuance, sale, or transfer; and any such person shall,  
 7 concurrently with such discontinuance, sale, or transfer, make  
 8 a report, pay all such taxes, interest, and penalties, and  
 9 surrender to the department the license certificate  
 10 theretofore issued to said person by the department.

11 Section 32. Section 206.06, Florida Statutes, is  
 12 renumbered as section 206.365, Florida Statutes, and amended  
 13 to read:

14 206.365 ~~206.06~~ Estimate of amount of gas taxes due and  
 15 unpaid.--

16 (1) Whenever any refiner, importer, jobber, or  
 17 wholesaler neglects or refuses to make and file any report for  
 18 any calendar month, as required by the gas tax laws of this  
 19 state, or files an incorrect or fraudulent report, or is in  
 20 default in the payment of any gas taxes and penalties thereon  
 21 payable under the laws of this state, the department shall,  
 22 from any information it may be able to obtain from its office  
 23 or elsewhere, estimate the number of gallons of motor fuel  
 24 with respect to which the refiner, importer, or wholesaler has  
 25 become liable for taxes under the gas tax laws of this state  
 26 and the amount of taxes due and payable thereon, to which sum  
 27 shall be added a penalty and interest as provided in s.  
 28 206.305 ~~s. 206.44~~.

29 (2) In any action or proceeding for the collection of  
 30 the gas tax and any penalties or interest imposed in  
 31 connection therewith, an assessment by the department of the

1 amount of the tax due and interest or penalties due to the  
 2 state shall constitute prima facie evidence of the claim of  
 3 the state, and the burden of proof shall be upon the refiner,  
 4 importer, jobber, or wholesaler to show that the assessment  
 5 was incorrect or contrary to law.

6 ~~(3)--If any refiner, importer, or wholesaler fails to~~  
 7 ~~make a complete report, including all schedules, the~~  
 8 ~~department shall add, in addition to any other penalty or~~  
 9 ~~interest due, a penalty in the amount of \$100.~~

10 Section 33. Section 206.07, Florida Statutes, is  
 11 renumbered as section 206.403, Florida Statutes, and amended  
 12 to read:

13 206.403 ~~206.07~~ Suits for collection of unpaid taxes.--

14 (1) Upon demand of the department, the Department of  
 15 Legal Affairs or any state attorney of any judicial circuit  
 16 shall bring appropriate actions in the name of the state, or  
 17 in the name of the Department of Revenue in the capacity of  
 18 its office, for the recovery of the above-mentioned taxes,  
 19 penalties, and interest, and judgment shall be rendered for  
 20 the amount so found to be due together with costs. However,  
 21 if it shall be found as a fact that such failure to pay was  
 22 willful on the part of any person, refiner, importer, jobber,  
 23 or wholesaler, judgment shall be rendered for double the  
 24 amount of the tax found to be due with costs. The department  
 25 may employ an attorney at law to institute and prosecute  
 26 proper proceedings to enforce payment of the gas taxes  
 27 provided for by the laws of this state and the penalties and  
 28 interest provided for by part I or part II of this chapter and  
 29 to fix the compensation for the services of said attorney at  
 30 law.

1 (2) Any seller and purchaser convicted of conspiring  
 2 to defraud the state of any tax imposed under this chapter may  
 3 be held liable for the tax and any penalty and interest due on  
 4 such tax.

5 Section 34. Section 206.075, Florida Statutes, is  
 6 renumbered as section 206.408, Florida Statutes, and  
 7 subsection (4) of said section is amended to read:

8 206.408 ~~206.075~~ Department's warrant for collection of  
 9 unpaid taxes.--

10 (4) Nothing in this section shall be construed as  
 11 forfeiting or waiving any rights to collect such taxes,  
 12 interest, or penalties by an action upon any bond that may be  
 13 filed with the department under the provisions of ~~part-i-or~~  
 14 ~~part-ii-of~~ this chapter or by suit or otherwise; and in case  
 15 such suit, action, or other proceeding is instituted for the  
 16 collection of the tax, such suit, action, or other proceeding  
 17 shall not be construed as waiving any other right herein  
 18 provided. Any civil proceeding under ~~part-i-or-part-ii-of~~  
 19 this chapter ~~or-part-ii-of-chapter-212~~ shall not be construed  
 20 as a waiver or estoppel in any criminal proceeding against  
 21 such person under ~~part-i-or-part-ii-of~~ this chapter ~~or-part-ii~~  
 22 ~~of-chapter-212~~.

23 Section 35. Section 206.19, Florida Statutes, is  
 24 renumbered as section 206.433, Florida Statutes, and amended  
 25 to read:

26 206.433 ~~206.19~~ Claim of state under gas tax laws;  
 27 settlement or compromise for less than full amount due not  
 28 authorized.--The department shall have no right, power, or  
 29 authority to settle or compromise any claim of the state  
 30 accruing under the gas tax laws of this state for a sum less

1

1 | than the full amount due, in conformity with ~~part-i-er-part-ii~~  
 2 | of this chapter.

3 |         Section 36. Section 206.21, Florida Statutes, is  
 4 | renumbered as section 206.435, Florida Statutes, and  
 5 | subsection (1) of said section is amended to read:

6 |         206.435 ~~206-21~~ Trial of issues interposed by defense;  
 7 | sale, etc.--

8 |         (1) Should any person appear at the hearing provided  
 9 | for in s. 206.465 ~~s-206-205~~ and claim the things seized and  
 10 | interpose any defense to the affidavit mentioned in said  
 11 | section, the circuit judge shall determine whether the  
 12 | evidence adduced proves beyond a reasonable doubt that such  
 13 | things are forfeited and make his written order accordingly.  
 14 | If he shall determine in the affirmative, such things shall be  
 15 | sold by the sheriff in the same manner and upon the same terms  
 16 | and conditions as provided in s. 206.465 ~~s-206-205~~, but if he  
 17 | shall determine in the negative respecting all or any of such  
 18 | things, the part not forfeited shall be returned to the person  
 19 | legally entitled thereto.

20 |         Section 37. Section 206.215, Florida Statutes, is  
 21 | renumbered as section 206.443, Florida Statutes, and amended  
 22 | to read:

23 |         206.443 ~~206-215~~ Costs and expenses of proceedings.--

24 |         (1) For the performance of the duties required of the  
 25 | sheriff by the provisions of ss. 206.435 and 206.465 ~~ss-~~  
 26 | ~~206-205-and-206-21~~ he shall receive the same fees provided by  
 27 | law for the arrest and return of persons charged with crime,  
 28 | including the same mileage and the actual cost of transporting  
 29 | such things, and all such fees and compensations shall be paid  
 30 | out of the proceeds of the sale.

31 |



1           (2) The clerks of the courts performing duties under  
2 the provisions aforesaid shall receive the same fees as  
3 prescribed by the general law for the performance of similar  
4 duties, and witnesses attending any investigation pursuant to  
5 subpoena shall receive the same mileage and per diem as if  
6 attending as a witness before the circuit court in term time.

7           (3) All fees and costs provided for shall be paid from  
8 the proceeds of the sale, or if there be no sale or if the  
9 proceeds of such sale be insufficient to meet such fees and  
10 costs then such fees and costs shall be paid out of the Gas  
11 Tax Collection Trust Fund or other funds available for the  
12 enforcement of the gas tax laws by the department.

13           (4) In the event the proceeds of the sale are more  
14 than sufficient to pay all costs and fees attending the sale,  
15 then the surplus thereof shall be sent to the department to be  
16 disposed of as provided for the disposition of the taxes  
17 collected under the gas tax laws of the state; provided,  
18 however, that any property seized under s. 206.465 ~~st-206-205~~  
19 against which there is existing a mortgage lien or retain  
20 title contract held by a person who has no knowledge that such  
21 property is being used for the purpose of illegally evading or  
22 avoiding the payment of the gas taxes provided for under the  
23 laws of the state, then such seizure shall not invalidate such  
24 lien or retain title contract, but the same shall be paid out  
25 of any funds derived from a sale of said property, provided  
26 the retain titleholder or mortgagee shall within 30 days after  
27 seizure come into court and set up his claim to such retained  
28 title lien or mortgage.

29           Section 38. Section 206.24, Florida Statutes, is  
30 renumbered as section 206.453, Florida Statutes, and amended  
31 to read:

1           206.453 ~~206-24~~ Department and agents may make arrests,  
2 seize property, and execute warrants.--

3           (1) The department and its deputies, agents, and  
4 employees may make arrests without warrants for any violation  
5 of the provisions of this part. Any person arrested for  
6 violation of any provision of this part shall be surrendered  
7 without delay to the sheriff of the county in which the arrest  
8 was made and formal complaint made against him, in accordance  
9 with law.

10           (2) The department and its deputies, agents, and  
11 employees also may seize property as set out in ss. 206.435,  
12 206.443, and 206.465 ~~ss-206-2057-206-217-and-206-215,~~ and  
13 upon said seizure being made shall surrender without delay  
14 such seized property to the sheriff of the county where said  
15 property was seized for further procedure as set out in said  
16 sections.

17           (3) When the department deems advisable, it may direct  
18 the warrant provided for in s. 206.408 ~~ss-206-075~~ to one of  
19 the said department's deputies, agents, and employees who  
20 shall then execute said warrant and proceed thereon in the  
21 same manner provided for sheriffs in such cases.

22           Section 39. Section 206.27, Florida Statutes, is  
23 renumbered as section 206.503, Florida Statutes, and  
24 subsection (1) of said section is amended to read:

25           206.503 ~~206-27~~ Records and files as public records.--

26           (1) The records and files in the office of the  
27 department appertaining to ~~part-I-and-part-II-of~~ this chapter  
28 ~~and-part-II-of-chapter-212~~ shall be available in Tallahassee  
29 to the public at any time during business hours. The  
30 department shall prepare a list each month of all current  
31 licensed refiners, importers, and wholesalers which also shall

1 include all new licenses issued and all licenses canceled  
2 during the past 12 months, and mail a copy thereof to each  
3 licensee. Such list shall be used to verify license numbers  
4 of purchasers issuing exemption certificates or affidavits.

5 Section 40. Section 206.59, Florida Statutes, is  
6 renumbered as section 206.525, Florida Statutes, and amended  
7 to read:

8 206.525 ~~206.59~~ Department to make rules; powers.--

9 (1) The department shall make rules and regulations,  
10 which shall have the force and effect of law, to govern  
11 reports and accounts by all persons dealing in or handling  
12 motor fuel for the purpose of enabling the department to  
13 ascertain whether or not any motor fuels are being dealt with,  
14 handled, or stored in this state under such circumstances as  
15 to become liable to the tax imposed by any law relating to a  
16 tax on motor fuel.

17 (2) The department is further given power to  
18 investigate, or cause to be investigated under its authority,  
19 all cases involving dealing in motor fuel by persons  
20 receiving, handling, or storing the same and to determine from  
21 such investigation whether or not any section in this chapter  
22 ~~or part II of chapter 212~~ relating to the gas tax is being  
23 evaded or illegally avoided. The determination of the  
24 department in any case shall be prima facie valid and  
25 authentic in all courts in this state and in all actions  
26 involving the validating of taxes on persons subject to the  
27 provisions of ~~part I or part II of~~ this chapter ~~or part II of~~  
28 ~~chapter 212~~.

29 (3) The department may investigate and audit  
30 inventories, receipts, and disposals of motor fuel to  
31 ascertain the validity of all taxes collected and remitted to

1 the department. Any motor fuel which cannot be accounted for  
 2 by a refiner, importer, jobber, or wholesaler is subject to  
 3 all taxes levied under this part. Any person who collects on  
 4 any one sale of motor fuel more tax than was paid when  
 5 purchased by that person is liable for the difference in tax  
 6 plus all applicable interest and penalties. If any person  
 7 fails to properly remit this difference, the penalty shall be  
 8 equal to 100 percent of the tax.

9 (4) The department may assess and collect any tax,  
 10 penalty, or interest against any person who purchases,  
 11 receives, or disposes of motor fuel in violation of any  
 12 provision of this part.

13 (5) The department shall have the authority to  
 14 prescribe all forms upon which reports shall be made to it and  
 15 any other forms required for the proper administration of this  
 16 law and shall prescribe and publish all rules and regulations  
 17 for the enforcement of this part, which rules and regulations  
 18 shall have the force and effect of law.

19 Section 41. Section 206.406, Florida Statutes, is  
 20 renumbered as section 206.553, Florida Statutes, and amended  
 21 to read:

22 206.553 ~~206.406~~ Disposition of license tax funds.--All  
 23 moneys derived from the license tax pursuant to ss. 206.151,  
 24 206.152, 206.154, and 206.156 ~~ss--206-027-206-0217-206-0227~~  
 25 ~~and-206-404~~, shall be paid into the State Treasury to the  
 26 credit of the General Revenue Fund.

27 Section 42. Section 206.45, Florida Statutes, is  
 28 renumbered as section 206.555, Florida Statutes, and amended  
 29 to read:

30 206.555 ~~206.45~~ Payment of tax into State Treasury.--  
 31 All moneys derived from the gas taxes imposed by s.

1 206.101(1)(a), (b), or (c) this part shall be paid into the  
 2 State Treasury by the department for deposit in the Gas Tax  
 3 Collection Trust Fund, which fund is hereby created and from  
 4 which funds--The department shall maintain a balance of at  
 5 least \$50,000 within the fund after making the following  
 6 transfers shall be made:

7 (1) The constitutional gas tax shall be remitted to  
 8 the State Board of Administration for distribution as provided  
 9 in s. 206.565 the State Constitution.

10 (2) The county gas tax collected pursuant to s.  
 11 206.101(1)(b) s--206-60, as such may be amended by the 1971  
 12 legislature, shall be distributed as therein provided in s.  
 13 206.573.

14 (3) The municipal gas tax collected pursuant to s.  
 15 206.101(1)(c) s--206-605 shall be distributed as therein  
 16 provided in s. 206.575.

17 (4) The tax collected pursuant to s. 206.101(1)(d)  
 18 shall be distributed as provided in s. 206.585.

19  
 20 Nothing in this section shall be construed to authorize a  
 21 deduction from the constitutional gas tax in order to maintain  
 22 any balance in the Gas Tax Collection Trust Fund.

23 Section 43. Section 206.47, Florida Statutes, is  
 24 renumbered as section 206.565, Florida Statutes, and  
 25 subsections (5), (9), and (10) of said section are amended to  
 26 read:

27 206.565 206-47 Distribution of constitutional gas tax  
 28 pursuant to State Constitution.--

29 (5)(a) The distribution factor, "the tax collected on  
 30 retail sales or use in each county," shall be based upon a  
 31 certificate of the Department of Revenue of the taxable

1 gallons attributable to each county as of June 30 for each  
 2 fiscal year. The Department of Revenue shall furnish a  
 3 certificate to the State Board of Administration on or before  
 4 July 31 following the end of each fiscal year, and such  
 5 certificate shall be conclusive as to the tax collected on  
 6 retail sales or use in each county for the prior fiscal year.  
 7 The factor based on such certificate shall be applied to the  
 8 gas tax collections for the following fiscal year beginning  
 9 July 1 and ending June 30.

10 (b) For the purpose of this section, "taxable gallons  
 11 attributable to each county" shall be calculated as a  
 12 consumption factor for each county divided by the sum of such  
 13 consumption factors for all counties, and multiplied by the  
 14 total gallons statewide upon which a tax was paid pursuant to  
 15 s. 206.101(1)(a) ~~s. 206.41~~. For each county which, during the  
 16 previous fiscal year, had imposed ~~imposing~~ a tax pursuant to  
 17 s. 206.102(1) or s. 206 102(2) for a full 12 months ~~s. 206.021~~  
 18 ~~or s. 206.025~~, the consumption factor shall be the gallons  
 19 upon which the county's tax was paid under either or both of  
 20 said sections. For each other county, the consumption factor  
 21 shall be calculated as the taxable gallons yielding the tax  
 22 amount certified pursuant to this section for fiscal year  
 23 1984-1985 for the county, multiplied by the quotient of the  
 24 statewide total taxes collected pursuant to s. 206.101(1)(a)  
 25 ~~s. 206.41~~ for the current year divided by the statewide total  
 26 taxes certified pursuant to this section for fiscal year 1984-  
 27 1985.

28 (9) The State Board of Administration shall ~~will~~, in  
 29 each fiscal year, distribute the 80-percent surplus gas tax  
 30 allocated to each county to the debt service requirements of  
 31 each bond issue pledging the 80-percent surplus accruing to

1 that county under the provisions of s. 16, Art. IX of the  
 2 State Constitution of 1885, as amended. The remaining 80-  
 3 percent surplus gas tax funds will be advanced monthly, to the  
 4 extent practicable, to the boards of county commissioners for  
 5 use in the county.

6 (10) The State Board of Administration shall write, in  
 7 each fiscal year, distribute the 20-percent surplus gas tax  
 8 allocated to each county to the debt service requirements of  
 9 each bond issue pledging the 20-percent surplus accruing to  
 10 that county under the provisions of s. 16, Art. IX of the  
 11 State Constitution of 1885, as amended. The remaining 20-  
 12 percent surplus gas tax funds will be advanced monthly, to the  
 13 extent practicable, to the boards of county commissioners for  
 14 use in the county.

15 Section 44. Section 206.60, Florida Statutes, is  
 16 renumbered as section 206.573, Florida Statutes, and amended  
 17 to read:

18 206.573 ~~206.60~~ Distribution of county tax on motor  
 19 fuel.--

20 ~~(i)--In addition to all other taxes required by law a~~  
 21 ~~tax of one cent per gallon is imposed upon the first sale or~~  
 22 ~~first removal from storage, after importation into this state,~~  
 23 ~~of motor fuel.--For purposes of this subsection, the term~~  
 24 ~~"first sale" does not include exchanges or loans, gallon for~~  
 25 ~~gallon, of motor fuel between licensed refiners before the~~  
 26 ~~fuel has been sold or removed through the loading rack or~~  
 27 ~~transfers between terminal facilities owned by the same~~  
 28 ~~taxpayer.--The tax on motor fuel first imported into this~~  
 29 ~~state by a licensed refiner storing such fuel in a terminal~~  
 30 ~~facility shall be imposed when the product is first removed~~  
 31 ~~through the loading rack.--The tax shall be remitted by the~~

1 ~~licensed-refiner-who-owned-the-motor-fuel-immediately-prior-to~~  
 2 ~~removal-of-such-fuel-from-storage.~~

3 ~~(1)+2~~ The proceeds of the such tax imposed under s.  
 4 206.101(1)(b) are hereby appropriated for public  
 5 transportation purposes in the manner following:

6 (a) The department, after deducting its expenses of  
 7 collection, which shall include the administrative costs  
 8 incurred by the department in the collection, administration,  
 9 and distribution back to the counties of the taxes levied  
 10 pursuant to s. 206.101(1)(b) ~~this-section~~, and after  
 11 transferring to the General Revenue Fund the service charge  
 12 provided for by s. 215.20, shall monthly divide the proceeds  
 13 of such tax in the same manner as the constitutional gas tax  
 14 pursuant to s. 206.565 ~~s.-206.47~~ and the formula contained in  
 15 s. 9(c)(4), Art. XII of the revised State Constitution of  
 16 1968.

17 (b)1. The Department of Revenue shall, from month to  
 18 month, distribute the amount allocated to each of the several  
 19 counties under paragraph (a) to the board of county  
 20 commissioners of the county, who shall use such funds solely  
 21 for the acquisition of rights-of-way; the construction,  
 22 reconstruction, operation, maintenance, and repair of  
 23 transportation facilities, roads, and bridges therein; or the  
 24 reduction of bonded indebtedness of such county or of special  
 25 road and bridge districts within such county, incurred for  
 26 road and bridge or other transportation purposes. In the  
 27 event the powers and duties relating to transportation  
 28 facilities, roads, and bridges usually exercised and performed  
 29 by boards of county commissioners are exercised and performed  
 30 by some other or separate county board, such board shall  
 31 receive the proceeds, exercise the powers, and perform the



1 duties designated in this section to be done by the boards of  
2 county commissioners.

3           2. On and after October 1, 1971, the board of county  
4 commissioners of each county, or any separate board or local  
5 agency exercising the powers and performing the duties  
6 relating to transportation facilities, roads, and bridges  
7 usually exercised and performed by the boards of county  
8 commissioners, shall be assigned the full responsibility for  
9 the maintenance of transportation facilities in the county and  
10 of roads in the county road system.

11           3. In calculating the distribution of funds under  
12 paragraph (a), the Department of Revenue shall obtain from the  
13 Auditor General the certification of the level of assessment  
14 in each district and shall pay only the amount of money which  
15 is derived by multiplying said ratio and the amount which  
16 would be due a district under paragraph (a). The funds which  
17 are raised under this section but are not distributed under  
18 this section shall be deposited in the Gas Tax Collection  
19 Trust Fund. All funds placed in the Gas Tax Collection Trust  
20 Fund shall be distributed in the same manner as provided in  
21 paragraphs (a) and (b).

22           4. Nothing in this paragraph as amended by chapter 71-  
23 212, Laws of Florida, shall be construed to permit the  
24 expenditure of public funds in such manner or for such  
25 projects as would violate the State Constitution or the trust  
26 indenture of any bond issue or which would cause the state to  
27 lose any federal aid funds for highway or transportation  
28 purposes; and the provisions of this paragraph shall be  
29 applied in a manner to avoid such result.

30

31

1           ~~(2)~~<sup>(3)</sup> The gasoline inspection laws of the state shall  
2 be and are declared to be applicable to the enforcement of  
3 this section.

4           ~~(3)~~<sup>(4)</sup> The license tax ~~heretofore~~ levied in s.  
5 206.101(1)(b) shall be in addition to all other license taxes  
6 levied under the laws of the state and in addition to the  
7 dealer's license tax for each place of business levied under  
8 the provisions of the laws of the state.

9           ~~(4)~~<sup>(5)</sup> It is hereby expressly recognized and declared  
10 by the Legislature that all public roads and bridges being  
11 constructed or built or which will be hereafter constructed or  
12 built, including the acquisition of rights-of-way as incident  
13 thereto, either by the Department of Transportation or the  
14 several counties of the state, were, are, and will be  
15 constructed and built as general public projects and  
16 undertakings and that the cost of the construction and  
17 building thereof, including the acquisition of rights-of-way  
18 as incident thereto, was, is, and will be legitimate, proper  
19 state expense incurred for a general public and state purpose.  
20 And it is expressly recognized and declared that the  
21 construction, reconstruction, maintenance, and acquisition of  
22 rights-of-way of all secondary roads are essential to the  
23 welfare of the state and that such roads when constructed,  
24 reconstructed, or maintained, or such rights-of-way when  
25 acquired, are and will be for a general public and state  
26 purpose. And the Legislature has found and hereby declares  
27 that for the proper and efficient construction and maintenance  
28 of public highways designated state roads, it is in the best  
29 interest of the state to further integrate the activities of  
30 the Department of Transportation and the several boards of  
31 county commissioners as provided in subsection (1) ~~(2)~~ in

1 order that both state and local highway needs may be  
2 adequately provided for.

3 (5)†6† It is declared to be the legislative intent  
4 that the funds derived from the tax imposed under s.  
5 206.101(1)(b) ~~this section~~ shall be used in such manner and  
6 for the purposes aforesaid to reduce the burden of ad valorem  
7 taxes in the several counties.

8 Section 45. Section 206.605, Florida Statutes, is  
9 renumbered as section 206.575, Florida Statutes, and amended  
10 to read:

11 206.575 ~~206-605~~ Distribution of municipal tax on motor  
12 fuel.--

13 ~~(1) -- In addition to all other taxes required by law a~~  
14 ~~tax of 1 cent per gallon is imposed upon the first sale or~~  
15 ~~first removal from storage, after importation into this state,~~  
16 ~~of motor fuel. -- For purposes of this subsection, the term~~  
17 ~~"first sale" does not include exchanges or loans, gallon for~~  
18 ~~gallon, of motor fuel between licensed refiners before the~~  
19 ~~fuel has been sold or removed through the loading rack or~~  
20 ~~transfers between terminal facilities owned by the same~~  
21 ~~taxpayer. -- The tax on motor fuel first imported into this~~  
22 ~~state by a licensed refiner storing such fuel in a terminal~~  
23 ~~facility shall be imposed when the product is first removed~~  
24 ~~through the loading rack. -- The tax shall be remitted by the~~  
25 ~~licensed refiner who owned the motor fuel immediately prior to~~  
26 ~~removal of such fuel from storage.~~

27 (1)†2† The proceeds of the such tax imposed under s.  
28 206.101(1)(c), after deducting the service charge pursuant to  
29 chapter 215, shall be transferred into the Revenue Sharing  
30 Trust Fund for Municipalities.

31

1           ~~(2)~~~~(3)~~ Funds available under this section shall be  
 2 used only for purchase of transportation facilities and road  
 3 and street rights-of-way, construction, reconstruction,  
 4 maintenance of roads and streets; for the adjustment of city-  
 5 owned utilities as required by road and street construction,  
 6 and the construction, reconstruction, transportation-related  
 7 public safety activities, maintenance, and operation of  
 8 transportation facilities. Municipalities are authorized to  
 9 expend the funds received under this section in conjunction  
 10 with other cities or counties or state or federal government  
 11 in joint projects.

12           ~~(3)~~~~(4)~~(a) If any municipality subject to this section  
 13 does not have the transportation facilities capability, the  
 14 municipality may designate by resolution the projects to be  
 15 undertaken, and the engineering may be thereafter performed  
 16 and administered and the construction administered by the  
 17 Department of Transportation or, in the case of a  
 18 municipality, by the appropriate county, if such county has  
 19 the capability and agrees to undertake the projects.

20           (b) In the event the municipality desires the  
 21 Department of Transportation either to perform or administer  
 22 the engineering services or to administer the construction, or  
 23 both, it must so indicate at the time of the presentation of  
 24 the annual budget or it must so designate at the time the  
 25 county presents its annual budget.

26           Section 46. Section 212.69, Florida Statutes, is  
 27 renumbered as section 206.585, Florida Statutes, and amended  
 28 to read:

29           206.585 ~~212.69~~ Distribution of the tax on the  
 30 privilege of selling motor fuel proceeds.--

1           (1) Notwithstanding other provisions of law to the  
 2 contrary, moneys collected pursuant to s. 206.101(1)(d) this  
 3 part shall be deposited in the Gas Tax Collection Trust Fund  
 4 created by s. 206.555 ~~s. 206.45~~. Such moneys, exclusive of  
 5 the service charge imposed by s. 215.20, and exclusive of  
 6 refunds granted pursuant to s. 206.285 ~~s. 212.67~~, shall be  
 7 distributed monthly to the State Transportation Trust Fund,  
 8 except that \$3.8 million per year shall be transferred to the  
 9 Department of Natural Resources in equal monthly amounts; \$1  
 10 million of this amount shall be spent solely for nonchemical  
 11 control of aquatic weeds, research into nonchemical controls,  
 12 and enforcement of aquatic weed control programs.

13           (2) Not less than 10 percent of the moneys deposited  
 14 in the State Transportation Trust Fund pursuant to this  
 15 section shall be allocated by the Department of Transportation  
 16 for public transit and rail capital projects, including  
 17 service development projects, as defined in s. 341.031(4) and  
 18 (5), unless otherwise provided in the General Appropriations  
 19 Act.

20           (3) All funds transferred in this section to the  
 21 Department of Natural Resources shall be used for eradication  
 22 of, control of, and research in water hyacinths and noxious  
 23 aquatic vegetation.

24           Section 47. Section 206.703, Florida Statutes, is  
 25 created to read:

26           206.703 Taxes on special fuel.--

27           (1) The following taxes are levied upon every gallon  
 28 of special fuel used or sold in this state for use, except  
 29 alternative fuels which are subject to the fee imposed by s.  
 30 206.775:

31           (a) An excise tax of 4 cents per gallon; and

1 (b) An additional tax equal to 5 percent of the total  
2 retail price per gallon, rounded to the nearest tenth of a  
3 cent, but not less than 5.7 cents per gallon, which tax is a  
4 tax on the privilege of selling special fuel. Before July 1  
5 of each year, the department shall determine the appropriate  
6 tax rate applicable to the retail price per gallon of special  
7 fuel as provided in s. 206.101(1)(d).

8 (2) The following taxes may be levied upon each gallon  
9 of special fuel used or sold for use and taxed under  
10 subsection (1), except alternative fuels which are subject to  
11 the fee imposed by s. 206.775.

12 (a) Any county in the state, at the discretion of its  
13 governing body and subject to a referendum, may impose,  
14 pursuant to s. 336.021, in addition to all other taxes  
15 required or allowed by law, a 1-cent voted tax upon every  
16 gallon of special fuel used or sold in such county for use for  
17 the purpose of paying the costs and expenses of establishing,  
18 operating, and maintaining a transportation system and related  
19 facilities and the cost of acquisition, construction,  
20 reconstruction, and maintenance of roads and streets. The  
21 referendum may limit the number of years the tax will remain  
22 in effect.

23 (b) In addition to other taxes allowed by law, there  
24 may be imposed as provided in s. 336.025, a 1-cent, 2-cent, 3-  
25 cent, 4-cent, 5-cent, or 6-cent local option tax upon every  
26 gallon of special fuel used or sold in a county for use.

27 (c) In addition to other taxes allowed by law,  
28 including the local option tax on motor fuel as provided in  
29 paragraph (b), there may be imposed, as provided in s.  
30 336.026, a 1-cent, 2-cent, 3-cent, or 4-cent local option tax  
31 upon every gallon of special fuel used or sold in a regional

1 ground transportation area as defined in s. 163.803(4) for  
2 use.

3 (d) Each refiner, importer, wholesaler, jobber, or  
4 retail dealer who is engaged in using or selling at retail or  
5 at the consumer level, special fuel within a county or a  
6 regional ground transportation area in which any tax  
7 authorized in this subsection is imposed shall collect and  
8 remit the tax to the department. On or before the 20th day of  
9 each calendar month, each such person shall, on forms  
10 prescribed by the department, report to the department all  
11 purchases or other acquisitions and sales or other  
12 dispositions of special fuel occurring during the preceding  
13 calendar month and remit the taxes pursuant to this  
14 subsection. Any such person who owns a chain of retail  
15 stations shall file and remit taxes pursuant to this  
16 subsection on a consolidated tax return, by county, prescribed  
17 by the department.

18 (e) Any refiner, importer, wholesaler, jobber, or  
19 retail dealer who collects any tax authorized under paragraph  
20 (a) or paragraph (b) shall deduct from the amount of tax shown  
21 by the report to be payable an amount equivalent to 3 percent  
22 of the tax on special fuels imposed by this section, which  
23 deduction is hereby allowed on account of services and  
24 expenses in complying with the provisions of the law. If the  
25 amount of taxes due and remitted to the department for the  
26 reporting period exceeds \$1,000, the 3-percent allowance shall  
27 be reduced to 1 percent for all amounts in excess of \$1,000.  
28 However, this allowance shall not be deductible unless payment  
29 of the tax is made on or before the 20th day of the month as  
30 required. The United States Post Office date stamped on the

1

1 envelope in which the report is submitted shall be considered  
2 as the date the report is received by the department.

3 (f)1. The department shall deposit any tax collected  
4 pursuant to paragraph (a) into the Voted Gas Tax Trust Fund,  
5 which fund is created for distribution of such tax to the  
6 county in which collected.

7 2. The department shall deposit any tax collected  
8 pursuant to paragraph (b) or paragraph (c) into the Local  
9 Option Gas Tax Trust Fund, which fund is created for  
10 distribution to the county and eligible municipalities within  
11 the county in which the tax imposed under paragraph (b) was  
12 collected and for distribution to the Metropolitan  
13 Transportation Authority in the regional ground transportation  
14 area in which the tax imposed under paragraph (c) was  
15 collected. The Local Option Gas Tax Trust Fund is subject to  
16 the service charge imposed in chapter 215.

17 3. Each month the department shall distribute to such  
18 counties, municipalities, and authorities moneys from such  
19 funds collected in such counties, municipalities, and regional  
20 ground transportation areas. However, any amount refunded  
21 under the provisions of s. 206.285(1)(a) or (e) shall be  
22 deducted from moneys in the Local Option Gas Tax Trust Fund  
23 otherwise distributed to the county area or authority in the  
24 regional ground transportation area in which the tax is  
25 levied.

26 (3) Unless expressly provided to the contrary in this  
27 part, every sale shall be deemed to be for use in this state.  
28 This levy of tax shall be paid upon the first sale or transfer  
29 of title within this state by a dealer, except as expressly  
30 provided in this part, who shall act as agent for the state in  
31



1 the collection of such tax whether he is the ultimate seller  
2 or not.

3 (4)(a) A dealer may purchase special fuel without the  
4 tax imposed by this section being paid upon the first sale or  
5 transfer of title in the state, and he shall pay the tax on  
6 all special fuel used or sold by him and shall act as agent  
7 for the state in the collection and payment thereof.

8 (b) All special fuel sold, transferred, or delivered  
9 by a licensed dealer of special fuel to any person who does  
10 not hold a valid dealer's license is taxable, except as  
11 provided by s. 206.755(1).

12 (c) The department has the authority to assess and  
13 collect any tax, penalty, and interest against any person or  
14 dealer who purchases, receives, or disposes of special fuel in  
15 violation of the provisions of this part.

16 Section 48. Section 206.89, Florida Statutes, is  
17 renumbered as section 206.713, Florida Statutes, and amended  
18 to read:

19 206.713 ~~206.89~~ Licenses; necessity; prerequisites;  
20 issuance; nonassignability.--

21 (1) No person shall act as a dealer unless he holds a  
22 valid dealer's license issued by the department. However, a  
23 service station shall not be required nor be eligible to be  
24 licensed as a dealer. A person who has no facilities for  
25 placing special fuel into the supply system of a motor vehicle  
26 and who sells into containers of 5 gallons or less shall not  
27 be required to be licensed as a dealer.

28 (2) To procure a dealer's license, a person shall file  
29 with the department an application in such form as the  
30 department may prescribe, with a bond. No license shall be

1

1 issued upon any application unless accompanied by such bond,  
2 except as provided in s. 206.715(1) ~~s. 206.90(1)~~.

3 (3) When an application for a dealer's license is  
4 filed by a person whose license has been canceled for cause by  
5 the department or when the department is of the opinion that  
6 such application is not filed in good faith or is filed by  
7 some person as a subterfuge for the real person in interest  
8 whose license has theretofore been canceled, the department  
9 shall have authority, if the evidence warrants, to refuse to  
10 issue to that person a license.

11 (4) At the time of filing an application for a  
12 license, a filing fee of \$5 shall be paid to the department  
13 for deposit into the General Revenue Fund.

14 (5) All requirements of this section having been  
15 complied with, the department shall issue to the applicant a  
16 ~~license, and such license shall remain in effect until~~  
17 ~~canceled as provided in this part.~~

18 (6) Such license shall not be assignable and shall be  
19 valid only for the dealer in whose name issued. It shall be  
20 displayed conspicuously by the dealer in the principal place  
21 of business for which it was issued.

22 (7) Every person as defined in this part, including,  
23 but not limited to, a state agency, federal agency,  
24 municipality, county, or special district, which operates or  
25 acts under the provisions of s. 206.702(10) ~~s. 206.86(10)~~ is  
26 required to obtain a license as a dealer of special fuel and  
27 report monthly to the department, or pay tax on all fuel  
28 purchases.

29 Section 49. Section 206.90, Florida Statutes, is  
30 renumbered as section 206.715, Florida Statutes, and  
31 subsection (1) of said section is amended to read:

1           206.715 ~~206.90~~ Bond required of licensed dealers.--

2           (1) Every dealer, except a municipality, county, state  
3 agency, federal agency, school board, or special district  
4 which is licensed as a dealer under this part, shall file with  
5 the department a bond or bonds in the penal sum of not more  
6 than \$100,000. The sum of such bond shall be approximately 3  
7 times the average monthly special fuels tax imposed under s.  
8 206.703(1) ~~and sales tax on special fuels~~ paid or due by such  
9 dealer during the preceding 12 calendar months under this  
10 part, with a surety approved by the department, upon which the  
11 dealer shall be the principal obligor and the state shall be  
12 the obligee, conditioned upon the faithful compliance with the  
13 provisions of this part ~~and of part II of chapter 212~~. If the  
14 sum of 3 times a dealer's average monthly tax is less than  
15 \$50, no bond shall be required.

16           Section 50. Section 206.91, Florida Statutes, is  
17 renumbered as section 206.745, Florida Statutes, and amended  
18 to read:

19           206.745 ~~206.91~~ Tax reports; computation and payment of  
20 tax.--

21           (1) For the purpose of determining the amount of tax  
22 imposed by s. 206.703 ~~st-206.07~~, each dealer shall, not later  
23 than the 20th day of each calendar month, mail to the  
24 department, on forms prescribed by the department, monthly  
25 reports which shall show such information on inventories,  
26 purchases, nontaxable disposals, and taxable sales in gallons  
27 of each type of special fuel, including, but not limited to,  
28 diesel and heating fuel, kerosene, butane gas, propane gas,  
29 and all other forms of liquefied petroleum gases, for the  
30 preceding calendar month as may be required by the department.  
31 However, if the 20th day falls on a Saturday, a Sunday, or a

1 federal or state legal holiday, returns shall be accepted if  
 2 postmarked on the next succeeding workday. The reports shall  
 3 contain or be verified by a written declaration that such  
 4 report is made under the penalties of perjury. The dealer  
 5 shall deduct from the amount of tax shown by the report to be  
 6 payable an amount equivalent to 6 percent of the tax on  
 7 special fuels imposed by s. 206.703(1)(a) ~~this part~~ not  
 8 exceeding 500,000 taxable gallons, and less an amount  
 9 equivalent to 3 percent of the tax on special fuels imposed by  
 10 s. 206.703(1)(a) ~~this part~~ in excess of 500,000 taxable  
 11 gallons but not exceeding 1,000,000 taxable gallons, which  
 12 deduction is hereby allowed to the dealer on account of  
 13 services and expenses in complying with the provisions of this  
 14 part. This allowance shall not be deductible unless payment  
 15 of the tax is made on or before the 20th day of the month as  
 16 herein required. Nothing in this subsection shall be  
 17 construed to authorize a deduction from the constitutional gas  
 18 tax.

19 (2) At the time of filing the monthly report, each  
 20 dealer shall pay to the department the full amount of special  
 21 fuels tax for the preceding calendar month at the rate  
 22 provided for in s. 206.703 ~~s. 206.87~~, less the amount  
 23 allowable to the dealer on account of services and expenses as  
 24 provided in subsection (1).

25 Section 51. Section 206.87, Florida Statutes, as  
 26 amended by section 45 of chapter 87-548, Laws of Florida, is  
 27 renumbered as section 206.755, Florida Statutes, and amended  
 28 to read:

29 206.755 ~~206.87~~ Exemptions levy-of-tax.--

30 ~~(1)--An excise tax of 4 cents per gallon is hereby~~  
 31 ~~imposed upon every gallon of special fuel used or sold in this~~

1 ~~state for use, except alternative fuels which are subject to~~  
 2 ~~the fee imposed by s. 206.077. Unless expressly provided to~~  
 3 ~~the contrary in this part, every sale shall be deemed to be~~  
 4 ~~for use in this state. This levy of tax shall be paid upon~~  
 5 ~~the first sale or transfer of title within this state by a~~  
 6 ~~dealer, except as expressly provided in this part, who shall~~  
 7 ~~act as agent for the state in the collection of such tax~~  
 8 ~~whether he is the ultimate seller or not.~~

9       ~~(2)(a) A dealer may purchase special fuel without the~~  
 10 ~~tax imposed by this section being paid upon the first sale or~~  
 11 ~~transfer of title in the state, and he shall pay the tax on~~  
 12 ~~all special fuel used or sold by him and shall act as agent~~  
 13 ~~for the state in the collection and payment thereof.~~

14       ~~(b) All special fuel sold, transferred, or delivered~~  
 15 ~~by a licensed dealer of special fuel to any person who does~~  
 16 ~~not hold a valid dealer's license is taxable, except as~~  
 17 ~~provided by subsection (3).~~

18       ~~(c) The department has the authority to assess and~~  
 19 ~~collect any tax, penalty, and interest against any person or~~  
 20 ~~dealer who purchases, receives, or disposes of special fuel in~~  
 21 ~~violation of the provisions of this part.~~

22       ~~(1)(9) The following consumption or sales are not~~  
 23 ~~subject to any the tax herein imposed under s. 206.703(1)(a),~~  
 24 ~~the consumption or sales described in paragraph (d), paragraph~~  
 25 ~~(e), paragraph (f), or paragraph (g) are not subject to any~~  
 26 ~~tax imposed under s. 206.703(1)(b), and the consumption or~~  
 27 ~~sales described in paragraph (a), paragraph (b), paragraph~~  
 28 ~~(c), paragraph (d), paragraph (e), or paragraph (g) are not~~  
 29 ~~subject to any tax imposed under s. 206.703(2), upon the~~  
 30 ~~issuance of a valid resale certificate or an exemption~~  
 31 ~~certificate:~~

1 (a) Sales by a dealer when the special fuel is  
2 delivered by him into the purchaser's storage facilities,  
3 which are located at the purchaser's premises, place of  
4 business, or job site, and when the special fuel is to be used  
5 for:

6 1. Cooking or home heating;

7 2. Industrial, commercial, agricultural, or marine  
8 purposes, if the purchaser is not a dual user and furnishes  
9 the dealer with an exemption certificate which states that no  
10 portion of the special fuel purchased is to be used in a motor  
11 vehicle; or

12 3. Consumption for nonhighway purposes, if the  
13 purchaser is not a dual user.

14 (b) Sales at the dealer's place of business of not  
15 more than 1,000 gallons by a dealer to a person who is not a  
16 licensed dealer, if the special fuel is placed by the dealer  
17 into a receptacle not connected to the fuel supply system of a  
18 motor vehicle and the special fuel is solely for consumption  
19 other than use.

20 (c) Sales of 5 gallons or less by a person not a  
21 dealer who has no facilities for placing special fuel in the  
22 fuel supply system of a motor vehicle.

23 (d) Exports of special fuel by a dealer from the state  
24 when exempted by any provision of the constitutions of the  
25 United States or the State of Florida. The sale for export  
26 from the state of special fuel which is not exempted from the  
27 taxes imposed by this part by either the constitution of the  
28 United States or of the state shall also be exempt, but only  
29 if both the seller and the exporter of the special fuel are  
30 duly licensed as dealers of special fuel under the terms of  
31 this part.

1           ~~(e)~~--Transfers or deliveries of special fuel into the  
 2 fuel supply tank of a motor vehicle operated by a common  
 3 carrier when the fuel is used on highways in another state,  
 4 provided the common carrier is a duly licensed dealer who is  
 5 under the jurisdiction of the Florida Public Service  
 6 Commission and files timetables of schedules showing  
 7 operations on regular routes in interstate commerce with the  
 8 Florida Public Service Commission and maintains a complete  
 9 record of miles operated, and provided the tax on the special  
 10 fuel deducted for use in another state is paid to the taxing  
 11 authorities of that state;--However, when the dealer maintains  
 12 adequate records of vehicle consumption of fuel as related to  
 13 miles traveled and such records show more mileage per gallon  
 14 than standards determined by the department for mileage per  
 15 gallon, the miles shown by such records may be used for  
 16 computing the exemption on a mileage basis;

17           ~~(e)~~~~(f)~~ Sales or use by a dealer of special fuel  
 18 consumed by a power takeoff or engine exhaust for the purpose  
 19 of unloading bulk cargo by pumping or turning a concrete mixer  
 20 drum used in the manufacturing process, or for the purpose of  
 21 compacting solid waste, which is mounted on a motor vehicle  
 22 and which has no separate fuel tank or power unit.

23           ~~(f)~~~~(g)~~1. Transfers or deliveries of special fuel into  
 24 the fuel supply tank of a motor vehicle regularly engaged in  
 25 interstate travel when such fuel is used on the highways of  
 26 another state, provided:

27           a.1- The transfer or delivery occurs within this state  
 28 and is executed by a duly licensed dealer who is regularly  
 29 engaged in interstate travel;

30           b.2- A similar tax is paid in another state; and  
 31

1            c.3: The tax is paid to this state on all special fuel  
2 brought into the state and used in this state.

3            2. Any licensed dealer claiming such exemption must  
4 have evidence of the payments of such tax and must keep  
5 records showing the number of trips out of the state, the  
6 number of trips into the state, the number of gallons of  
7 special fuel carried out of state in fuel tanks, and the  
8 number of gallons brought into the state in fuel tanks for use  
9 in this state. However, when the dealer maintains adequate  
10 records of vehicle consumption of fuel as related to miles  
11 traveled and such records show more mileage per gallon than  
12 standards determined by the department for mileage per gallon,  
13 the miles shown by such records may be used for computing the  
14 exemption on a mileage basis.

15            (g) Sales to the United States Government or its  
16 departments or agencies when:

17            1. Delivered in bulk lots of not less than 500 gallons  
18 in each delivery to be used in motor vehicles owned and  
19 operated by the United States Government departments and  
20 agencies; or

21            2. Purchased for heating or for off-road purposes.

22            ~~(2)†4~~ All special fuel sold, transferred, or  
23 delivered by a licensed dealer of special fuel to any person  
24 who does not hold a valid dealer's license is taxable, except  
25 as provided by subsection ~~(1)†3~~.

26            ~~(3)†5~~ Any dealer who neglects, fails, or refuses to  
27 collect the tax upon any sale which is subject to the tax  
28 imposed by this part is liable for the payment of all tax,  
29 penalties, and interest.

30            ~~(4)†6~~ A sale must be in strict compliance with the  
31 rules of the department, and any dealer making a sale for



1 resale which is not in strict compliance with such rules shall  
2 himself be liable for and pay the tax.

3 ~~(5)(7)~~ Any person who has purchased at retail, used,  
4 consumed, distributed, or stored for use, resale, or  
5 consumption in this state fuel and cannot substantiate that  
6 the tax levied by this part has been paid to his vendor is  
7 directly liable to the state for any tax, interest, and  
8 penalty due on any such fuel.

9 ~~(6)(8)~~ Any person or dealer who:

10 (a) Issues or assists in issuing a fraudulent resale  
11 or exemption certificate to obtain nontaxed special fuel from  
12 a licensed dealer; or

13 (b) Has issued a resale or exemption certificate and  
14 whose exempt status has become nonexempt and who neglects,  
15 fails, or refuses to inform the licensed dealer to whom the  
16 certificate was issued of such change in status

17  
18 is guilty of a felony of the third degree, punishable as  
19 provided in s. 775.082 or s. 775.083, or s. 775.084. In  
20 addition, such person shall pay any tax due and any penalty  
21 and interest assessed, plus a mandatory penalty of not less  
22 than \$500 or an amount equal to 100 percent of the tax,  
23 whichever is greater.

24 (7) The tax levied pursuant to s. 206.703(1)(b) does  
25 not apply to special fuels when purchased or consumed for  
26 stationary purposes. However, special fuels purchased or  
27 consumed for stationary purposes are taxable under chapter  
28 212, unless specifically exempt.

29 Section 52. Section 206.877, Florida Statutes, is  
30 renumbered as section 206.775, Florida Statutes, and

1 subsections (1), (5), and (8) of said section are amended to  
2 read:

3 206.775 ~~206.877~~ Motor vehicles fueled by liquefied  
4 petroleum gas or compressed natural gas; payment of annual  
5 decal fees in lieu of tax.--

6 (1) The tax imposed by s. 206.703 ~~sr-206.87~~ does not  
7 apply to motor vehicles licensed in this state pursuant to  
8 chapter 320 which are powered by alternative fuels and for  
9 which valid decals have been acquired as provided in this  
10 section.

11 (a) The owners or operators of such vehicles shall, in  
12 lieu of the excise tax imposed by this part, pay an annual  
13 decal fee on each such motor vehicle in accordance with the  
14 following rate schedule:

			Fee for each cent of tax imposed by <u>s. 206.102 or</u> <u>s. 206.703(2)</u>	
Class	Vehicle License Category	State Fee	chapter-336	
A	Vehicles licensed pursuant to s. 320.08(1), (2), (3)(a)- (c), (e), (6)(a), and (9)(c)1.	\$44	\$11	
B	Vehicles licensed pursuant to s. 320.08 (5)(b)-(e), (6)(b), (9)(c)2., and (14).	\$60	\$15	

1 C Vehicles licensed pursuant to \$84 \$21  
2 s. 320.08(4).

3 (b) A person fueling vehicles from his own facilities  
4 shall, in addition to the state alternative fuel fee imposed  
5 by this section, pay a local alternative fuel fee in lieu of  
6 each cent of excise tax levied by a county pursuant to s.  
7 206.102(1), s. 206.102(2), s. 206.703(2)(a) or s.  
8 206.703(2)(b) ~~ss 7-336-021 and 336-025.~~ This local fee shall  
9 be \$11 for each cent of local excise tax on class "A"  
10 vehicles, \$15 for each cent of local excise tax on class "B"  
11 vehicles, and \$21 for each cent of local excise tax on class  
12 "C" vehicles. Those persons who do not operate their own  
13 fueling facilities shall indicate and pay the appropriate  
14 local fee for the particular county where the vehicles are  
15 predominantly used.

16 (5) Any person who violates the provisions of this  
17 section is guilty of a misdemeanor of the first degree,  
18 punishable as provided in s. 775.082, s. 775.083, or s.  
19 775.084. In addition, any person who is liable for fueling a  
20 vehicle which does not have the proper decal affixed is  
21 subject to the provisions of this section and the provisions  
22 of s. 206.365 ~~sr-206-94.~~

23 (8) The excise tax provided by s. 206.703(1)(a) or s.  
24 206.703(2) ~~sr-206-87~~ applies to purchases of alternative fuels  
25 by operators of vehicles licensed in other states and other  
26 vehicles which do not have the proper decals pursuant to this  
27 section.

28 Section 53. Section 206.875, Florida Statutes, as  
29 amended by section 45 of chapter 87-548, Laws of Florida, is  
30 renumbered as section 206.785, Florida Statutes, and amended  
31 to read:

1           206.785 ~~206-875~~ Allocation of tax.--

2           ~~(1)~~ All moneys derived from the taxes imposed by this  
 3 part shall be paid into the State Treasury by the department  
 4 for deposit in the Gas Tax Collection Trust Fund ~~which fund~~  
 5 ~~is created and~~ from which the following transfers shall be  
 6 made: After withholding \$10,000 from the proceeds of the tax  
 7 imposed under s. 206.703(1)(a) ~~4-cents-of-such-tax~~, to be used  
 8 as a revolving cash balance, all other moneys shall be  
 9 transferred in the same manner and for the same purpose as  
 10 provided by law for allocation of the taxes levied in part I,  
 11 including transfer to the General Revenue Fund of the service  
 12 charge provided for in s. 215.20.

13           ~~(2)--It is the intent of the legislature that this~~  
 14 ~~section be construed to provide for the distribution of the~~  
 15 ~~appropriate portion of the special fuels tax imposed by this~~  
 16 ~~part, in the same manner as provided by ss. 206-417-206-457,~~  
 17 ~~206-607-206-605, and 206-625.~~

18           Section 54. Section 206.879, Florida Statutes, is  
 19 renumbered as section 206.786, Florida Statutes, and amended  
 20 to read:

21           206.786 ~~206-879~~ State and local alternative fuel user  
 22 fee clearing trust funds; distribution.--

23           (1) Notwithstanding the provisions of s. 206.785 ~~s.~~  
 24 ~~206-875~~, the revenues from the state alternative fuel fees  
 25 imposed by s. 206.775 ~~s. 206-877~~ shall be deposited into the  
 26 State Alternative Fuel User Fee Clearing Trust Fund, which is  
 27 hereby created. After deducting the service charge provided  
 28 in s. 215.20, the proceeds in this trust fund shall be  
 29 distributed as follows: 50 percent of the proceeds shall be  
 30 transferred to the State Board of Administration for  
 31 distribution according to the provisions of s. 16, Art. IX of

1 the State Constitution of 1885, as amended, 25 percent shall  
 2 be transferred to the Revenue Sharing Trust Fund for  
 3 Municipalities; and the remaining 25 percent shall be  
 4 distributed using the formula contained in s. 206.573(1) ~~s.~~  
 5 ~~206-60+27~~.

6 (2) Notwithstanding the provisions of s. 206.785 ~~s.~~  
 7 ~~206-075~~, the revenues from the local alternative fuel fees  
 8 imposed in lieu of s. 206.102 or s. 206.703(2) ~~s.-336-021-or~~  
 9 ~~s.-336-025~~ shall be deposited into the Local Alternative Fuel  
 10 User Fee Clearing Trust Fund, which is hereby created. After  
 11 deducting the service charge provided in s. 215.20, the  
 12 proceeds in this trust fund shall be returned monthly to the  
 13 appropriate county or authority.

14 Section 55. Section 206.97, Florida Statutes, is  
 15 renumbered as section 206.799, Florida Statutes, and amended  
 16 to read:

17 206.799 ~~206-97~~ Applicability of specified sections of  
 18 part I.--The provisions of ss. 206.122, 206.125, 206.152,  
 19 206.154, 206.161, 206.162, 206.166, 206.172, 206.206, 206.213,  
 20 206.225, 206.235, 206.245, 206.253, 206.255, 206.275, 206.285,  
 21 206.303, 206.305, 206.325, 206.327, 206.329, 206.353, 206.355,  
 22 206.363, 206.365, 206.408, 206.413, 206.416, 206.423, 206.424,  
 23 206.433, 206.435, 206.443, 206.445, 206.453, 206.455, 206.463,  
 24 206.465, 206.503, 206.505, 206.525, 206.555, 206.563, 206.565,  
 25 206.573, 206.575, and 206.585 ~~ss.-206-0267-206-0277-206-0287~~  
 26 ~~206-047-206-0557-206-077-206-0757-206-007-206-097-206-0957~~  
 27 ~~206-107-206-117-206-127-206-137-206-147-206-157-206-167~~  
 28 ~~206-177-206-1757-206-107-206-197-206-207-206-2047-206-2057~~  
 29 ~~206-217-206-2157-206-227-206-237-206-247-206-257-206-277~~  
 30 ~~206-207-206-41+377-206-447-206-497-206-567-206-597-206-617-and~~  
 1 ~~206-62~~ of part I of this chapter shall, as far as lawful or

1 practicable, be applicable to the tax herein levied and  
 2 imposed and to the collection thereof as if fully set out in  
 3 this part. However:

4 (1) "Refiner, importer, jobber, or wholesaler" means  
 5 "dealer."

6 (2) "Motor fuel" means "special fuel."

7 (3) No provision of any such section shall apply if it  
 8 conflicts with any provision of this part.

9 (4) The refund provisions of s. 206.285(1)(b) do not  
 10 apply to special fuels.

11 Section 56. Subsection (8) of section 206.01, Florida  
 12 Statutes, is amended to read:

13 206.01 Definitions.--As used in part I of this  
 14 chapter:

15 (8) "Jobber" means any person who holds a valid jobber  
 16 of motor fuel license and who does not qualify for a license  
 17 as a refiner, importer, or wholesaler under this chapter. A  
 18 ~~jobber's license grants the privilege of storing and~~  
 19 ~~transporting tax-paid fuel in this state and making sales to~~  
 20 ~~persons other than the ultimate consumer, as well as the~~  
 21 ~~ultimate consumer.~~

22 Section 57. Subsection (3) of section 206.9915,  
 23 Florida Statutes, is amended to read:

24 206.9915 Legislative intent and general provisions.--

25 (3) The provisions of ss. 206.01, 206.161, 206.164,  
 26 206.165, 206.166, 206.168, 206.206, 206.213, 206.225, 206.235,  
 27 206.275, 206.285(14), 206.303, 206.305, 206.325, 206.327,  
 28 206.329, 206.353, 206.355, 206.363, 206.365, 206.403, 206.408,  
 29 206.413, 206.416, 206.423, 206.424, 206.433, 206.435, 206.443,  
 30 206.445, 206.453, 206.455, 206.463, 206.465, 206.503, 206.505,  
 31 206.525, 206.702, ~~206-0267-206-0277-206-0287-206-0557-206-067~~

1 ~~206-077-206-0757-206-007-206-097-206-0957-206-107-206-117~~  
 2 ~~206-127-206-137-206-147-206-157-206-167-206-177-206-1757~~  
 3 ~~206-187-206-197-206-207-206-2047-206-2057-206-217-206-2157~~  
 4 ~~206-227-206-247-206-277-206-207-206-4257-206-4267-206-447~~  
 5 ~~206-4457-206-407-206-497-206-567-206-597-206-867-206-947~~  
 6 206.9457 and 206.9815 shall, as far as lawful or practicable,  
 7 be applicable to the levy and collection of taxes imposed  
 8 pursuant to this part as if fully set out in this part and  
 9 made expressly applicable to the taxes imposed herein.

10 Section 58. Section 206.9825, Florida Statutes, is  
 11 amended to read:

12 206.9825 Aviation fuel tax.--An excise tax of 5.7  
 13 cents per gallon of aviation fuel is imposed upon every gallon  
 14 of aviation fuel sold in this state, or brought into this  
 15 state for use, upon which such tax has not been paid or the  
 16 payment thereof has not been lawfully assumed by some person  
 17 handling the same in this state. Fuel taxed pursuant to this  
 18 part shall not be subject to the taxes imposed by s. 206.102  
 19 ~~ss-336-0217-336-0257-and-336-026.~~

20 Section 59. Section 206.9845, Florida Statutes, is  
 21 amended to read:

22 206.9845 Distribution of proceeds.--Moneys collected  
 23 pursuant to this part shall be deposited in the Gas Tax  
 24 Collection Trust Fund created by s. 206.555 ~~ss-206-45~~. Such  
 25 moneys, exclusive of the service charge imposed by s. 215.20  
 26 and exclusive of refunds granted pursuant to s. 206.9855,  
 27 shall be distributed monthly to the State Transportation Trust  
 28 Fund.

29 Section 60. Subsection (1) of section 206.9931,  
 30 Florida Statutes, as amended by chapters 87-6, 87-99, and 87-  
 31 101, Laws of Florida, is amended to read:

1 206.9931 Administrative provisions.--

2 (1) Any person producing in, importing into, or  
 3 causing to be imported into this state taxable pollutants for  
 4 sale, use, or otherwise and who is not registered or licensed  
 5 pursuant to other parts of this chapter is hereby required to  
 6 register and become licensed for the purposes of this part.  
 7 Such person shall register as either a producer or importer of  
 8 pollutants and shall be subject to all applicable registration  
 9 and licensing provisions of this chapter, as if fully set out  
 10 in this part and made expressly applicable to the taxes  
 11 imposed herein, including, but not limited to, ss. 206.151,  
 12 206.152, 206.154, 206.162, 206.171, 206.172, and 206.174 ~~ss-~~  
 13 ~~206-027-206-0217-206-0227-206-0257-206-037-206-047-and-206-05.~~

14 For the purposes of this section, registrations required  
 15 exclusively for this part shall be made within 90 days of July  
 16 1, 1986, for existing businesses, or prior to the first  
 17 production or importation of pollutants for businesses created  
 18 after July 1, 1986. The fee for registration shall be \$30.  
 19 Failure to timely register is a misdemeanor of the first  
 20 degree, punishable as provided in s. 775.082, s. 775.083, or  
 21 s. 775.084.

22 Section 61. Subsection (2) of section 206.9941,  
 23 Florida Statutes, is amended to read:

24 206.9941 Exemptions.--

25 (2) Petroleum products exported from the first storage  
 26 facility at which they are held in this state by the licensed  
 27 refiner, importer, jobber, wholesaler, producer, or dealer who  
 28 first imported said products are exempt from the tax imposed  
 29 under s. 206.9935(3).

30 Section 62. Subsection (1) of section 206.9942,  
 31 Florida Statutes, is amended to read:



1 206.9942 Refunds and credits.--

2 (1) Any licensed refiner, importer, producer, jobber,  
 3 wholesaler, or dealer who has purchased petroleum products,  
 4 who has paid the tax pursuant to s. 206.9935(3) to his  
 5 supplier, and who subsequently exports said products from the  
 6 state may deduct the amount of tax paid thereon pursuant to s.  
 7 206.9935(3) from the amount owed to the state and remitted  
 8 pursuant to s. 206.9931(2) or may apply for a refund of the  
 9 amount of tax paid thereon pursuant to s. 206.9935(3).  
 10 Administrative procedures governing such refunds shall be  
 11 those specified in s. 206.285 ~~87-212-67~~, except for the  
 12 provisions requiring refund permits.

13 Section 63. Section 207.003, Florida Statutes, is  
 14 amended to read:

15 207.003 Privilege tax levied.--A tax for the privilege  
 16 of operating any commercial motor vehicle upon the public  
 17 highways of this state shall be levied upon every motor  
 18 carrier at ~~a rate which includes~~ the rate provided in s.  
 19 206.101 or s. 206.703(1) ~~chapter 206 and the sales tax imposed~~  
 20 ~~by part II of chapter 212~~ on each gallon of special fuel or  
 21 motor fuel used for the propulsion of a commercial motor  
 22 vehicle by such motor carrier within the state.

23 Section 64. Section 207.026, Florida Statutes, as  
 24 amended by section 13 of chapter 87-198, Laws of Florida, is  
 25 amended to read:

26 207.026 Allocation of tax.--All moneys derived from  
 27 the taxes and fees imposed by this chapter shall be paid into  
 28 the State Treasury by the department for deposit in the Gas  
 29 Tax Collection Trust Fund, from which the following transfers  
 30 shall be made: After withholding \$50,000 from the proceeds  
 31 therefrom, to be used as a revolving cash balance, and the

1 amount of funds necessary for the administration and  
 2 enforcement of this tax, all other moneys shall be transferred  
 3 in the same manner and for the same purpose as provided in ss.  
 4 206.565, 206.573, 206.575, and 206.585 ~~ss. 206.417-206.457,~~  
 5 ~~206.607-206.605, and 212.69.~~

6 Section 65. Paragraph (g) of subsection (1) of section  
 7 212.05, Florida Statutes, as amended by chapter 87-548, Laws  
 8 of Florida, is amended to read:

9 212.05 Sales, storage, use tax.--It is hereby declared  
 10 to be the legislative intent that every person is exercising a  
 11 taxable privilege who engages in the business of selling  
 12 tangible personal property at retail in this state, including  
 13 the business of making mail order sales, or who rents or  
 14 furnishes any of the things or services taxable under this  
 15 section, or who stores for use or consumption in this state  
 16 any item or article of tangible personal property as defined  
 17 herein and who leases or rents such property within the state.

18 (1) For the exercise of such privilege, a tax is  
 19 levied on each taxable transaction or incident, which tax is  
 20 due and payable as follows:

21 (g) ~~At the rate of 5 percent of the price, as~~  
 22 ~~determined pursuant to part II of this chapter, of each gallon~~  
 23 ~~of motor fuel or special fuel taxable pursuant to that part,~~  
 24 ~~except that Motor fuel and special fuel expressly taxable~~  
 25 ~~under this part shall be taxed as provided in paragraphs (a)~~  
 26 ~~and (b).~~

27 Section 66. Paragraph (a) of subsection (4) and  
 28 paragraph (e) of subsection (5) of section 212.08, Florida  
 29 Statutes, as amended by chapter 87-548, Laws of Florida, are  
 30 amended to read:

1           212.08 Sales, rental, use, consumption, distribution,  
2 and storage tax; specified exemptions.--The sale at retail,  
3 the rental, the use, the consumption, the distribution, and  
4 the storage to be used or consumed in this state of the  
5 following are hereby specifically exempt from the tax imposed  
6 by part I of this chapter.

7           (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,  
8 ETC.--

9           (a) Also exempt are:

10           1. Water (not exempting mineral water or carbonated  
11 water).

12           2. All fuels used by a public or private utility,  
13 including any municipal corporation or rural electric  
14 cooperative association, in the generation of electric power  
15 or energy for sale. Fuel other than motor fuel and special  
16 fuel is taxable as provided in this part, with the exception  
17 of fuel expressly exempt herein. However, diesel fuel and  
18 kerosene used in any tractor, vehicle, or other farm equipment  
19 which is used exclusively on a farm or for processing farm  
20 products on the farm are taxable as provided in s.

21 206.703(1)(b) part-ff. Motor fuels and special fuels are  
22 taxable as provided in s. 206.703(1)(b) part-ff., with the  
23 exception of those motor fuels and special fuels used by  
24 railroad locomotives or vessels to transport persons or  
25 property in interstate or foreign commerce which are taxable  
26 under this part only to the extent provided herein. The basis  
27 of the tax shall be the ratio of intrastate mileage to  
28 interstate or foreign mileage traveled by the carrier's  
29 railroad locomotives or vessels which were used in interstate  
30 or foreign commerce and which had at least some Florida  
31 mileage during the previous fiscal year of the carrier, such

1 ratio to be determined at the close of the fiscal year of the  
 2 carrier. This ratio shall be applied each month to the total  
 3 Florida purchases made in this state of gasoline and other  
 4 fuels to establish that portion of the total used and consumed  
 5 in intrastate movement and subject to tax under this part.  
 6 Fuels used exclusively in intrastate commerce do not qualify  
 7 for the proration of tax.

8 3. The transmission or wheeling of electricity.

9 (5) EXEMPTIONS; ACCOUNT OF USE.--

10 (e) Gas used for certain agricultural purposes.--

11 Butane gas, propane gas, and all other forms of liquefied  
 12 petroleum gases are exempt from the tax imposed by this  
 13 chapter if used in any tractor, vehicle, or other farm  
 14 equipment which is used exclusively on a farm or for  
 15 processing farm products on the farm and no part of which gas  
 16 is used in any vehicle or equipment driven or operated on the  
 17 public highways of this state. This restriction does not  
 18 apply to the movement of farm vehicles or farm equipment  
 19 between farms. The transporting of bees by water and the  
 20 operating of equipment used in the apiary of a beekeeper is  
 21 also deemed an exempt use. This exemption shall inure to the  
 22 taxpayer only through refund of previously paid taxes.  
 23 Refunds under this paragraph shall be authorized and  
 24 administered as provided in s. 206.285 ~~s. 212.67~~.

25 Section 67. Section 336.021, Florida Statutes, is  
 26 amended to read:

27 336.021 County transportation system; ~~levy of~~ voted  
 28 gas tax on motor fuel or and special fuel.--

29 (1) Any county in the state which imposes a tax  
 30 pursuant to s. 206.102(1) or s. 206.703(2)(a) shall use the  
 31 revenues from such tax in the discretion of its governing

1 ~~body and subject to a referendum, may impose, in addition to~~  
 2 ~~all other taxes required or allowed by law, a one-cent voted gas~~  
 3 ~~tax upon every gallon of motor fuel and special fuel sold in~~  
 4 ~~such county and taxed under the provisions of part I or part~~  
 5 ~~II of chapter 206, for the purpose of paying the costs and~~  
 6 ~~expenses of establishing, operating, and maintaining a~~  
 7 ~~transportation system and related facilities and the cost of~~  
 8 ~~acquisition, construction, reconstruction, and maintenance of~~  
 9 ~~roads and streets. The governing body of the county may~~  
 10 ~~provide that the referendum be worded to limit the number of~~  
 11 ~~years such tax will remain in effect. The governing body of~~  
 12 ~~the county may, by joint agreement with one or more of the~~  
 13 ~~municipalities located therein, provide for these~~  
 14 ~~transportation purposes and the distribution of the proceeds~~  
 15 ~~of this tax within both the unincorporated and incorporated~~  
 16 ~~areas of the county. The tax shall be collected and remitted~~  
 17 ~~by any person engaged in selling at retail motor fuel or using~~  
 18 ~~or selling at retail special fuel within a county in which the~~  
 19 ~~tax is authorized and shall be distributed monthly by the~~  
 20 ~~department to the county where collected. The provisions for~~  
 21 ~~refund provided in SS 206.625 and 206.64 shall not be~~  
 22 ~~applicable to such tax levied by any county. Any person~~  
 23 ~~licensed under part I or part II of chapter 206 who uses motor~~  
 24 ~~fuel or special fuel or who engages in selling motor fuel or~~  
 25 ~~special fuel at retail shall deduct from the amount of tax~~  
 26 ~~shown by the report to be payable an amount equivalent to 3~~  
 27 ~~percent of the tax on motor or special fuels imposed by this~~  
 28 ~~section, which deduction is hereby allowed on account of~~  
 29 ~~services and expenses in complying with the provisions of the~~  
 30 ~~law, if the amount of taxes due and remitted to the~~  
 31 ~~department for the reporting period exceeds \$17000, the 3-~~

1 ~~percent allowance shall be reduced to 1 percent for all~~  
 2 ~~amounts in excess of \$1,000. However, this allowance shall~~  
 3 ~~not be deductible unless payment of the tax is made on or~~  
 4 ~~before the 20th day of the month as required. The United~~  
 5 ~~States post office date stamped on the envelope in which the~~  
 6 ~~report is submitted shall be considered as the date the report~~  
 7 ~~is received by the department.~~

8 ~~(2) The additional tax collected by the department~~  
 9 ~~pursuant to subsection (1) shall be transferred to the Voted~~  
 10 ~~Gas Tax Trust Fund, which fund is created for distribution to~~  
 11 ~~the county in which the tax was collected. The department has~~  
 12 ~~the authority to prescribe and publish all forms upon which~~  
 13 ~~reports shall be made to it and other forms and records deemed~~  
 14 ~~to be necessary for proper administration and collection of~~  
 15 ~~the tax levied by any county and shall promulgate such rules~~  
 16 ~~as may be necessary for the enforcement of this section, which~~  
 17 ~~rules shall have the full force and effect of law. The~~  
 18 ~~sections of chapter 286, including, but not limited to, those~~  
 19 ~~sections relating to timely filing of reports and tax~~  
 20 ~~collected, suits for collection of unpaid taxes, department~~  
 21 ~~warrants for collection of unpaid taxes, penalties, interest,~~  
 22 ~~retention of records, inspection of records, liens on~~  
 23 ~~property, foreclosure, and enforcement and collection also~~  
 24 ~~apply to the tax authorized in this section.~~

25 (2)(3) It is expressly recognized and declared by the  
 26 Legislature that the establishment, operation, and maintenance  
 27 of a transportation system and related facilities and the  
 28 acquisition, construction, reconstruction, and maintenance of  
 29 roads and streets fulfill a public purpose and that payment of  
 30 the costs and expenses therefor may be made from county  
 31 general funds, special taxing district funds, or such other

1 funds as may be authorized by special or general law.  
 2 Counties are authorized to expend the funds received under  
 3 this section in conjunction with the state or federal  
 4 government in joint projects.

5 (3) Within 10 days after the ordinance levying the tax  
 6 is approved, the county shall provide the department with a  
 7 certified copy of the ordinance and

8 ~~(4)--A certified copy of the ordinance proposing to~~  
 9 ~~levy the tax allowed by this section shall be furnished by the~~  
 10 ~~county to the department within 10 days of approval of such~~  
 11 ~~ordinance. Furthermore, the county levying such tax shall~~  
 12 notify the department within 10 days after the passage of the  
 13 referendum of such passage and of the time period during which  
 14 the tax will be levied. The failure to furnish the certified  
 15 copy will not invalidate the passage of the ordinance.

16 (4)(5) The tax shall not take effect until at least 60  
 17 days after the county notifies the department of passage of  
 18 the referendum. No decision to rescind the tax shall take  
 19 effect until at least 60 days after the county notifies the  
 20 department of such decision.

21 Section 68. Section 336.025, Florida Statutes, is  
 22 amended to read:

23 336.025 County transportation system; ~~levy of~~ local  
 24 option gas tax on motor fuel or and special fuel.--

25 ~~(1)(a)--In addition to other taxes allowed by law~~  
 26 ~~there may be imposed as provided in this section a 1-cent, 2-~~  
 27 ~~cent, 3-cent, 4-cent, 5-cent, or 6-cent local option gas tax~~  
 28 ~~upon every gallon of motor fuel and special fuel sold in a~~  
 29 ~~county and taxed under the provisions of part I or part II of~~  
 30 ~~chapter 296.~~

1           (a)†b† ~~Any~~ ~~The~~ tax imposed under s. 206.102(2) or s.  
 2 206.703(2)(b) shall be imposed before July 1 to be effective  
 3 September 1 of any year for a period not to exceed 30 years,  
 4 and the applicable method of distribution shall be established  
 5 pursuant to subsection (2)†3† or subsection (3)†4†. Upon  
 6 expiration, the tax may be reimposed provided that a  
 7 redetermination of the method of distribution is made as  
 8 provided in this section.

9           (b)†e† County and municipal governments shall utilize  
 10 moneys received pursuant to this section only for  
 11 transportation expenditures.

12           (c)†d† Any tax imposed pursuant to s. 206.102(2) or s.  
 13 206.703(2)(b) ~~this section~~ may be extended on a majority vote  
 14 of the governing body of the county. A redetermination of the  
 15 method of distribution shall be established pursuant to  
 16 subsection (2)†3† or subsection (3)†4†, if, after July 1,  
 17 1986, the tax is extended or the tax rate changed, for the  
 18 period of extension or for the additional tax.

19           (d)†e† Local governments may use the services of the  
 20 Division of Bond Finance of the Department of General Services  
 21 pursuant to the State Bond Act to issue any bonds through the  
 22 provisions of this section and may pledge the revenues from  
 23 the local option gas tax to secure the payment of the bonds.  
 24 In no case may a jurisdiction issue bonds pursuant to this  
 25 section more frequently than once per year. Counties and  
 26 municipalities may join together for the issuance of bonds  
 27 issued pursuant to this section.

28           ~~(2)†a†--The tax shall be collected and remitted by any~~  
 29 ~~person engaged in selling at retail motor fuel or using or~~  
 30 ~~selling at retail special fuel within a county in which the~~  
 31 ~~tax is authorized and shall be distributed monthly by the~~



1 Department of Revenue to the county where collected;--The tax  
 2 remitted to the Department of Revenue pursuant to this section  
 3 shall be transferred to the Local Option Gas Tax Trust Fund,  
 4 which fund is created for distribution to the county and  
 5 eligible municipal governments within the county in which the  
 6 tax was collected and which fund is subject to the service  
 7 charge imposed in chapter 215;--The Department of Revenue has  
 8 the authority to prescribe and publish all forms upon which  
 9 reports shall be made to it and other forms and records deemed  
 10 to be necessary for proper administration and collection of  
 11 the tax and shall promulgate such rules as may be necessary  
 12 for the enforcement of this section;--The sections of chapter  
 13 206, including, but not limited to, those sections relating to  
 14 timely filing of reports and tax collected, suits for  
 15 collection of unpaid taxes, department warrants for collection  
 16 of unpaid taxes, penalties, interest, retention of records,  
 17 inspection of records, liens on property, foreclosure, and  
 18 enforcement and collection also apply to the tax authorized in  
 19 this section;

20 (b)--The provisions for refund provided in s. 206.625  
 21 are not applicable to such tax levied by any county;--Any  
 22 person licensed under part I or part II of chapter 206 who  
 23 uses motor fuel or special fuel or who engages in selling  
 24 motor fuel or special fuel at retail shall deduct from the  
 25 amount of tax shown by the report to be payable an amount  
 26 equivalent to 3 percent of the tax on motor or special fuels  
 27 imposed by this section, which deduction is hereby allowed on  
 28 account of services and expenses in complying with the  
 29 provisions of the law;--if the amount of taxes due and  
 30 remitted to the Department of Revenue for the reporting period  
 31 exceeds \$1,000, the 3 percent allowance shall be reduced to 1

1 ~~percent for all amounts in excess of \$1,000. However, this~~  
 2 ~~allowance shall not be deductible unless payment of the tax is~~  
 3 ~~made on or before the 28th day of the month as required. The~~  
 4 ~~United States post office date stamped on the envelope in~~  
 5 ~~which the report is submitted shall be considered as the date~~  
 6 ~~the report is received by the Department of Revenue. The~~  
 7 ~~provisions for refund in s. 212.67(1)(a) and (e) apply to such~~  
 8 ~~tax and the refund shall be administered in accordance with~~  
 9 ~~the provisions of s. 212.67. However, the amount refunded~~  
 10 ~~shall be deducted from moneys in the Local Option Gas Tax~~  
 11 ~~Trust Fund otherwise distributed to the county area in which~~  
 12 ~~the tax is levied.~~

13 (2)(3) The tax shall be imposed using either of the  
 14 following procedures:

15 (a) The tax may be levied by an ordinance adopted by a  
 16 majority vote of the governing body or upon approval by  
 17 referendum. Such ordinance shall be adopted in accordance  
 18 with the requirements imposed under one of the following  
 19 circumstances, whichever is applicable:

20 1. The county may, prior to June 1, establish by  
 21 interlocal agreement with one or more of the municipalities  
 22 located therein, representing a majority of the population of  
 23 the incorporated area within the county, a distribution  
 24 formula for dividing the entire proceeds of the local option  
 25 gas tax among the county government and all eligible  
 26 municipalities within the county. If no interlocal agreement  
 27 exists, a new interlocal agreement may be established prior to  
 28 August 1, 1986, or June 1 of any year thereafter pursuant to  
 29 this subparagraph. However, any interlocal agreement agreed  
 30 to under this subparagraph after the initial imposition of the  
 31 tax, extension of the tax, or change in the tax rate

1 authorized in this section shall under no circumstances  
 2 materially or adversely affect the rights of holders of  
 3 outstanding bonds which are backed by taxes authorized by this  
 4 section, and the amounts distributed to the county government  
 5 and each municipality shall not be reduced below the amount  
 6 necessary for the payment of principal and interest and  
 7 reserves for principal and interest as required under the  
 8 covenants of any bond resolution outstanding on the date of  
 9 establishment of the new interlocal agreement.

10           2. If an interlocal agreement has not been executed  
 11 pursuant to subparagraph 1., the county may, prior to June 10,  
 12 adopt a resolution of intent to levy the tax allowed in this  
 13 section.

14           (b) If no interlocal agreement or resolution is  
 15 adopted pursuant to subparagraph (a)1. or subparagraph (a)2.,  
 16 municipalities representing more than 50 percent of the county  
 17 population may, prior to June 20, adopt uniform resolutions  
 18 approving the local option tax, establishing the duration of  
 19 the levy and the rate authorized in s. 206.102(2) or s.  
 20 206.703(2)(b) paragraph-~~(1)(a)~~, and setting the date for a  
 21 countywide referendum on whether to impose the tax. A  
 22 referendum shall be held in accordance with the provisions of  
 23 such resolution and applicable state law, provided that the  
 24 county shall bear the costs thereof. The tax shall be imposed  
 25 and collected countywide on September 1 following 30 days  
 26 after voter approval.

27           ~~(3)(a)~~ (a) If the tax is imposed under the  
 28 circumstances of subparagraph (2)(a)2. ~~(3)(a)2.~~ or paragraph  
 29 (2)(b) ~~(3)(b)~~, the proceeds of the tax shall be distributed  
 30 among the county government and eligible municipalities based  
 31 on the transportation expenditures of each for the immediately

1 preceding 5 fiscal years, as a proportion of the total of such  
 2 expenditures for the county and all municipalities within the  
 3 county. After the initial imposition of a tax being  
 4 distributed pursuant to the provisions of this paragraph, the  
 5 proportions shall be recalculated every 10 years based on the  
 6 transportation expenditures of the immediately preceding 5  
 7 years. However, such recalculation shall under no  
 8 circumstances materially or adversely affect the rights of  
 9 holders of bonds outstanding on July 1, 1986, which are backed  
 10 by taxes authorized in s. 206.102(2) or s. 206.703(2)(b) ~~this~~  
 11 ~~section~~, and the amounts distributed to the county government  
 12 and each municipality shall not be reduced below the amount  
 13 necessary for the payment of principal and interest and  
 14 reserves for principal and interest as required under the  
 15 covenants of any bond resolution outstanding on the date of  
 16 the recalculation.

17 (b) Any newly incorporated municipality which is  
 18 eligible for participation in the distribution of moneys under  
 19 parts II and VI of chapter 218 and which is located in a  
 20 county levying the tax imposed pursuant to s. 206.102(2) or s.  
 21 206.703(2)(b) ~~this section~~ is entitled to receive a share of  
 22 the tax revenues. Distribution of such revenues to a newly  
 23 incorporated municipality shall begin in the first full fiscal  
 24 year following incorporation. The distribution to a newly  
 25 incorporated municipality shall be:

26 1. Equal to the county's per lane mile expenditure in  
 27 the previous year times the lane miles within the jurisdiction  
 28 or responsibility of the municipality, in which case the  
 29 county's share shall be reduced proportionately; or

30 2. Determined by the local act incorporating the  
 31 municipality.

1  
 2 Such distribution shall under no circumstances materially or  
 3 adversely affect the rights of holders of outstanding bonds  
 4 which are backed by taxes authorized in s. 206.102(2) or s.  
 5 206.703(2)(b) ~~this section~~, and the amounts distributed to the  
 6 county government and each municipality shall not be reduced  
 7 below the amount necessary for the payment of principal and  
 8 interest and reserves for principal and interest as required  
 9 under the covenants of any bond resolution outstanding on the  
 10 date of the redistribution.

11       (4)~~(5)~~(a) By July 1 of each year, the county shall  
 12 notify the Department of Revenue of the rate of tax levied, of  
 13 its decision to rescind the tax, if applicable, and provide  
 4 the department with a certified copy of the interlocal  
 15 agreement established under subparagraph (2)(a)1. ~~(3)(a)1.~~  
 16 with distribution proportions established by such agreement or  
 17 pursuant to subsection (3)(4), if applicable. No decision to  
 18 rescind the tax shall take effect until at least 60 days after  
 19 the county notifies the Department of Revenue of such  
 20 decision.

21       (b) Any dispute as to the determination by the county  
 22 of distribution proportions shall be resolved through an  
 23 appeal to the Administration Commission in accordance with  
 24 procedures developed by the commission. Pending final  
 25 disposition of such proceeding, the tax shall be collected  
 26 pursuant to this section, and such funds shall be held in  
 27 escrow by the clerk of the circuit court of the county until  
 28 final disposition.

29       (5)~~(6)~~ Only those municipalities and counties eligible  
 30 for participation in the distribution of moneys under parts II  
 1 and VI of chapter 218 are eligible to receive moneys under

1 this section. Any funds otherwise undistributed because of  
 2 ineligibility shall be distributed to eligible governments  
 3 within the county in proportion to other moneys distributed  
 4 pursuant to this section.

5 ~~(6)(7)~~ For the purposes of this section, the term  
 6 "transportation expenditures" means expenditures by the local  
 7 government from local or state shared revenue sources,  
 8 excluding expenditures of bond proceeds, for the following  
 9 programs:

- 10 (a) Public transportation operations and maintenance.  
 11 (b) Roadway and right-of-way maintenance and  
 12 equipment.  
 13 (c) Roadway and right-of-way drainage.  
 14 (d) Streetlighting.  
 15 (e) Traffic signs, traffic engineering, signalization,  
 16 and pavement markings.  
 17 (f) Bridge maintenance and operation.  
 18 (g) Debt service and current expenditures for  
 19 transportation capital projects in the foregoing program  
 20 areas, including construction or reconstruction of roads.

21 Section 69. Section 336.026, Florida Statutes, is  
 22 amended to read:

23 336.026 Metropolitan transportation system; levy of  
 24 local option gas tax on motor fuel and special fuel.--

25 ~~(1)(a)--in-addition-to-other-taxes-allowed-by-law~~  
 26 ~~including-the-6-cent-local-option-gas-tax-on-motor-fuel-and~~  
 27 ~~special-fuel-as-provided-in-s-336-025, there may be imposed~~  
 28 ~~as-provided-herein-a-1-cent, 2-cent, 3-cent, or 4-cent local~~  
 29 ~~option-gas-tax-upon-every-gallon-of-motor-fuel-and-special~~  
 30 ~~fuel-sold-in-a-regional-ground-transportation-area-as-defined~~

1 ~~in s. 163.803(4) and taxed under the provisions of part I or~~  
 2 ~~part II of chapter 286.~~

3 (a) (b) Any ~~The~~ tax imposed under s. 206.102(3) or s.  
 4 206.703(2)(c) shall take effect ~~be imposed effective~~ 60 days  
 5 after the first day of the month following the referendum  
 6 ratifying the regional ground transportation plan pursuant to  
 7 s. 163.805. The tax shall only be collected in those counties  
 8 in a regional ground transportation area, as defined in s.  
 9 163.803(4), which have ratified the regional ground  
 10 transportation plan adopted by the metropolitan transportation  
 11 authority pursuant to s. 163.805.

12 (b) (c) Metropolitan transportation authorities shall  
 13 utilize moneys received pursuant to this section only as  
 14 authorized in the Metropolitan Transportation Authority Act.

15 ~~(2) (a) -- The tax shall be collected and remitted by any~~  
 16 ~~person engaged in selling at retail motor fuel or using or~~  
 17 ~~selling at retail special fuel within a regional ground~~  
 18 ~~transportation area in which the tax is authorized and shall~~  
 19 ~~be distributed monthly by the department to the authority in~~  
 20 ~~the regional ground transportation area where collected. -- The~~  
 21 ~~tax remitted to the Department of Revenue pursuant to this~~  
 22 ~~section shall be transferred to the Local Option Gas Tax Trust~~  
 23 ~~Fund, which fund is created for distribution to the~~  
 24 ~~Metropolitan Transportation Authority in the regional ground~~  
 25 ~~transportation area in which the tax was collected and which~~  
 26 ~~fund is subject to the service charge imposed in chapter 215.~~  
 27 ~~The department has the authority to prescribe and publish all~~  
 28 ~~forms upon which reports shall be made to it and other forms~~  
 29 ~~and records deemed to be necessary for proper administration~~  
 30 ~~and collection of the tax and shall promulgate such rules as~~  
 31 ~~may be necessary for the enforcement of this section. -- The~~

1 ~~sections of chapter 206, including, but not limited to, those~~  
 2 ~~sections relating to timely filing of reports and tax~~  
 3 ~~collected, suits for collection of unpaid taxes, department~~  
 4 ~~warrants for collection of unpaid taxes, penalties, interest,~~  
 5 ~~retention of records, inspection of records, liens on~~  
 6 ~~property, foreclosure, and enforcement and collection also~~  
 7 ~~apply to the tax authorized in this section.~~

8 ~~(b)--The provisions for refund provided in ss. 206.625~~  
 9 ~~and 206.64 are not applicable to such tax levied by any~~  
 10 ~~authority.--The provisions for refund in s. 212.67(1)(a) and~~  
 11 ~~(c) apply to such tax, and the refund shall be administered in~~  
 12 ~~accordance with the provisions of s. 212.67.--However, the~~  
 13 ~~amount refunded shall be deducted from moneys in the local~~  
 14 ~~Optron Gas Tax Trust Fund otherwise distributed to the~~  
 15 ~~authority in the regional ground transportation area in which~~  
 16 ~~the tax is levied.~~

17 (2)(f) At least 60 days prior to the effective date of  
 18 any tax under this section, the authority shall provide the  
 19 Department of Revenue with the amount of the tax levied and  
 20 imposed under this section pursuant to the regional ground  
 21 transportation plan approved in the referendum required by s.  
 22 163.805. No decision to rescind the tax may take effect until  
 23 at least 60 days after the authority notifies the Department  
 24 of Revenue of such decision.

25 Section 70. Sections 206.022, 206.025, 206.095,  
 26 206.12, 206.15, 206.16, 206.17, 206.175, 206.20, 206.204,  
 27 206.205, 206.22, 206.28, 206.405, 206.445, 206.46, 206.61,  
 28 206.85, 206.86, 206.88, 206.92, and 206.96, Florida Statutes,  
 29 are renumbered as sections 206.154, 206.162, 206.213, 206.353,  
 30 206.413, 206.416, 206.423, 206.424, 206.455, 206.463, 206.465,  
 31 206.445, 206.505, 206.158, 206.327, 206.563, 206.122, 206.701,



1 206.702, 206.788, 206.722, and 206.790, Florida Statutes,  
2 respectively.

3 Section 71. Section 7.52, Florida Statutes, is amended  
4 to read:

5 7.52 Pinellas County.--The boundary lines of Pinellas  
6 County are as follows: Beginning at a point where the line  
7 dividing townships twenty-six and twenty-seven south if  
8 projected in a westerly direction intersects with the western  
9 boundary of the jurisdictional waters of the State of Florida  
10 in the Gulf of Mexico; thence east on said line to the  
11 northeast corner of section one in township twenty-seven  
12 south, range sixteen east; thence south to the shore of old  
13 Tampa Bay; thence in a southerly direction through the middle  
14 waters of old Tampa Bay and Tampa Bay, to a point in Tampa Bay  
15 due east of the north shore of Mullet Key, thence due west to  
16 a point due north of a point 100 yards due east from the  
17 easternmost point of Mullet Key; thence in a line 100 yards  
18 from the shoreline around the southern portion of Mullet Key  
19 to a point 100 yards west of the northernmost shore of Mullet  
20 Key; thence west to a point where such line intersects the  
21 western boundary of the jurisdictional waters of the State of  
22 Florida in the Gulf of Mexico and northward, including the  
23 waters of said gulf within the jurisdiction of the State of  
24 Florida, to point of beginning; provided however that nothing  
25 herein contained shall now or at any time hereafter in any  
26 manner whatsoever repeal, amend, change or disturb in any  
27 manner whatsoever the apportionment, allotment, allocation,  
28 basis of computation, or other formula wherein and whereby the  
29 participation in the gas tax by both counties hereto under and  
30 by virtue of s. 206.565 ~~ss--206-41-and-206-47~~ or any law  
31 hereafter enacted, is changed so that Hillsborough County

1 would receive a lesser amount and Pinellas County would  
2 receive a greater amount of such gas funds or tax by reason of  
3 the change of the boundary line herein authorized.

4 Section 72. Paragraph (a) of subsection (11) of  
5 section 163.3184, Florida Statutes, is amended to read:

6 163.3184 Process for adoption of comprehensive plan or  
7 amendment thereto.--

8 (11) ADMINISTRATION COMMISSION.--

9 (a) If the Administration Commission, upon a hearing  
10 pursuant to subsection (9) or subsection (10), finds that the  
11 comprehensive plan or plan amendment is not in compliance with  
12 this act, the commission shall specify remedial actions which  
13 would bring the comprehensive plan or plan amendment into  
14 compliance. The commission may direct state agencies not to  
15 provide funds to increase the capacity of roads, bridges, or  
16 water and sewer systems within the boundaries of those local  
17 governmental entities which have comprehensive plans or plan  
18 elements that are determined not to be in compliance. The  
19 commission order may also specify that the local government  
20 shall not be eligible for grants administered under the  
21 following programs:

22 1. The Florida Small Cities Community Development  
23 Block Grant Program, as authorized by ss. 290.0401-290.049.

24 2. The Florida Recreation Development Assistance  
25 Program, as authorized by chapter 375.

26 3. Revenue sharing pursuant to ss. 206.573 ~~ss. 206-60~~,  
27 210.20, and 218.61 and part I of chapter 212, to the extent  
28 not pledged to pay back bonds.

29 Section 73. Subsection (3) of section 207.023, Florida  
30 Statutes, as amended by chapter 87-198, Laws of Florida, is  
31 amended to read:

1           207.023 Authority to inspect vehicles, make arrests,  
2 seize property, and execute warrants.--

3           (3) Commercial motor vehicles owned or operated by any  
4 motor carrier who refuses to comply with this chapter may be  
5 seized by authorized agents or employees of the Department of  
6 Highway Safety and Motor Vehicles, the Department of  
7 Agriculture and Consumer Services, or the Department of  
8 Transportation; or authorized agents and employees of any of  
9 these departments also may seize property as set out in ss.  
10 206.435, 206.443, and 206.465 ~~ss--206-2057-206-217-and~~  
11 ~~206-215~~. Upon such seizure, the property shall be surrendered  
12 without delay to the sheriff of the county where the property  
13 was seized for further proceedings.

14           Section 74. Section 207.026, Florida Statutes, as  
15 amended by sections 46 and 47 of chapter 87-548, Laws of  
16 Florida, is amended to read:

17           207.026 Allocation of tax.--All moneys derived from  
18 the taxes and fees imposed by this chapter shall be paid into  
19 the State Treasury by the department for deposit in the Gas  
20 Tax Collection Trust Fund, from which the following transfers  
21 shall be made: After withholding \$50,000 from the proceeds  
22 therefrom, to be used as a revolving cash balance, and the  
23 amount of funds necessary for the administration and  
24 enforcement of this tax, all other moneys shall be transferred  
25 in the same manner and for the same purpose as provided in ss.  
26 206.555, 206.565, 206.573, 206.575, 206.585, and 206.785 ~~ss-~~  
27 ~~206-417-206-457-206-607-206-6057-and-212-69~~.

28           Section 75. Subsection (1) of section 212.235, Florida  
29 Statutes, as amended by section 40 of chapter 87-548, Laws of  
30 Florida, is amended to read:

31           212.235 State Infrastructure Fund; deposits.--

1 (1) Notwithstanding the provisions of ss. 212.20(1)  
 2 and 218.61, in fiscal year 1987-1988 an amount equal to 2  
 3 percent, and in each fiscal year thereafter an amount equal to  
 4 5 percent, of the proceeds remitted pursuant to this part by a  
 5 dealer, or the sums sufficient to provide the maximum receipts  
 6 specified herein, shall be transferred into the State  
 7 Infrastructure Fund, which is created in the State Treasury.  
 8 "Proceeds" means all funds collected and received by the  
 9 Department of Revenue, including any interest and penalties.  
 10 However, any receipts of the fund, including those received  
 11 pursuant to s. ss- 201.15(5) and-206-075(3) and interest  
 12 earned, in excess of ~~9200-million-in-fiscal-year-1987-1988~~  
 13 and \$550 million thereafter, shall revert to the General  
 14 Revenue Fund.

15 Section 76. Subsections (1), (2), (3), (4), (5), and  
 16 (14) of section 215.22, Florida Statutes, are amended to read:

17 215.22 Certain moneys and certain trust funds  
 18 enumerated.--The following described moneys and income of a  
 19 revenue nature deposited in the following described trust  
 20 funds, by whatever name designated, shall be those from which  
 21 the deductions authorized by s. 215.20 shall be made:

22 (1) The Gas Tax Collection Trust Fund created in s.  
 23 206.555 s-206-45.

24 (2) All income derived from outdoor advertising and  
 25 overweight violations which is deposited in the State  
 26 Transportation Trust Fund created in s. 206.563 s-206-46.

27 (3) All taxes levied on motor fuels other than  
 28 gasoline levied pursuant to the provisions of s. 206.755 s-  
 29 206-07.

30 (4) The State Alternative Fuel User Fee Clearing Trust  
 31 Fund established pursuant to s. 206.786(1) s-206-079(1).

1 (5) The Local Alternative Fuel User Fee Clearing Trust  
2 Fund established pursuant to s. 206.786(2) ~~s. 206.879(2)~~.

3 (14) The Local Option Gas Tax Trust Fund created  
4 pursuant to s. 206.102 ~~s. 336.025~~.

5  
6 The enumeration of the above moneys or trust funds shall not  
7 prohibit the applicability thereto of s. 215.24 should the  
8 Governor determine that for the reasons mentioned in s. 215.24  
9 the money or trust fund should be exempt herefrom, as it is  
10 the purpose of this law to exempt all trust funds from its  
11 force and effect when, by the operation of this law, federal  
12 matching funds or contributions to any trust fund would be  
13 lost to the state.

14 Section 77. Paragraph (b) of subsection (6) of section  
15 218.21, Florida Statutes, is amended to read.

16 218.21 Definitions.--As used in this part, the  
17 following words and terms shall have the meanings ascribed  
18 them in this section, except where the context clearly  
19 indicates a different meaning:

20 (6) "Guaranteed entitlement" means the amount of  
21 revenue which must be shared with an eligible unit of local  
22 government so that:

23 (b) No eligible municipality shall receive less funds  
24 from the Revenue Sharing Trust Fund for Municipalities in any  
25 fiscal year than the aggregate amount it received from the  
26 state in fiscal year 1971-1972 under the provisions of the  
27 then existing s. 210.20(2)(a), tax on cigarettes; s.  
28 323.16(3), road tax; and s. 206.575 ~~s. 206.605~~, tax on motor  
29 fuel; except that any government exercising municipal powers  
30 pursuant to s. 6(f), Art. VIII of the State Constitution shall  
31 not receive less funds from any such revenue sharing trust

1 fund than the aggregate amount it received from the state in  
2 the preceding state fiscal year under the provisions of this  
3 part, plus a 7 percent increase in such amount.

4 Section 78. Section 336.024, Florida Statutes, is  
5 amended to read:

6 336.024 Distribution of constitutional gas tax.--  
7 Effective July 1, 1983, the State Board of Administration  
8 shall assume the responsibility for distribution of the  
9 counties' 80-percent share of the constitutional gas tax in  
10 the same manner as the 20-percent share is currently  
11 distributed pursuant to s. 206.565 ~~s. 206.47~~; however, the  
12 State Board of Administration shall assure that county funds  
13 are made available to the department to be held in escrow for  
14 any construction underway on behalf of the county pursuant to  
15 resolution of the county governing body.

16 Section 79. Paragraph (c) of subsection (11) of  
17 section 376.301, Florida Statutes, is amended to read:

18 376.301 Definitions of terms used in ss. 376.30-  
19 376.319.--When used in ss. 376.30-376.319, unless the context  
20 clearly requires otherwise, the term:

21 (11) "Petroleum storage system" means a stationary  
22 tank not covered under the provisions of chapter 377, together  
23 with any onsite integral piping or dispensing system  
24 associated therewith, which is used, or intended to be used,  
25 for the storage or supply of any petroleum product as defined  
26 herein, and which:

27 (c) Is located in a storage facility licensed with the  
28 Department of Revenue under s. 206.154 ~~s. 206.022~~ or s.  
29 206.9930, excluding offsite pipelines;

30 Section 80. Section 849.092, Florida Statutes, is  
31 amended to read:

1           849.092 Retail merchandising business; certain  
2 activities permitted.--The provisions of s. 849.09 shall not  
3 be construed to prohibit or prevent persons who are licensed  
4 to conduct business under s. 206.156 ~~s. 206.404~~, from giving  
5 away prizes to persons selected by lot, if such prizes are  
6 made on the following conditions:

7           (1) Such gifts are conducted as advertising and  
8 promotional undertakings, in good faith, solely for the  
9 purpose of advertising the goods, wares, merchandise and  
10 business of such licensee; and

11           (2) The principal business of such licensee is the  
12 business permitted to be licensed under s. 206.156 ~~s. 206.404~~;  
13 and

14           (3) No person to be eligible to receive such gift  
15 shall ever be required to:

16           (a) Pay any tangible consideration to such licensee in  
17 the form of money or other property or thing of value, or

18           (b) Purchase any goods, wares, merchandise or  
19 anything of value from such licensee.

20           (4) The person selected to receive any such gift or  
21 prize offered by any such licensee in connection with any such  
22 advertising or promotion is notified of his selection at his  
23 last known address. Newspapers, magazines, television and  
24 radio stations may, without violating any law, publish and  
25 broadcast advertising matter describing such advertising and  
26 promotional undertakings of such licensees which may contain  
27 instructions pursuant to which persons desiring to become  
28 eligible for such gifts or prizes may make their name and  
29 address known to such licensee.

30           (5) All brochures, advertisements, promotional  
31 material, and entry blanks promoting such undertakings shall

1 contain a clause stating that residents of Florida are  
2 entitled to participate in such undertakings and are eligible  
3 to win gifts or prizes.

4 Section 81. Sections 206.08, 206.25, 206.41, 206.435,  
5 206.49, 206.625, 206.63, 206.64, 206.93, 206.94, 206.945,  
6 212.60, 212.62, 212.6201, 212.63, 212.635, 212.64, 212.65,  
7 212.655, and 212.66, Florida Statutes, and section 212.61,  
8 Florida Statutes, as amended by section 34 of chapter 87-548,  
9 Laws of Florida, are hereby repealed.

10 Section 82. This act shall take effect July 1, 1988,  
11 or upon becoming a law, whichever occurs later.

12  
13  
14  
15 **STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN**  
16 **COMMITTEE SUBSTITUTE FOR**  
17 **Senate Bill 370**

18 The Committee substitute allows retail dealers who own more  
19 than one station to file a return by location or to file a  
20 consolidated return. SB 370 required such dealers to file a  
21 consolidated return.

22 The Committee substitute allows licensed importers or jobbers  
23 who export fuel out of state to self accrue and remit motor  
24 and special fuel taxes. Currently they must pay the taxes on  
25 all their purchases and then apply for a refund of taxes on  
26 fuel exported. To self accrue, they must export each month  
27 at least a volume of fuel which would generate a refund of  
28 \$1000.

29 The Committee substitute clarifies which special fuel tax  
30 exemptions apply to the 4 cent per gallon state excise tax,  
31 the 5.7 cents per gallon state excise tax, and the local  
option taxes.

The Committee substitute separately specifies the state and  
local option taxes on special fuel. Under SB 370 special  
fuel was taxed by applying motor fuel tax provisions to  
special fuel by reference.



By the Committee on Finance, Taxation and Claims

This publication was produced at an estimated cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled  
An act relating to fuel taxes; creating ss. 206.101, 206.102, F.S.; consolidating state taxes on motor fuel and local option taxes on motor fuel; providing for collection, enforcement, and administration of such taxes; providing collection allowances; renumbering and amending ss. 206.23, 206.02, 206.021, 206.404, 206.055, 206.026, 206.027, 206.028, 206.03, 206.04, 206.05, 206.065, 206.43, 206.09, 206.10, 206.48, 206.485, 206.62, 206.42, 206.41, 206.425, 212.67, 206.11, 206.44, 206.426, 206.56, 206.14, 206.18, 206.06, 206.07, 206.075, 206.19, 206.21, 206.215, 206.24, 206.27, 206.59, 206.406, 206.45, 206.47, 206.60, 206.605, 212.69, 206.89, 206.90, 206.91, 206.87, 206.877, 206.875, 206.879, 206.97, F.S.; creating ss. 206.703, F.S.; amending ss. 206.01, 206.9915, 206.9825, 206.9845, 206.9931, 206.9441, 206.9442, 207.026, 212.05, 212.08, 336.021, 336.025, 336.026, F.S.; consolidating and reorganizing provisions of chapters 206, 212, 336, F.S., relating to the taxation of motor fuel; providing for the return of certain taxes paid by a school district to such school district; revising certain tax exemptions relating to special fuels; revising certain cross-references; revising certain definitions; renumbering ss. 206.022, 206.025, 206.095, 206.12, 206.15, 206.16, 206.17, 206.175,

1 206.20, 206.204, 206.205, 206.22, 206.28,  
2 206.405, 206.445, 206.46, 206.61, 206.85,  
3 206.86, 206.88, 206.92, 206.96, F.S.; amending  
4 ss. 7.52, 163.3184, 207.023, 207.026, 212.235,  
5 215.22, 218.21, 336.024, 376.301, 849.092,  
6 F.S.; correcting cross-references; repealing  
7 ss. 206.08, 206.25, 206.41, 206.49, 206.625,  
8 206.63, 206.64, 206.93, 206.94, 206.945,  
9 212.60, 212.61, 212.62, 212.6201, 212.63,  
10 212.635, 212.64, 212.65, 212.66, F.S., relating  
11 to the motor fuel tax and the sales tax on  
12 motor fuel and special fuel; providing an  
13 effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. Section 206.101, Florida Statutes, is  
18 created to read:

19 206.101 State gas taxes on motor fuel.--

20 (1) The following taxes are levied on the first sale  
21 or first removal from storage of motor fuel after importation  
22 into this state:

23 (a) An excise tax of 2 cents per gallon, which is the  
24 tax levied by s. 16, Art. IX of the Constitution of 1885, as  
25 amended, and continued by s. 9(c), Art. XII of the 1968  
26 Constitution, as amended, which is therein referred to as the  
27 "second gas tax," and which is designated as the  
28 "constitutional gas tax".

29 (b) An additional tax of 1 cent per gallon, which is  
30 designated the "county gas tax";

1 (c) An additional tax of 1 cent per gallon, which is  
2 designated the "municipal gas tax"; and

3 (d) An additional tax equal to 5 percent of the total  
4 retail price per gallon, rounded to the nearest tenth of a  
5 cent, but not less than 5.7 cents per gallon, which tax is a  
6 tax on the privilege of selling motor fuel. Before July 1 of  
7 each year, the department shall determine the appropriate tax  
8 rate applicable to the retail price per gallon of motor fuel  
9 as follows:

10 1. The department shall determine the appropriate  
11 total motor fuel and special fuel price, including federal,  
12 state, and local excise taxes on such fuel, for the  
13 forthcoming 12-month period beginning July 1, by adjusting the  
14 initially established price by the percentage change in the  
15 average monthly gasoline price component of the Consumer Price  
16 Index issued by the United States Department of Labor for the  
17 most recent 12-month period ending March 31, compared to the  
18 average for the 12-month period ending March 31, 1984.

19 2. The initially established price is \$1.14~~8~~ per  
20 gallon.

21 3 The department shall notify each refiner, importer,  
22 jobber, or wholesaler before July 1 of each year, as to any  
23 change in the tax rate, as determined by the Consumer Price  
24 Index.

25 (2) Revenues from the taxes imposed by this section  
26 become state funds at the moment collected by any person.  
27 Each refiner, importer, jobber, retail dealer, or wholesaler,  
28 shall act as an agent for the state in collecting such taxes  
29 whether or not he is the ultimate seller.

30 (3) For purposes of this section, the term "first  
31 sale" does not include exchanges or loans, gallon-for-gallon,

1 of motor fuel between licensed refiners before the fuel has  
 2 been sold or removed through the loading rack or transfers  
 3 between terminal facilities owned by the same taxpayer. The  
 4 tax on motor fuel first imported into this state by a licensed  
 5 refiner storing such fuel in a terminal facility shall be  
 6 imposed when the product is first removed through the loading  
 7 rack. The tax shall be remitted by the licensed refiner who  
 8 owned the motor fuel immediately prior to removal of such fuel  
 9 from storage.

10 Section 2. Section 206.102, Florida Statutes, is  
 11 created to read:

12 206.102 Local option taxes on motor fuel.--

13 (1) Any county in the state, at the discretion of its  
 14 governing body and subject to a referendum, may impose,  
 15 pursuant to s. 336.021, in addition to all other taxes  
 16 required or allowed by law, a 1-cent voted gas tax upon every  
 17 gallon of motor fuel sold in such county and taxed under the  
 18 provisions of s. 206.101(1)(a), (b), or (c) for the purpose of  
 19 paying the costs and expenses of establishing, operating, and  
 20 maintaining a transportation system and related facilities and  
 21 the cost of acquisition, construction, reconstruction, and  
 22 maintenance of roads and streets. The referendum may limit  
 23 the number of years the tax will remain in effect.

24 (2) In addition to other taxes allowed by law, there  
 25 may be imposed as provided in s. 336.025 a 1-cent, 2-cent, 3-  
 26 cent, 4-cent, 5-cent, or 6-cent local option gas tax upon  
 27 every gallon of motor fuel sold in a county and taxed under  
 28 the provisions of s. 206.101(1)(a), (b), or (c).

29 (3) In addition to other taxes allowed by law,  
 30 including the local option gas tax on motor fuel as provided  
 31 in subsection (2), there may be imposed, as provided in s.

1 336.026, a 1-cent, 2-cent, 3-cent, or 4-cent local option gas  
2 tax upon every gallon of motor fuel sold in a regional ground  
3 transportation area as defined in s. 163.803(4) and taxed  
4 pursuant to s. 206.101(1)(a), (b), or (c).

5 (4) Each refiner, importer, wholesaler, jobber, or  
6 retail dealer who is engaged in using or selling at retail or  
7 at the consumer level, motor fuel within a county or a  
8 regional ground transportation area in which any tax  
9 authorized in this section is imposed shall collect and remit  
10 the tax to the department. On or before the 20th day of each  
11 calendar month, each such person shall, on forms prescribed by  
12 the department, report to the department all purchases or  
13 other acquisitions and sales or other dispositions of motor  
14 fuel during the preceding calendar month, and remit the taxes  
15 pursuant to this section. Any such person who owns a chain of  
16 retail stations shall file and remit taxes pursuant to this  
17 section on a consolidated tax return, by county, prescribed by  
18 the department.

19 (5) Any refiner, importer, wholesaler, jobber, or  
20 retail dealer who collects any tax authorized under subsection  
21 (1) or subsection (2) shall deduct from the amount of tax  
22 shown by the report to be payable an amount equivalent to 3  
23 percent of the tax on motor fuels imposed by this section,  
24 which deduction is hereby allowed on account of services and  
25 expenses in complying with the provisions of the law. If the  
26 amount of taxes due and remitted to the department for the  
27 reporting period exceeds \$1,000, the 3-percent allowance shall  
28 be reduced to 1 percent for all amounts in excess of \$1,000.  
29 However, this allowance shall not be deductible unless payment  
30 of the tax is made on or before the 20th day of the month as  
31 required. The United States post office date stamped on the

1 envelope in which the report is submitted shall be considered  
2 as the date the report is received by the department.

3 (6)(a) The department shall deposit any tax collected  
4 pursuant to subsection (1) into the Voted Gas Tax Trust Fund,  
5 which fund is created for distribution of such tax to the  
6 county in which collected.

7 (b) The department shall deposit any tax collected  
8 pursuant to subsection (2) or subsection (3) into the Local  
9 Option Gas Tax Trust Fund, which fund is created for  
10 distribution to the county and eligible municipalities within  
11 the county in which the tax imposed under subsection (2) was  
12 collected and for distribution to the Metropolitan  
13 Transportation Authority in the regional ground transportation  
14 area in which the tax imposed under subsection (3) was  
15 collected. The Local Option Gas Tax Trust Fund is subject to  
16 the service charge imposed in chapter 215.

17 (c) Each month the department shall distribute to such  
18 counties, municipalities, and authorities moneys from such  
19 funds collected in such counties, municipalities, and regional  
20 ground transportation areas. However, any amount refunded  
21 under the provisions of s. 206.285(1)(a) or (e) shall be  
22 deducted from moneys in the Local Option Gas Tax Trust Fund  
23 otherwise distributed to the county area or authority in the  
24 regional ground transportation area in which the tax is  
25 levied.

26 Section 3. Section 206.23, Florida Statutes, is  
27 renumbered as section 206.125, Florida Statutes, and amended  
28 to read:

29 206.125 ~~206.23~~ Tax; must be stated separately; invoice  
30 to show tax paid.--

31

1           (1) Any person engaged in selling motor fuel shall add  
2 the amount of the gas tax levied under s. 206.101 or s.  
3 206.102 to the price of the motor fuel sold by him and shall  
4 state the tax separately from the price of the motor fuel on  
5 all invoices. However, this section shall not apply to retail  
6 sales by a retail service station.

7           (2) Each retailer shall conspicuously display on the  
8 outside housing of each pump or other dispensing device a  
9 notice that the price stated on the pump includes any  
10 applicable taxes.

11           Section 4. Section 206.02, Florida Statutes, is  
12 renumbered as section 206.151, Florida Statutes, and amended  
13 to read:

14           206.151 ~~206.02~~ Application for license; provisional  
15 license, refiners, importers, jobbers, and wholesalers.--

16           (1) It is unlawful for any person to engage in  
17 business as a refiner, importer, jobber, or wholesaler of  
18 motor fuel within this state unless such person is the holder  
19 of an unrevoked license issued by the department to engage in  
20 such business. A person is engaging in such business if he:

21           (a) Imports or causes any motor fuel to be imported  
22 and sells such fuel at wholesale, retail, or otherwise within  
23 this state.

24           (b) Imports and withdraws for use within this state by  
25 himself or others any motor fuel from the tank car, truck, or  
26 other original container or package in which such motor fuel  
27 was imported into this state.

28           (c) Manufactures, refines, produces, or compounds any  
29 motor fuel and sells such fuel at wholesale or retail, or  
30 otherwise within this state for use or consumption within this  
31 state.

1 (d) Imports into this state from any other state or  
2 foreign country, or receives by any means into this state, any  
3 motor fuel which is intended to be used for consumption in  
4 this state and keeps such fuel in storage in this state for a  
5 period of 24 hours or more after it loses its interstate or  
6 foreign commerce character as a shipment in interstate or  
7 foreign commerce.

8 (e) Is primarily liable under the gas tax laws of this  
9 state for the payment of motor fuel taxes.

10 (f) Purchases or receives in this state motor fuel  
11 ~~upon which the tax has not been paid.~~

12 (2) To procure a refiner of motor fuel license, a  
13 person shall file with the department an application under  
14 oath, and in such form as the department may prescribe,  
15 setting forth:

16 (a) The name under which the person will transact  
17 business within the state.

18 (b) The location, with street number address, of his  
19 principal office or place of business within this state and  
20 the location where records will be made available for  
21 inspection.

22 (c) The name and complete residence address of the  
23 owner or the names and addresses of the partners, if such  
24 person is a partnership, or of the principal officers, if such  
25 person is a corporation or association; and, if such person is  
26 a corporation organized under the laws of another state,  
27 territory, or country, he shall also file with the application  
28 a certified copy of the certificate or license issued by the  
29 Department of State showing that such corporation is  
30 authorized to transact business in the state.

31



1 (d) The location or locations of the refinery owned by  
2 such person, and the volume of each refined petroleum product  
3 produced at such refinery.

4  
5 The application shall require a \$30 license tax. Each license  
6 shall be renewed annually through application, including an  
7 annual \$30 license tax.

8 (3) To procure an importer of motor fuels license, a  
9 person shall file with the department an application under  
10 oath, and in such form as the department may prescribe,  
11 setting forth:

12 (a) The name under which the person will transact  
13 business within the state.

14 (b) The location, with street number address, of his  
15 principal office or place of business and the location where  
16 records will be made available for inspection.

17 (c) The name and complete residence address of the  
18 owner or the names and addresses of the partners, if such  
19 person is a partnership, or of the principal officers, if such  
20 person is a corporation or association, and, if such person is  
21 a corporation organized under the laws of another state,  
22 territory, or country, he shall also file with the application  
23 a certified copy of the certificate or license issued by the  
24 Department of State showing that such corporation is  
25 authorized to transact business in the state

26 (d) A statement that such person's business is not  
27 located in the state.

28  
29 The application shall require a \$30 license tax. Each license  
30 shall be renewed annually through application, including an  
31 annual \$30 license tax.

1           (4) To procure a wholesaler or jobber of motor fuel  
2 license, a person shall file with the department an  
3 application under oath and in such form as the department may  
4 prescribe, setting forth:

5           (a) The name under which the person will transact  
6 business within the state.

7           (b) The location, with street number address, of his  
8 principal office or place of business within this state or in  
9 another state and the location where records will be made  
10 available for inspection.

11           (c) The name and complete residence address of the  
12 owner or the names and addresses of the partners, if such  
13 person is a partnership, or of the principal officers, if such  
14 person is a corporation or association; and, if such person is  
15 a corporation organized under the laws of another state,  
16 territory, or country, he shall also file with the application  
17 a certified copy of the certificate or license issued by the  
18 Department of State showing that such corporation is  
19 authorized to transact business in the state.

20  
21 The application shall require a \$30 license tax. Each license  
22 shall be renewed annually through application, including an  
23 annual \$30 license fee.

24           (5) Any importer who establishes a business location  
25 in this state must, prior to beginning business in the state,  
26 apply for and be issued a jobber's or a wholesaler's license.  
27 An importer's license becomes invalid on the date business  
28 operations begin from a location within this state.

29           (6) Upon the filing of an application for a license  
30 and concurrently therewith, a bond of the character stipulated  
31 and in the amount provided for shall be filed with the

1 department. No license shall be issued ~~issue~~ upon any  
 2 application unless accompanied by such a bond, except as  
 3 provided in s. 206.174(1) ~~s. 206.05(1)~~.

4 (7)(a) A person, partnership, or private corporation  
 5 which is beginning a new business and which applies for a  
 6 license as a refiner, importer, jobber, or wholesaler shall be  
 7 issued a provisional license. Once the department's  
 8 background investigation is completed and the department has  
 9 determined that the applicant is of good moral character and  
 10 has not been convicted of any offense specified in s. 206.164  
 11 ~~s. 206.026(1)(b)~~, a permanent license shall be issued.

12 (b) A publicly held corporation, the securities of  
 13 which are regularly traded on a national securities exchange  
 14 and not over the counter, which begins a new business and  
 15 which applies for a license as a refiner, importer, jobber, or  
 16 wholesaler shall be issued such a license without the  
 17 department's background investigation.

18 Section 5. Section 206.021, Florida Statutes, is  
 19 renumbered as section 206.152, Florida Statutes, and amended  
 20 to read:

21 206.152 ~~206.021~~ Application for license; ~~jobbers-and~~  
 22 carriers.--

23 (1) It is unlawful for any person to engage in  
 24 business as a ~~jobber-or~~ carrier of motor fuel within this  
 25 state unless he is the holder of an unrevoked license issued  
 26 by the department to engage in such business.

27 (2) To procure such license, a person shall file with  
 28 the department an application under oath and in such form as  
 29 the department may prescribe, setting forth:

30 (a) The name under which the person will transact  
 31 business within the state.

1 (b) The location, with street number address, of his  
2 principal office or place of business within this state and  
3 the location where records will be made available for  
4 inspection.

5 (c) The name and complete residence address of the  
6 owner or the names and addresses of the partners, if such  
7 person is a partnership, or of the principal officers, if such  
8 person is a corporation or association; and, if such person is  
9 a corporation organized under the laws of another state,  
10 territory, or country, he shall also file with the application  
11 a certified copy of the certificate or license issued by the  
12 Department of State showing that such corporation is  
13 authorized to transact business in the state.

14 (3) The application shall require a \$30 license tax.  
15 Each license shall be renewed annually through application,  
16 including an annual \$30 license tax.

17 Section 6. Section 206.404, Florida Statutes, is  
18 renumbered as section 206.156, Florida Statutes, and amended  
19 to read:

20 206.156 ~~206.404~~ License tax upon retail dealers;  
21 dealer transfer fee; monthly reports; penalty.--

22 (1) Every retail dealer shall pay a license tax of \$5  
23 per annum to the state. No license shall be transferred  
24 without an application having been filed with the department  
25 and payment of a fee of \$5.

26 ~~(2)(a)--On or before the 20th day of each calendar~~  
27 ~~month, each retail dealer shall, on forms prescribed by the~~  
28 ~~department, report to the department all purchases or other~~  
29 ~~acquisition and sales or other disposition of motor fuel~~  
30 ~~during the preceding calendar month and remit the taxes~~  
31 ~~pursuant to ss. 336.021, 336.025, and 336.026.~~

1           ~~(b) -- if any person required to file under this~~  
2 ~~subsection fails to make a complete report, the department may~~  
3 ~~impose, in addition to any other penalty or interest due, a~~  
4 ~~penalty in the amount of \$30.~~

5           Section 7. Section 206.055, Florida Statutes, is  
6 renumbered as section 206.161, Florida Statutes, and paragraph  
7 (c) of subsection (1) of said section is amended to read:

8           206.161 ~~206-055~~ Department may cancel licenses;  
9 surrender of bond.--

10           (1) If a refiner, importer, jobber, retail dealer, or  
11 wholesaler at any time:

12           (c) Fails to pay the gas tax as required by part I or  
13 part II of this chapter ~~or the sales tax required under part~~  
14 ~~II of chapter 212~~ and the laws of the state;

15  
16 the department may cancel the license of the refiner,  
17 importer, jobber, retail dealer, or wholesaler.

18           Section 8. Section 206.026, Florida Statutes, is  
19 renumbered as section 206.164, Florida Statutes, and amended  
20 to read:

21           206.164 ~~206-026~~ Certain persons prohibited from  
22 holding a refiner, importer, jobber, or wholesaler license;  
23 suspension and revocation.--

24           (1) No corporation, except a publicly held corporation  
25 regularly traded on a national securities exchange and not  
26 over the counter, general or limited partnership, sole  
27 proprietorship, business trust, joint venture or  
28 unincorporated association, or other business entity shall  
29 hold a refiner, importer, jobber, or wholesaler license in  
30 this state if any one of the persons or entities specified in  
31 paragraph (a) has been determined by the department not to be

1 of good moral character or has been convicted of any offense  
2 specified in paragraph (b):  
3 (a)1. The licenseholder.  
4 2. The sole proprietor of the licenseholder.  
5 3. A corporate officer or director of the  
6 licenseholder.  
7 4. A general or limited partner of the licenseholder.  
8 5. A trustee of the licenseholder.  
9 6. A member of an unincorporated association  
10 licenseholder.  
11 7. A joint venturer of the licenseholder.  
12 8. The owner of any equity interest in the  
13 licenseholder, whether as a common shareholder, general or  
14 limited partner, voting trustee, or trust beneficiary.  
15 9. An owner of any interest in the license or  
16 licenseholder, including any immediate family member of the  
17 owner, or holder of any debt, mortgage, contract, or  
18 concession from the licenseholder, who by virtue thereof is  
19 able to control the business of the licenseholder.  
20 (b)1. A felony in this state.  
21 2. Any felony in any other state which would be a  
22 felony if committed in this state under the laws of Florida.  
23 3. Any felony under the laws of the United States.  
24 (2)(a) If the applicant for a license as specified  
25 under subsection (1) or a licenseholder as specified in  
26 paragraph (1)(a) has received a full pardon or a restoration  
27 of civil rights with respect to the conviction specified in  
28 paragraph (1)(b), then the conviction shall not constitute an  
29 absolute bar to the issuance or renewal of a license or ground  
30 for the revocation or suspension of a license.  
31

1 (b) A corporation which has been convicted of a felony  
2 shall be entitled to apply for and receive a restoration of  
3 its civil rights in the same manner and on the same grounds as  
4 an individual.

5 (3) After notice and hearing, the department shall  
6 refuse to issue or renew, or shall suspend, as appropriate,  
7 any license found in violation of subsection (1). The order  
8 shall become effective 120 days after service of the order  
9 upon the licenseholder and shall be amended to constitute a  
10 final order of revocation unless the licenseholder has, within  
11 that period of time, either caused the divestiture, or agreed  
12 with the convicted person upon a complete immediate  
13 divestiture, of his holding, or has petitioned the circuit  
14 court as provided in subsection (4), or, in the case of  
15 corporate officers or directors of the holder or employees of  
16 the holder, has terminated the relationship between the  
17 licenseholder and those persons mentioned. If no action has  
18 been taken by the licenseholder within the 120-day period  
19 following the issuance of the order of suspension, the  
20 department shall, without further notice or hearing, enter a  
21 final order of revocation of the license.

22 (4) The circuit courts shall have jurisdiction to  
23 decide a petition brought by a holder of a license who shows  
24 that his or its license is in jeopardy of suspension or  
25 revocation under subsection (3) and that such licenseholder is  
26 unable to agree upon the terms of divestiture of interest with  
27 the person specified in subparagraphs (1)(a)3.-9. who has been  
28 convicted of an offense specified in paragraph (1)(b). The  
29 court shall determine the reasonable value of the interest of  
30 the convicted person and order a divestiture upon such terms  
31 and conditions as it finds just. In determining the value of

1 the interest of the convicted person, the court may consider,  
2 among other matters, the value of the assets of the  
3 licenseholder, its good will and value as a going concern,  
4 recent and expected future earnings, and other criteria usual  
5 and customary in the sale of like enterprises.

6 (5) The department shall make such rules for the  
7 photographing, fingerprinting, and obtaining of personal data  
8 of individuals described in paragraph (1)(a) and the obtaining  
9 of such data regarding the business entities described in  
10 paragraph (1)(a) as are necessary to effectuate the provisions  
11 of this section.

12 Section 9. Section 206.027, Florida Statutes, is  
13 renumbered as section 206.166, Florida Statutes, and amended  
14 to read:

15 206.166 ~~206-027~~ Licenses not assignable.--

16 (1) No license granted under the provisions of this  
17 chapter shall be transferred or assigned except upon  
18 application to, and written consent and approval of the  
19 transferee by, the department pursuant to the provisions of s.  
20 206.164 ~~s.-206-026~~.

21 (2) At all times prior to approval of a transfer or  
22 assignment of the license the transferor shall be deemed to be  
23 the licenseholder.

24 (3) Whenever a license is held by a corporation or  
25 business entity other than an individual, no transfer of the  
26 stock or other evidence of ownership or equity in the  
27 licenseholder shall be made, absent the prior approval of the  
28 transferee by the department pursuant to the provisions of s.  
29 206.164 ~~s.-206-026~~.



1 Section 10. Section 206.028, Florida Statutes, is  
2 renumbered as section 206.168, Florida Statutes, and  
3 subsection (1) of said section is amended to read:

4 206.168 ~~206-028~~ Costs of investigation; department to  
5 charge applicants.--

6 (1) The department is authorized to charge any  
7 anticipated costs incurred by the department in determining  
8 the eligibility of any person or entity specified in s.  
9 206.164(1)(a) ~~s.-206-026(f)(a)~~ to hold a license against such  
10 person or entity.

11 Section 11. Section 206.03, Florida Statutes, is  
12 renumbered as section 206.171, Florida Statutes, and amended  
13 to read:

14 206.171 ~~206-03~~ Licensing of refiners, importers,  
15 jobbers, and wholesalers.--

16 (1) The application in proper form having been  
17 accepted for filing, the filing fee paid, and the bond  
18 accepted and approved, except as provided in s. 206.174(1) ~~s-~~  
19 ~~206-05(f)~~, the department shall issue to such person a license  
20 to transact business in the state, subject to cancellation of  
21 such license as provided by law.

22 (2) The license so issued by the department shall not  
23 be assignable except pursuant to s. 206.166 ~~s.-206-027~~, shall  
24 be valid only for the person in whose name it has been issued,  
25 and shall be displayed conspicuously in the principal place of  
26 business in the state.

27 (3) The department shall keep and file all  
28 applications and bonds with an alphabetical index thereof,  
29 together with a record of all duly licensed persons.

30  
31

1 Section 12. Section 206.04, Florida Statutes, is  
2 renumbered as section 206.172, Florida Statutes, and amended  
3 to read:

4 206.172 ~~206-04~~ License number and cards; penalties.--  
5 Each refiner, importer, jobber, and wholesaler shall be  
6 assigned a license number upon qualifying for a license  
7 hereunder, and the department shall issue to each such  
8 licensee separate license cards for each tank truck operated  
9 by that person. Such license card shall indicate the license  
10 number so assigned, the motor number of the truck authorized  
11 to be operated under such license card, and such other  
12 information as the department may prescribe. The license card  
13 shall be conspicuously displayed in the vehicle to which it is  
14 assigned, and any person operating a tank truck in this state  
15 conveying or transporting motor fuel without such license card  
16 or, if a common carrier, a bill of lading is guilty of a  
17 felony of the third degree, punishable as provided in s.  
18 775.082, s. 775.083, or s. 775.084.

19 Section 13. Section 206.05, Florida Statutes, is  
20 renumbered as section 206.174, Florida Statutes, and amended  
21 to read:

22 206.174 ~~206-05~~ Bond required of licensed refiner,  
23 importer, jobber, or wholesaler.--

24 (1) Each refiner, importer, jobber, or wholesaler,  
25 except a municipality, county, school board, state agency,  
26 federal agency, or special district which is licensed under  
27 this part, shall file with the department a bond in a penal  
28 sum of not more than \$100,000, such sum to be approximately 3  
29 times the average monthly gas-tax-and-sales tax imposed  
30 pursuant to s. 206.101 on motor fuel paid or due during the  
31 preceding 12 calendar months under the laws of this state.

1 The bond shall be in such form as may be approved by the  
2 department, executed by a surety company duly licensed to do  
3 business under the laws of the state as surety thereon, and  
4 conditioned upon the prompt filing of true reports and the  
5 payment to the department of any and all gas taxes ~~and sales~~  
6 ~~taxes~~ on motor fuel ~~collected-pursuant-to-chapter-212~~ which  
7 are now or which hereafter may be levied or imposed by the  
8 state, together with any and all penalties and interest  
9 thereon, and generally upon faithful compliance with the  
10 provisions of the gas tax ~~and sales-tax~~ laws of the state.  
11 The licensee shall be the principal obligor, and the state  
12 shall be the obligee. An assigned time deposit or irrevocable  
13 letter of credit may be accepted in lieu of a surety bond.

14 (2) In the event that liability upon the bond thus  
15 filed with the department is discharged or reduced, whether by  
16 judgment rendered, payment made, or otherwise, or if in the  
17 opinion of the department any surety on the bond theretofore  
18 given has become unsatisfactory or unacceptable, then the  
19 department may require a new bond with satisfactory sureties  
20 in the same amount, failing which the department shall  
21 forthwith cancel the license. If such new bond is furnished  
22 as above provided, the department shall cancel and surrender  
23 the bond of the person for which such new bond is substituted.

24 (3) In the event that the department decides that the  
25 amount of the existing bond is insufficient to ensure payment  
26 to the state of the amount of the tax and any penalties and  
27 interest for which the person is or may at any time become  
28 liable, then that person shall forthwith, upon the written  
29 demand of the department, file additional bond in the same  
30 manner and form with like security thereon as hereinbefore  
31 provided, and the department shall forthwith cancel the

1 license of anyone failing to file an additional bond as herein  
2 provided.

3 (4) Any surety on any bond furnished by a person, as  
4 above provided, shall be released and discharged from any and  
5 all liability to the state accruing on such bond after the  
6 expiration of 60 days from the date upon which such surety has  
7 filed with the department written request to be released and  
8 discharged. However, such request shall not operate to  
9 relieve, release, or discharge such surety from any liability  
10 already accrued, or which shall accrue, before the expiration  
11 of the 60-day period. The department shall, promptly on  
12 receipt of notice of such request, notify the licensee who  
13 furnished the bond, and, unless the licensee on or before the  
14 expiration of the 60-day period files with the department a  
15 new bond with a surety company satisfactory to the department  
16 in the amount and form hereinbefore in this section provided,  
17 the department shall forthwith cancel the license. If the new  
18 bond is furnished as above provided, the department shall  
19 cancel and surrender the bond of the licensee for which the  
20 new bond is provided.

21 Section 14. Section 206.065, Florida Statutes, is  
22 renumbered as section 206.176, Florida Statutes, and  
23 subsections (1) and (2) of said section are amended to read:  
24 206.176 ~~206.065~~ Purchases by licensed wholesalers;  
25 authority to self-accrue and remit tax.--

26 (1) A licensed wholesaler may, after obtaining written  
27 consent of the executive director of the department, self-  
28 accrue and remit the tax imposed by this part. Thereafter,  
29 the wholesaler may purchase motor fuel from importers or  
30 refiners and pay the tax due on such purchases directly to the  
31

1 department. The tax shall be due and remitted as provided in  
2 s. 206.202 ~~s. 206.43~~.

3 (2) A wholesaler may self-accrue and remit the tax  
4 under subsection (1) only if he:

5 (a) Made average monthly sales of not less than  
6 150,000 gallons for the preceding 12-month period prior to  
7 applying for the authority;

8 (b) Has been registered and filed timely reports and  
9 made timely payments of the tax due for a period of 12 months  
10 in accordance with the provisions of s. 206.202 ~~s. 206.43~~;

11 (c) Complies with the requirements of s. 206.174 ~~s.~~  
12 ~~206.05~~; however, the department may increase the amount of the  
13 bond or other security to equal the total amount of tax  
14 remitted for the previous 3-month period if the wholesaler  
15 repeatedly remitted such tax late;

16 (d) Files a written statement under oath with the  
17 department stating that the wholesaler meets the requirements  
18 of this subsection; and

19 (e) Submits proper forms to the department as the  
20 department may require.

21 Section 15. Section 206.43, Florida Statutes, is  
22 renumbered as section 206.202, Florida Statutes, and amended  
23 to read:

24 206.202 ~~206.43~~ Refiner, importer, jobber, and  
25 wholesaler to report to department monthly; deduction.--The  
26 taxes levied and assessed as provided in this part shall be  
27 paid to the department monthly in the following manner:

28 (1) Taxes are due on the first day of the succeeding  
29 month and shall be paid on or before the 20th day of each  
30 month. The refiner, importer, jobber, or wholesaler shall  
31 mail to the department verified reports on forms prescribed by

1 the department of the number of gallons of such products sold  
 2 by him during the preceding month and shall at the same time  
 3 pay to the department the amount of tax computed to be due.  
 4 However, if the 20th day falls on a Saturday, a Sunday, or a  
 5 federal or state legal holiday, returns shall be accepted if  
 6 postmarked on the next succeeding workday. The refiner,  
 7 importer, jobber, or wholesaler shall deduct from the amount  
 8 of tax shown by the report to be payable an amount equivalent  
 9 to 6 percent of the tax on motor fuels imposed by s.  
 10 206.101(1)(b) and (c) ~~this part~~ not exceeding 500,000 taxable  
 11 gallons, and less an amount equivalent to 3 percent of the tax  
 12 on motor fuels imposed by s. 206.101(1)(b) and (c) ~~this part~~  
 13 in excess of 500,000 gallons but not exceeding 1 million  
 14 taxable gallons, which deduction is hereby allowed to the  
 15 refiner, importer, jobber, or wholesaler on account of  
 16 services and expenses in complying with the provisions of the  
 17 law. However, this allowance shall not be deductible unless  
 18 payment of the tax is made on or before the 20th day of the  
 19 month as herein required. The United States post-office date  
 20 stamped on the envelope in which the report is submitted shall  
 21 be considered as the date the report is received by the  
 22 department. Nothing in this subsection shall be construed to  
 23 authorize a deduction from the constitutional gas tax.

24 (2) Such report shall show in detail the number of  
 25 gallons so sold or removed from storage and delivered by the  
 26 refiner, importer, jobber, or wholesaler in the state, and the  
 27 destination as to the county in the state to which the motor  
 28 fuel was delivered for resale at retail or use shall be  
 29 specified in the report. The total taxable gallons sold shall  
 30 agree with the total gallons reported to the county  
 31 destinations for resale at retail or use. All gallons of

1 motor fuel sold shall be invoiced and shall name the county of  
2 destination for resale at retail or use.

3 (3) All refiners, importers, jobbers, and wholesalers  
4 shall report monthly.

5 (a) The consumption of motor fuel by the licensee and  
6 the county or counties in which the gallons of motor fuel were  
7 consumed.

8 (b) All sales to the ultimate consumer and the county  
9 or counties to which the gallons of motor fuel were delivered.

10 (c) All sales to retail dealers and service stations  
11 and the county or counties to which the gallons of motor fuel  
12 were delivered.

13 ~~(4) The taxes herein levied and assessed shall be in~~  
14 ~~addition to any and all other taxes authorized, imposed,~~  
15 ~~assessed, or levied on motor fuel under any laws of this~~  
16 ~~state.~~

17 Section 16. Section 206.09, Florida Statutes, is  
18 renumbered as section 206.206, Florida Statutes, and  
19 subsections (1) and (4) of said section are amended to read:

20 206.206 ~~206-09~~ Reports from carriers transporting  
21 motor fuel or similar products.--

22 (1) Every railroad company, pipeline company, water  
23 transportation company, and common carrier transporting motor  
24 fuel, casinghead gasoline, natural gasoline, naphtha, or  
25 distillate, either in interstate or intrastate or foreign  
26 commerce, to points within Florida, and every person  
27 transporting motor fuel, casinghead gasoline, natural  
28 gasoline, naphtha, or distillate, by whatever manner, to a  
29 point in Florida from any point outside of said state, who is  
30 not required by the provisions of part I, part II, or part III  
31 of this chapter to be licensed under s. 206.151 ~~st-206-02~~ or

1 by the laws of Florida to make reports shall file a statement  
2 setting forth:

3 (a) The name under which such person is transacting  
4 business within the state.

5 (b) The location with street number address of such  
6 person's principal office or place of business within the  
7 state.

8 (c) The name and address of the owner or the names and  
9 addresses of the partners, if such person is a partnership, or  
10 the principal officers, if such person is a corporation or  
11 association.

12 ~~(4)--If any such person or company required to file~~  
13 ~~under this section fails to make a complete report, the~~  
14 ~~department shall impose, in addition to any other penalty or~~  
15 ~~interest due, a penalty in the amount of \$100.~~

16 Section 17. Section 206.10, Florida Statutes, is  
17 renumbered as section 206.225, Florida Statutes, and amended  
18 to read:

19 206.225 ~~206.10~~ Reports to be filed whether taxes due  
20 or not.--All statements or reports required by ~~part I or part~~  
21 ~~II of~~ this chapter and the gas tax laws of this state to be  
22 made to the department monthly shall be filed each month,  
23 regardless of whether or not a gas tax is due under the  
24 provisions of the laws of Florida.

25 Section 18. Section 206.48, Florida Statutes, is  
26 renumbered as section 206.235, Florida Statutes, and amended  
27 to read:

28 206.235 ~~206.48~~ Reports required of refiners,  
29 importers, jobbers, and wholesalers.--Each refiner, importer,  
30 jobber, or wholesaler of motor fuels shall, when making his  
31 report to the Department of Revenue of the amount of such



1 products sold or removed from storage in this state upon which  
 2 the tax provided is due and payable by him to the department,  
 3 at the same time report to the department each and every sale  
 4 made by such person of any quantity of motor fuel which shall  
 5 not have been at the time of such sale divested of its  
 6 interstate or foreign character, which report shall show the  
 7 name and business location of the person to whom the same is  
 8 sold in this state. Every refiner, importer, jobber, or  
 9 wholesaler shall, at the time other reports are required to be  
 10 made to the department, report to the department each and  
 11 every purchase of such products not theretofore divested of  
 12 their interstate or foreign character made by such person upon  
 13 which the tax is shown by the invoice thereof to have been  
 14 assumed for report and payment by the refiner, importer,  
 15 jobber, or wholesaler selling to him.

16 Section 19. Section 206.485, Florida Statutes, is  
 17 renumbered as section 206.245, Florida Statutes, and amended  
 18 to read:

19 206.245 ~~206-485~~ Tracking system reporting  
 20 requirements.--The information required for tracking movements  
 21 of petroleum products pursuant to ss. 206.206, 206.213, and  
 22 206.235 ~~ss.-206-087-206-097-206-095,-and-206-48~~ shall be  
 23 submitted in the manner prescribed by the executive director  
 24 of the department by rule. The rule shall include, but not be  
 25 limited to, the data elements, the format of the data  
 26 elements, and the method and medium of transmission to the  
 27 department.

28 Section 20. Section 206.62, Florida Statutes, is  
 29 renumbered as section 206.253, Florida Statutes, and  
 30 subsections (1), (2), (3), (4), (5), and (6) of said section  
 31 are amended to read:

1            206.253 ~~206.62~~ Certain sales to United States tax  
2 exempt; rules and regulations.--

3            (1) All motor fuel sold to the United States or its  
4 departments or agencies is exempt from any tax imposed by s.  
5 206.101 or s. 206.102 ~~Every-refiner-or-importer-of-motor-fuels~~  
6 ~~shall-be-exempt-from-the-payment-of-all-excise-taxes-upon~~  
7 ~~motor-fuels-sold-by-such-person-in-the-state-to-the-United~~  
8 ~~States-or-its-departments-or-agencies~~ when the motor fuel is  
9 sold and delivered by ~~the-refiner-or-importer~~ in bulk lots of  
10 not less than 500 gallons in each delivery to and for the  
11 exclusive use by the United States or its departments or  
12 agencies.

13            (2) Every refiner, importer, jobber, or wholesaler of  
14 motor fuels who has purchased such fuel tax exempt from a  
15 refiner or importer shall be exempt from the payment of all  
16 excise taxes upon untaxed motor fuels sold by such licensee in  
17 the state to the United States or its departments or agencies  
18 when the motor fuel is sold and delivered by such licensee in  
19 bulk lots of not less than 500 gallons in each delivery to and  
20 for the exclusive use by the United States or its departments  
21 or agencies.

22            (3) Every wholesaler, refiner, importer, or jobber of  
23 motor fuels who has purchased such fuel tax paid shall be  
24 entitled to a monthly refund of all excise taxes paid upon  
25 motor fuels sold in the state to the United States or its  
26 departments or agencies when the motor fuel is sold and  
27 delivered by such licensee in bulk lots of not less than 500  
28 gallons in each delivery to and for the exclusive use by the  
29 United States or its departments or agencies.

30            (4) Wholesalers, refiners, importers, or jobbers may,  
31 instead of filing a refund request, take credit for taxes paid

1 on such sales to the United States Government against tax due  
2 on monthly returns.

3 (5) Refiners, importers, wholesalers, and jobbers are  
4 not exempt from the tax levied under this part ~~or part II of~~  
5 ~~chapter 212~~ on motor fuel sold or delivered to post exchanges  
6 located on United States military reservations.

7 (6) All purchases of motor fuel by the United States  
8 or its departments or agencies when sold through or by post  
9 exchanges located on United States military reservations are  
10 subject to the tax levied under this part ~~or part II of~~  
11 ~~chapter 212~~.

12 Section 21. Section 206.42, Florida Statutes, is  
13 renumbered as section 206.255, Florida Statutes, and amended  
14 to read:

15 206.255 ~~206.42~~ Aviation gasoline exempt from excise  
16 tax.--

17 (1) Each and every retail dealer in aviation fuel  
18 gasoline in the state by whatever name designated who  
19 purchases from any refiner, importer, jobber, or wholesaler,  
20 and sells, aviation gasoline (A.S.T.M. specification D-910 or  
21 current specification), of such quality not adapted for use in  
22 ordinary motor vehicles, being designed for and sold and  
23 exclusively used for aircraft, is exempted from the payment of  
24 taxes levied under this part, but is subject to the tax levied  
25 under part III.

26 (2) A refiner, importer, jobber, or wholesaler may be  
27 entitled to a refund of taxes paid under this chapter on all  
28 gallons of aviation motor fuel sold to aviation retail dealers  
29 monthly. A refiner, importer, jobber, or wholesaler may  
30 instead of refund take credit for taxes paid on his monthly  
31 returns.

1 (3) All sales of aviation motor fuel must be in  
2 compliance with s. 206.275 ~~or 206.425~~ to qualify for the  
3 exemption.

4 Section 22. Section 206.41, Florida Statutes, is  
5 renumbered as section 206.263, Florida Statutes, and amended  
6 to read:

7 206.263 ~~206.41~~ Sale of motor fuel for export;  
8 exemptions Constitutional gas tax imposed. --

9 ~~(1) An excise or license tax of 2 cents per gallon is~~  
10 ~~imposed upon the first sale or first removal from storage~~  
11 ~~after importation into this state of motor fuel upon which~~  
12 ~~such tax has not been paid or the payment thereof has not been~~  
13 ~~lawfully assumed by some person handling the same in this~~  
14 ~~state. This tax, which is the tax as levied by s. 167, Art. IX~~  
15 ~~of the Constitution of 1885, as amended, and continued by s.~~  
16 ~~9(c), Art. XII of the 1968 Constitution, as amended, and which~~  
17 ~~is therein referred to as the "second gas tax," is hereby~~  
18 ~~designated the "constitutional gas tax." Revenues from this~~  
19 ~~levy of tax become state funds at the time of collection by~~  
20 ~~the refiner, importer, or wholesaler, who shall act as agent~~  
21 ~~for the state in the collection of such tax whether he is the~~  
22 ~~ultimate seller or not. For purposes of this subsection, the~~  
23 ~~term "first sale" does not include exchanges or loans, gallon-~~  
24 ~~for-gallon, of motor fuel between licensed refiners before the~~  
25 ~~fuel has been sold or removed through the loading rack or~~  
26 ~~transfers between terminal facilities owned by the same~~  
27 ~~taxpayer. The tax on motor fuel first imported into this~~  
28 ~~state by a licensed refiner storing such fuel in a terminal~~  
29 ~~facility shall be imposed when the product is first removed~~  
30 ~~through the loading rack. The tax shall be remitted by the~~  
31

1 ~~licensed refiner who owned the motor fuel immediately prior to~~  
 2 ~~removal of such fuel from storage.~~

3       ~~(2)(a) The sale of motor fuel for export from the~~  
 4 ~~state by a refiner or importer is exempt from the taxes~~  
 5 ~~imposed by this part when exempted by any provision of the~~  
 6 ~~Constitution of the United States or of the State of Florida.~~  
 7 ~~The sale of motor fuel for export from the state which is not~~  
 8 ~~exempted from the taxes imposed by this part either by the~~  
 9 ~~Constitution of the United States or of the State of Florida~~  
 10 ~~shall also be exempt, but only if both the seller and the~~  
 11 ~~exporter of the motor fuel are duly licensed as a refiner or~~  
 12 ~~importer.~~

13       ~~(1)(b):~~ The sale of motor fuel for export from this  
 14 state by a wholesaler, refiner, importer, or jobber is exempt  
 15 from the taxes imposed by this part when exempted by any  
 16 provision of the Constitution of the United States or of the  
 17 State of Florida. The sale of motor fuel for export from the  
 18 state which is not exempted from the taxes imposed by this  
 19 part either by the Constitution of the United States or of the  
 20 State of Florida shall also be exempt, ~~but only if the~~  
 21 ~~purchaser of the motor fuel is licensed as a refiner or~~  
 22 ~~importer.~~

23       ~~2. A refiner, importer, wholesaler, or jobber may be~~  
 24 ~~entitled to a refund of taxes paid on gallons of motor fuel~~  
 25 ~~exported by filing a refund request monthly. A refiner,~~  
 26 ~~importer, or wholesaler may, instead of refund, take credit~~  
 27 ~~for taxes paid on gallons exported on his monthly returns.~~

28       ~~(2)(c)~~ A wholesaler, refiner, jobber, or importer may  
 29 export gallons of motor fuel to his own location tax exempt if  
 30 the licensee maintains complete and adequate shipping  
 31 documentation that the motor fuel was removed from the state

1 Adequate shipping documentation shall include bills of lading  
2 and delivery tickets provided by the seller or by a common  
3 carrier hauling the fuel or by complete shipping logs provided  
4 by the purchaser along with receiving records from the  
5 location outside of the state.

6 ~~(3)†~~ Violation of any provision of this section may  
7 subject the licensee to both revocation of license and  
8 liability for taxes on all fuel claimed as exported from the  
9 state.

10 ~~(4)†~~ Motor fuel in the fuel tanks in any motor  
11 vehicle entering this state used to propel such motor vehicle  
12 shall be exempt from the taxes imposed by this part. "Fuel  
13 tanks" shall mean the reservoir or receptacle attached to the  
14 motor vehicle by the manufacturer as the container for fuel  
15 used to propel the vehicle.

16 Section 23. Section 206.425, Florida Statutes, is  
17 renumbered as section 206.275, Florida Statutes, and amended  
18 to read:

19 206.275 ~~206-425~~ Tax-exempt purchasers; refiner,  
20 jobber, wholesaler, or importer to obtain affidavits or resale  
21 certificates; relief from audit or assessment; refunds  
22 authorized.--

23 (1) Each refiner, jobber, wholesaler, or importer  
24 shall request signed affidavits or resale certificates of all  
25 persons who purchase or obtain motor fuel from such refiner,  
26 jobber, wholesaler, or importer and who are not required to  
27 pay the tax imposed by s. 206.101 or s. 206.102(1) or (2) ~~this~~  
28 ~~part~~ at the time of such purchase. The affidavits or resale  
29 certificates shall show the license number issued by the  
30 department to purchasers who are authorized to buy motor fuel  
31 tax exempt and to act as agents of the state in collecting and

1 remitting the tax. Such affidavits or resale certificates  
2 should be executed by the refiner, jobber, wholesaler, or  
3 importer before or at the time of the first sale or removal  
4 from storage.

5 (2) A refiner, wholesaler, jobber, or importer may, in  
6 lieu of obtaining an affidavit, include on the sale invoice or  
7 other document evidencing title passage the license number of  
8 the purchaser as well as the refiner's, wholesaler's,  
9 jobber's, or importer's license number at the time of the sale  
10 to exempt a specific transaction.

11 (3) The provisions of this section shall apply to  
12 sales of aviation motor fuel to licensed aviation motor fuel  
13 retail dealers.

14 (4) In order to seek relief from an audit or  
15 assessment completed on or after June 24, 1984, a person may,  
16 through the informal protest procedure established under s.  
17 213.21 and the rules of the department, provide the department  
18 with evidence of the exempt status of a sale or removal  
19 transfer of motor fuel. The department shall accept resale  
20 certificates or affidavits properly executed when submitted  
21 during the protest period, but such certificates or affidavits  
22 may not be considered in proceedings instituted under chapter  
23 120 or in actions instituted in circuit court under chapter  
24 72, unless such certificates or affidavits have been submitted  
25 and considered by the department under the procedure  
26 established in s. 213.21.

27 (5) A request for review shall be made in writing to  
28 the executive director of the department. If it is found that  
29 any person applying for relief under this chapter has paid the  
30 tax and is entitled to a refund, the Comptroller may issue the  
31 refund to that person.

1 Section 24. Section 212.67, Florida Statutes, is  
 2 renumbered as section 206.285, Florida Statutes, sections  
 3 206.626 and 206.13, Florida Statutes, are transferred to said  
 4 section as subsections (13) and (14), respectively, and said  
 5 section is amended to read:

6 206.285 ~~212-67~~ Refunds.--

7 (1) The following refunds apply to the tax imposed by  
 8 part I and part II of this chapter ~~this part~~, to the extent  
 9 provided in this section:

10 (a) Refunds on fuel used for local transit  
 11 operations.--Any person who uses motor fuel ~~or special fuel~~ on  
 12 which the taxes imposed by s. 206.101(1)(d), s. 206.102(2), or  
 13 s. 206.102(3) ~~this part~~ have been paid for any system of mass  
 14 public transportation authorized to operate within any city,  
 15 town, municipality, county, or transit authority region in  
 16 this state, as distinguished from any over-the-road or charter  
 17 system of public transportation, is entitled to a refund of  
 18 such taxes. A public transportation system or transit system  
 19 as defined above may operate outside its limits when such  
 20 operation is found necessary to adequately and efficiently  
 21 provide mass public transportation services for the city,  
 22 town, or municipality involved. A transit system as defined  
 23 above includes demand service that is an integral part of a  
 24 city, town, municipality, county, or transit or transportation  
 25 authority system but does not include independent taxicab or  
 26 limousine operations. The terms "city," "county," and  
 27 "authority" as used in this paragraph include any city, town,  
 28 municipality, county, or transit or transportation authority  
 29 organized in this state by virtue of any general or special  
 30 law enacted by the Legislature.

31



1 (b) Refunds to retail dealers for shrinkage of motor  
 2 fuel.--Every retail dealer licensed under s. 206.156 ~~or~~  
 3 ~~206.404~~ is entitled to a refund of 1.4 percent of the tax  
 4 imposed by s. 206.101(1)(d) ~~this part~~ on motor fuel purchased  
 5 by such retail dealer to cover losses due to evaporation and  
 6 shrinkage of motor fuel. However, any retail dealer who sells  
 7 motor fuel within a county which imposes a tax under s.  
 8 206.102 shall ~~or 336.0217 or 336.0257 or s. 336.026~~ may take  
 9 as a credit against any tax due on his local option gas tax  
 10 return the amount to which he is entitled as a refund under  
 11 this paragraph. Nothing in this paragraph shall be construed  
 12 to allow this credit to be subtracted from the moneys  
 13 deposited in the Local Option Gas Tax Trust Fund or the Voted  
 14 Gas Tax Trust Fund.

15 (c) Return of taxes ~~tax~~ to municipalities and  
 16 counties.--The ~~portion~~ portions of the taxes ~~tax~~ imposed by s.  
 17 206.101(1)(b) or s. 206.101(1)(d) ~~this part~~ which results from  
 18 the collection of such taxes paid by a municipality or county  
 19 on motor fuel ~~or special fuel~~ for use in a motor vehicle  
 20 operated by it shall be returned to the governing body of such  
 21 municipality or county for the construction, reconstruction,  
 22 and maintenance of roads and streets within the municipality  
 23 or county.

24 (d) Return of taxes ~~tax~~ to school districts and  
 25 nonpublic schools.--

26 1. The portion of the tax imposed by s. 206.101(1)(b)  
 27 which results from the collection of such tax paid by a school  
 28 district or by a private contractor operating school buses for  
 29 a school district, on motor fuel for use in a motor vehicle  
 30 operated by such district or private contractor shall be  
 31 returned to the governing body of each such school district.

1           2.1 The portion of the tax imposed by s.  
 2 206.101(1)(d) ~~this part~~ which results from the collection of  
 3 such tax paid by a school district or a private contractor  
 4 operating school buses for a school district or by a nonpublic  
 5 school on motor fuel ~~or special-fuel~~ for use in a motor  
 6 vehicle operated by such district, private contractor, or  
 7 nonpublic school shall be returned to the governing body of  
 8 such school district or to such nonpublic school.

9           3.2 Funds returned to school districts shall be used  
 10 to fund construction, reconstruction, and maintenance of roads  
 11 and streets within the school district required as a result of  
 12 the construction of new schools or the renovation of existing  
 13 schools. The school board shall select the projects to be  
 14 funded; however, the first priority shall be given to projects  
 15 required as the result of the construction of new schools,  
 16 unless a waiver is granted by the affected county or municipal  
 17 government. Funds returned to nonpublic schools shall be used  
 18 for transportation-related purposes.

19           (e) Refunds to farmers, fishermen, and  
 20 aquaculturists.--

21           1. Any person who uses any motor fuel ~~or special-fuel~~  
 22 for agricultural, aquacultural, or commercial fishing purposes  
 23 on which fuel the tax imposed by s. 206.101(1)(c), s.  
 24 206.101(1)(d), s. 206.102(2), or s. 206.102(3) ~~this part~~ has  
 25 been paid is entitled to a refund of such tax.

26           2.a. For the purposes of this paragraph, "agricultural  
 27 and aquacultural purposes" means motor fuel ~~or special-fuel~~  
 28 used in any tractor, vehicle, or other farm equipment which is  
 29 used exclusively on a farm or for processing farm products on  
 30 the farm, and no part of which fuel is used in any vehicle or  
 31 equipment driven or operated upon the public highways of this

1 state. This restriction does not apply to the movement of a  
 2 farm vehicle or farm equipment between farms. The  
 3 transporting of bees by water and the operating of equipment  
 4 used in the apiary of a beekeeper shall be also deemed an  
 5 agricultural purpose.

6 b. For the purposes of this paragraph, "commercial  
 7 fishing and aquacultural purposes" means motor fuel ~~or special~~  
 8 ~~fuel~~ used in the operation of boats, vessels, or equipment  
 9 used exclusively for the taking of fish, crayfish, oysters,  
 10 shrimp, or sponges from salt or fresh waters under the  
 11 jurisdiction of the state for resale to the public, and no  
 12 part of which fuel is used in any vehicle or equipment driven  
 13 or operated upon the highways of this state; but the term may  
 14 in no way be construed to include fuel used for sport or  
 15 pleasure fishing.

16 ~~(f)--Refunds to refiners, importers, and wholesalers on~~  
 17 ~~fuel used in blending gasoline--Any refiner, importer, or~~  
 18 ~~wholesaler who has paid the tax imposed by this part on~~  
 19 ~~purchases of motor fuel which is blended with ethyl alcohol to~~  
 20 ~~produce gasoline shall be entitled to a refund of 4 cents per~~  
 21 ~~gallon of such tax until July 17, 1985, and then shall be~~  
 22 ~~entitled to a refund of 2 cents per gallon of such tax through~~  
 23 ~~June 30, 1987.--Such person may choose to adjust any~~  
 24 ~~overpayment authorized in this paragraph on the monthly motor~~  
 25 ~~fuel tax report.--This paragraph operates retroactively to~~  
 26 ~~April 17, 1983, and applies to motor fuels blended with ethyl~~  
 27 ~~alcohol on or after April 17, 1983.~~

28 ~~(g)--Refunds to wholesale blenders for fuel used in~~  
 29 ~~blending gasoline--Any wholesale blender who is not licensed~~  
 30 ~~as a refiner, importer, or wholesaler who purchases motor fuel~~  
 31 ~~for blending with ethyl alcohol to produce gasoline shall be~~

1 ~~entitled to apply for a refund of 4 cents per gallon of such~~  
2 ~~tax until July 17, 1985, and then shall be entitled to apply~~  
3 ~~for a refund of 2 cents per gallon of such tax through June~~  
4 ~~30, 1987. This paragraph operates retroactively to April 17~~  
5 ~~1983, and applies to motor fuels blended with ethyl alcohol on~~  
6 ~~or after April 17, 1983.~~

7 (2)(a) To procure a permit, a person must file with  
8 the department an application, on forms furnished by the  
9 department, stating that he is entitled to a refund according  
10 to the provisions of subsection (1) and that he intends to  
11 file an application for refund for a calendar quarter during  
12 the current calendar year, and must furnish the department  
13 such other information as the department requests.

14 (b) No person, municipality, county, school district,  
15 or nonpublic school may in any event be allowed a refund  
16 unless he has filed the application provided for in paragraph  
17 (a) with the department. A permit shall be effective for the  
18 year issued by the department and shall be continuous from  
19 year to year so long as the permitholder files refund claims  
20 from year to year. In the event the permitholder fails to  
21 file a claim for any year, he must apply for a new permit.

22 (c) If an applicant for a refund permit has violated  
23 any provision of this section or any regulation pursuant  
24 hereto; or has been convicted of bribery, theft, or false  
25 swearing within the period of 5 years preceding the  
26 application; or if the department has evidence of the  
27 financial irresponsibility of the applicant, the department  
28 may require the applicant to execute a corporate surety bond  
29 of \$1,000 to be approved by the department, conditioned upon  
30 the payment of all taxes, penalties, and fines for which such  
31 applicant may become liable under this part.

1           (3)(a) When motor fuel ~~or special fuel~~ is sold to a  
2 person who claims to be entitled to a refund under this  
3 section, the seller of such motor fuel ~~or special fuel~~ shall  
4 make out a sales invoice, which shall contain the following  
5 information:

- 6           1. The name, post-office address, and residence  
7 address of the purchaser.
- 8           2. The number of gallons purchased.
- 9           3. The date on which the purchase was made.
- 10          4. The price paid for the motor fuel ~~or special fuel~~.
- 11          5. The name and place of business of the seller of the  
12 motor fuel ~~or special fuel~~.
- 13          6. The license number, or other identification number,  
14 of the motor vehicle or boat of the purchaser.

15           (b) The sales invoice shall be retained by the  
16 purchaser for attachment to his application for a refund, as a  
17 part thereof. No refund will be allowed unless the seller has  
18 executed such an invoice and unless proof of payment of the  
19 taxes for which the refund is claimed is attached. The  
20 department may refuse to grant a refund if the invoice is  
21 incomplete and fails to contain the full information required  
22 in this subsection.

23           (c) No person may execute a sales invoice, as  
24 described in paragraph (a), except a refiner, importer,  
25 wholesaler, dealer, jobber, or retail dealer, or a duly  
26 authorized agent thereof. ~~No refund invoice may be executed  
27 for a purchase from a retail service station.~~

28           (d) ~~Notwithstanding provisions of this subsection to  
29 the contrary,~~ The department may ~~has authority to~~ designate  
30 certain retail service stations as agents of refiners,  
31

1 importers, wholesalers, jobbers, or dealers when no refiners,  
2 importers, wholesalers, jobbers, or dealers are available.

3 (e) Notwithstanding provisions of this subsection to  
4 the contrary, refunds to a school district for fuel consumed  
5 by school buses operated for the district by private  
6 contractors shall be based on an estimate of taxes paid. The  
7 estimate shall be determined quarterly by dividing the total  
8 miles traveled by such vehicles for school purposes by their  
9 average miles per gallon, as determined by the department, and  
10 multiplying the result by the applicable tax rate per gallon.  
11 It is the responsibility of the school district to provide  
12 information relevant to this determination.

13 (4)(a) No refund may be authorized unless a sworn  
14 application therefor containing such information as the  
15 department may determine is filed with the department not  
16 later than the last day of the month following the quarter for  
17 which the refund is claimed. However, when a justified excuse  
18 for late filing is presented to the department and the last  
19 preceding claim was filed on time, the deadline for filing may  
20 be extended an additional month. No refund will be authorized  
21 unless the amount due is for \$5 or more for any refund period  
22 and unless application is made upon forms prescribed by the  
23 department.

24 (b) Claims made for refunds provided pursuant to  
25 subsection (1) shall be paid quarterly. The department shall  
26 deduct a fee of \$2 for each claim, which fee shall be  
27 deposited in the General Revenue Fund.

28 (5) The right to receive any refund under the  
29 provisions of this section is not assignable, except to the  
30 executor or administrator, or to the receiver, trustee in  
31

1 bankruptcy, or assignee in an insolvency proceeding, of the  
2 person entitled to the refund.

3 (6)(a) Each refiner, importer, wholesaler, jobber,  
4 dealer, or retail dealer shall, in accordance with the  
5 requirements of the department, keep at his principal place of  
6 business in this state or at the bulk plant where the sale is  
7 made a complete record or duplicate sales tickets of all motor  
8 ~~fuel or special-fuel~~ sold by him for which a refund provided  
9 in this section may be claimed, which records shall give the  
10 date of each such sale, the number of gallons sold, the name  
11 of the person to whom sold, and the sale price. No refiner,  
12 importer, wholesaler, dealer, jobber, or retail dealer, or his  
13 agent or employee, may acknowledge or assist in the  
14 preparation of any claim for tax refund.

15 (b) Every person to whom a refund permit has been  
16 issued under this section shall, in accordance with the  
17 requirements of the department, keep at his residence or  
18 principal place of business in this state a record of each  
19 purchase of motor fuel ~~or special-fuel~~ from a refiner,  
20 importer, wholesaler, dealer, jobber, or retail dealer, or his  
21 authorized agent; the number of gallons purchased; the name of  
22 the seller; the date of the purchase; and the sale price.

23 (c) The records required to be kept under this  
24 subsection shall at all reasonable hours be subject to audit  
25 or inspection by the department or by any person duly  
26 authorized by it. Such records shall be preserved and may not  
27 be destroyed until 3 years after the date the motor fuel ~~or~~  
28 ~~special-fuel~~ to which they relate was sold or purchased.

29 (d) The department shall keep a permanent record of  
30 the amount of refund claimed and paid to each claimant. Such  
31 records shall be open to public inspection.

1 (7) Agents of the department are authorized to go upon  
2 the premises of any permit holder or refiner, importer, jobber,  
3 or wholesaler as defined in this part, or duly authorized  
4 agent thereof, to make inspection to ascertain any matter  
5 connected with the operation of this section or the  
6 enforcement hereof. However, no agent may enter the dwelling  
7 of any person without the consent of the occupant or authority  
8 from a court of competent jurisdiction.

9 (8) If any taxes are refunded erroneously, the  
10 department shall advise the payee by registered mail of the  
11 erroneous refund. If the payee fails to reimburse the state  
12 within 15 days after the receipt of the letter, an action may  
13 be instituted by the department against such payee in the  
14 circuit court, and the department shall recover from the payee  
15 the amount of the erroneous refund plus a penalty of 25  
16 percent.

17 (9) No person shall:

18 (a) Knowingly make a false or fraudulent statement in  
19 an application for a refund permit or in an application for a  
20 refund of any taxes under this section;

21 (b) Fraudulently obtain a refund of such taxes;

22 (c) Knowingly aid or assist in making any such false  
23 or fraudulent statement or claim; or

24 (d) Buy motor fuel or ~~special-fuel~~ to be used for any  
25 purpose other than as provided in this section.

26 (10) The refund permit of any person who violates any  
27 provision of this section shall be revoked by the department  
28 and may not be reissued until 2 years have elapsed from the  
29 date of such revocation. The refund permit of any person who  
30 violates any other provision of this part may be suspended by  
31



1 the department for any period, in its discretion, not  
2 exceeding 6 months.

3 (11) The department shall prescribe a permit form  
4 which shall be used to secure refunds under this section and  
5 under this chapter 206.

6 (12) Any refiner, importer, jobber, or wholesaler  
7 selling motor fuel to the United States Government or its  
8 departments or agencies upon which an excise tax has been paid  
9 may apply for a refund pursuant to s. 206.253.

10 (13) Any ethanol dealer who has paid the tax imposed  
11 under this chapter on purchases of motor fuel used for  
12 ~~denaturing from a duly-licensed refiner, importer, or~~  
13 ~~wholesaler~~ is entitled to a refund. No refund permit is  
14 required. Application for a refund shall be made on a form  
15 prescribed by the department.

16 (14) When any taxes, interest, or penalties imposed by  
17 part I, or part II, or part III of this chapter have been  
18 erroneously paid or illegally collected, the department may  
19 permit the refiner, importer, jobber, or wholesaler within 1  
20 year to take credit against a subsequent tax report for the  
21 amount of the erroneous or illegal amount overpaid, or such  
22 person may apply for refund as provided by s. 215.26.

23 (15) A refiner, importer, jobber, or wholesaler is  
24 entitled to a refund of taxes paid on gallons of motor fuel  
25 exported by filing a refund request monthly and may, instead  
26 of refund, take credit for taxes paid on gallons exported on  
27 his monthly returns.

28 Section 25. Section 206.11, Florida Statutes, is  
29 renumbered as section 206.303, Florida Statutes, and  
30 subsection (2) of said section is amended to read:

31 206.303 ~~206-11~~ Penalties.--

1 (2) Any person:

2 (a) Who willfully refuses or neglects to make any  
3 statement, report, or return required by the provisions of  
4 this law;

5 (b) Who knowingly makes, or assists any other person  
6 in making, a false statement in a return or report or in  
7 connection with an application for refund of any tax;

8 (c) Who knowingly collects, or attempts to collect or  
9 causes to be paid to him or to any other person, either  
10 directly or indirectly, any refund of such tax without being  
11 entitled to the same; or

12 (d) Who violates any of the provisions of part I or  
13 part II of this chapter, a penalty for which is not otherwise  
14 provided,

15

16 is guilty of a felony of the third degree, punishable as  
17 provided in s. 775.082, s. 775.083, or s. 775.084; and, in  
18 addition thereto, the department may revoke or suspend the  
19 license of any violator. Each day or part thereof during  
20 which any person engages in business without being the holder  
21 of an uncanceled license as provided by part I or part II of  
22 this chapter shall constitute a separate offense within the  
23 meaning of this section. In addition to the penalty imposed  
24 by part I or part II of this chapter, the defendant shall be  
25 required to pay all gas taxes, interest, and penalties due to  
26 the state. The penalties provided in this section shall be in  
27 addition to those provided for in s. 206.305 ~~s. 206.44~~.

28 Section 26. Section 206.44, Florida Statutes, is  
29 renumbered as section 206.305, Florida Statutes, and amended  
30 to read:

31

1            206.305 ~~206-44~~ Penalty and interest for failure to  
2 report on time; penalty and interest on tax deficiencies.--

3            (1) If any refiner, importer, jobber, or wholesaler  
4 fails to make a report or pay the taxes due as required by  
5 this chapter, the department shall add a penalty in the amount  
6 of 5 percent of any unpaid tax if the failure is for not more  
7 than 1 month, with an additional 5 percent of any unpaid tax  
8 for each additional month or fraction thereof during which the  
9 failure continues. However, such penalty may not exceed 25  
10 percent in the aggregate of any unpaid tax. Furthermore, in  
11 no event may the penalty assessed be less than \$5. The  
12 department shall collect the tax, together with the penalty  
13 and costs, in the same manner as other delinquent taxes are  
14 collected. If any licensed refiner, importer, jobber,  
15 wholesaler, carrier, or terminal facility fails to make a  
16 complete report as required by this chapter, the department  
17 shall impose, in addition to any other penalty and interest  
18 due, a penalty in the amount of \$100. If a retail dealer  
19 fails to make a complete report, the department shall impose a  
20 penalty of \$30.

21            (2) Any payment that is not received by the department  
22 on or before the due date as provided in ss. 206.102 and  
23 206.202 ~~s--206-43~~ shall bear interest at the rate of 1 percent  
24 per month, from the date due until paid. Interest on any  
25 delinquent tax shall be calculated beginning on the 21st day  
26 of the month for which the tax is due, except as otherwise  
27 provided in this part.

28            Section 27. Section 206.426, Florida Statutes, is  
29 renumbered as section 206.325, Florida Statutes, and amended  
30 to read:

31

1           ~~206.325~~ ~~286:426~~ Resale and exemption certificates;  
2 offenses; penalties.--Any person who:

3           (1) Issues or assists in issuing a fraudulent resale  
4 or exemption certificate to obtain nontaxed motor fuel from a  
5 licensed refiner, importer, jobber, or wholesaler;

6           (2) Has issued a resale or exemption certificate and  
7 whose exempt status has become nonexempt and neglects, fails,  
8 or refuses to inform the licensed refiner, importer, jobber,  
9 or wholesaler to whom the certificate was issued of any such  
10 change in status;

11           (3) Has claimed exemption by issuing a license number  
12 at the time of purchase to obtain fuel tax exempt when not  
13 entitled by provisions of this chapter; or

14           (4) Has claimed to have exported gallons of motor fuel  
15 by affidavit or return and has no proof that said fuel was  
16 exported;

17  
18 is guilty of a felony of the third degree, punishable as  
19 provided in s. 775.082, s. 775.083, or s. 775.084. In  
20 addition, such person shall pay any tax, penalty, and interest  
21 assessed, plus a mandatory penalty of not less than \$500, or  
22 an amount equal to 100 percent of the tax, whichever is  
23 greater.

24           Section 28. Section 206.56, Florida Statutes, is  
25 renumbered as section 206.329, Florida Statutes, and amended  
26 to read:

27           ~~206.329~~ ~~286:56~~ Failure to account for tax collected;  
28 embezzlement.--If any person, refiner, importer, jobber, or  
29 wholesaler collects from another, upon an invoice rendered,  
30 the tax in this part contemplated, and fails to report and pay  
31 the same to the department as provided, with intent to

1 temporarily or permanently deprive the state of a right or  
 2 benefit to such moneys or appropriate such moneys to his own  
 3 use or that of another not entitled to such moneys, he shall  
 4 be deemed to be guilty of embezzlement of funds, the property  
 5 of the state, and upon conviction shall be punished as if  
 6 convicted of larceny of a like sum.

7 Section 29. Section 206.14, Florida Statutes, is  
 8 renumbered as section 206.355, Florida Statutes, and amended  
 9 to read:

10 206.355 ~~206.14~~ Inspection of records; audits;  
 11 hearings; forms; rules and regulations.--

12 ~~{i)--The department shall have the authority to~~  
 13 ~~prescribe all forms upon which reports shall be made to it and~~  
 14 ~~any other forms required for the proper administration of this~~  
 15 ~~law and shall prescribe and publish all rules and regulations~~  
 16 ~~for the enforcement of this part, which rules and regulations~~  
 17 ~~shall have the force and effect of law.~~

18 (1)(2) The department or any authorized deputy,  
 19 employee, or agent is authorized to audit and examine the  
 20 records, books, papers, and equipment of refiners, importers,  
 21 wholesalers, jobbers, retail dealers, terminals, or common  
 22 carriers to verify the truth and accuracy of any statement or  
 23 report and ascertain whether or not the tax imposed by this  
 24 law has been paid. No prior written notification is necessary  
 25 when the department believes the tax imposed under this  
 26 chapter ~~and part II of chapter 212~~ to be in jeopardy. The  
 27 department may correct by credit or refund any overpayment of  
 28 tax, penalty, or interest revealed by an audit and shall make  
 29 assessment of any deficiency in tax, penalty, or interest  
 30 determined to be due.  
 31

1           ~~(2)~~<sup>(3)</sup> The department or any of its duly authorized  
 2 agents shall have the power in the enforcement of the  
 3 provisions of this part to hold hearings, administer oaths to  
 4 witnesses, and take sworn testimony of any person and cause it  
 5 to be transcribed into writing; and for such purposes the  
 6 department is authorized to issue subpoenas and subpoenas  
 7 duces tecum, compel the attendance of witnesses and records,  
 8 and conduct such investigations as it may deem necessary.

9           ~~(3)~~<sup>(4)</sup> If any person unreasonably refuses access to  
 10 such records, books, papers or other documents, or equipment,  
 11 or if any person fails or refuses to obey such subpoenas duces  
 12 tecum or to testify, except for lawful reasons, before the  
 13 department or any of its authorized agents, the department  
 14 shall certify the names and facts to the clerk of the circuit  
 15 court of any county; and the circuit court shall enter such  
 16 order against such person in the premises as the enforcement  
 17 of this law and justice requires.

18           ~~(4)~~<sup>(5)</sup> In any action or proceeding for the collection  
 19 of the tax and penalties or interest imposed in connection  
 20 therewith, an assessment by the department of the amount of  
 21 the tax, penalties, or interest due shall be prima facie  
 22 evidence of the claim of the state, and the burden of proof  
 23 shall be upon the person charged to show the assessment was  
 24 incorrect and contrary to law.

25           Section 30   Section 206.18, Florida Statutes, is  
 26 renumbered as section 206.363, Florida Statutes, and  
 27 subsection (1) of said section is amended to read:

28           206.363 ~~206.18~~ Discontinuance or transfer of business;  
 29 liability of tax, procedure; penalty for violation.--

30           (1) Whenever a person ceases to engage in business as  
 31 a refiner, importer, jobber, retail dealer, or wholesaler

1 within the state by reason of the discontinuance, sale, or  
 2 transfer of the business, such person shall notify the  
 3 department in writing at least 10 days prior to the time the  
 4 discontinuance, sale, or transfer takes effect. Such notice  
 5 shall give the date of discontinuance and, in the event of a  
 6 sale or transfer of the business, the date thereof and the  
 7 name and address of the purchaser or transferee. All gas  
 8 taxes, penalties, and interest not due and payable under the  
 9 provisions of the laws of this state shall, notwithstanding  
 10 such provisions, become due and payable concurrently with such  
 11 discontinuance, sale, or transfer; and any such person shall,  
 12 concurrently with such discontinuance, sale, or transfer, make  
 13 a report, pay all such taxes, interest, and penalties, and  
 14 surrender to the department the license certificate  
 15 theretofore issued to said person by the department.

16 Section 31. Section 206.06, Florida Statutes, is  
 17 renumbered as section 206.365, Florida Statutes, and amended  
 18 to read:

19 206.365 ~~206-06~~ Estimate of amount of gas taxes due and  
 20 unpaid.--

21 (1) Whenever any refiner, importer, jobber, or  
 22 wholesaler neglects or refuses to make and file any report for  
 23 any calendar month, as required by the gas tax laws of this  
 24 state, or files an incorrect or fraudulent report, or is in  
 25 default in the payment of any gas taxes and penalties thereon  
 26 payable under the laws of this state, the department shall,  
 27 from any information it may be able to obtain from its office  
 28 or elsewhere, estimate the number of gallons of motor fuel  
 29 with respect to which the refiner, importer, or wholesaler has  
 30 become liable for taxes under the gas tax laws of this state  
 31 and the amount of taxes due and payable thereon, to which sum

1 shall be added a penalty and interest as provided in s.  
 2 206.305 s-206-44.

3 (2) In any action or proceeding for the collection of  
 4 the gas tax and any penalties or interest imposed in  
 5 connection therewith, an assessment by the department of the  
 6 amount of the tax due and interest or penalties due to the  
 7 state shall constitute prima facie evidence of the claim of  
 8 the state, and the burden of proof shall be upon the refiner,  
 9 importer, jobber, or wholesaler to show that the assessment  
 10 was incorrect or contrary to law.

11 ~~(3) --if any refiner, importer, or wholesaler fails to~~  
 12 ~~make a complete report, including all schedules, the~~  
 13 ~~department shall add, in addition to any other penalty or~~  
 14 ~~interest due, a penalty in the amount of \$100.~~

15 Section 32. Section 206.07, Florida Statutes, is  
 16 renumbered as section 206.403, Florida Statutes, and amended  
 17 to read:

18 206.403 ~~206-07~~ Suits for collection of unpaid taxes.--

19 (1) Upon demand of the department, the Department of  
 20 Legal Affairs or any state attorney of any judicial circuit  
 21 shall bring appropriate actions in the name of the state, or  
 22 in the name of the Department of Revenue in the capacity of  
 23 its office, for the recovery of the above-mentioned taxes,  
 24 penalties, and interest, and judgment shall be rendered for  
 25 the amount so found to be due together with costs. However,  
 26 if it shall be found as a fact that such failure to pay was  
 27 willful on the part of any person, refiner, importer, jobber,  
 28 or wholesaler, judgment shall be rendered for double the  
 29 amount of the tax found to be due with costs. The department  
 30 may employ an attorney at law to institute and prosecute  
 31 proper proceedings to enforce payment of the gas taxes



1 provided for by the laws of this state and the penalties and  
2 interest provided for by part I or part II of this chapter and  
3 to fix the compensation for the services of said attorney at  
4 law.

5 (2) Any seller and purchaser convicted of conspiring  
6 to defraud the state of any tax imposed under this chapter may  
7 be held liable for the tax and any penalty and interest due on  
8 such tax.

9 Section 33. Section 206.075, Florida Statutes, is  
10 renumbered as section 206.408, Florida Statutes, and  
11 subsection (4) of said section is amended to read:

12 206.408 ~~206-075~~ Department's warrant for collection of  
13 unpaid taxes.--

14 (4) Nothing in this section shall be construed as  
15 forfeiting or waiving any rights to collect such taxes,  
16 interest, or penalties by an action upon any bond that may be  
17 filed with the department under the provisions of ~~part-i-or~~  
18 ~~part-ii-of~~ this chapter or by suit or otherwise; and in case  
19 such suit, action, or other proceeding is instituted for the  
20 collection of the tax, such suit, action, or other proceeding  
21 shall not be construed as waiving any other right herein  
22 provided. Any civil proceeding under ~~part-i-or-part-ii-of~~  
23 this chapter ~~or-part-ii-of-chapter-212~~ shall not be construed  
24 as a waiver or estoppel in any criminal proceeding against  
25 such person under ~~part-i-or-part-ii-of~~ this chapter ~~or-part-ii-~~  
26 ~~of-chapter-212~~.

27 Section 34. Section 206.19, Florida Statutes, is  
28 renumbered as section 206.433, Florida Statutes, and amended  
29 to read:

30 206.433 ~~206-19~~ Claim of state under gas tax laws;  
31 settlement or compromise for less than full amount due not

1 authorized.--The department shall have no right, power, or  
 2 authority to settle or compromise any claim of the state  
 3 accruing under the gas tax laws of this state for a sum less  
 4 than the full amount due, in conformity with ~~part-I-or-part-II~~  
 5 of this chapter.

6 Section 35. Section 206.21, Florida Statutes, is  
 7 renumbered as section 206.435, Florida Statutes, and  
 8 subsection (1) of said section is amended to read:

9 206.435 ~~206-21~~ Trial of issues interposed by defense;  
 10 sale, etc.--

11 (1) Should any person appear at the hearing provided  
 12 for in s. 206.465 ~~ss.-206-205~~ and claim the things seized and  
 13 interpose any defense to the affidavit mentioned in said  
 14 section, the circuit judge shall determine whether the  
 15 evidence adduced proves beyond a reasonable doubt that such  
 16 things are forfeited and make his written order accordingly.  
 17 If he shall determine in the affirmative, such things shall be  
 18 sold by the sheriff in the same manner and upon the same terms  
 19 and conditions as provided in s. 206.465 ~~ss.-206-205~~, but if he  
 20 shall determine in the negative respecting all or any of such  
 21 things, the part not forfeited shall be returned to the person  
 22 legally entitled thereto.

23 Section 36. Section 206.215, Florida Statutes, is  
 24 renumbered as section 206.443, Florida Statutes, and amended  
 25 to read:

26 206.443 ~~206-215~~ Costs and expenses of proceedings.--

27 (1) For the performance of the duties required of the  
 28 sheriff by the provisions of ss. 206.435 and 206.465 ~~ss-~~  
 29 ~~206-205-and-206-21~~ he shall receive the same fees provided by  
 30 law for the arrest and return of persons charged with crime,  
 31 including the same mileage and the actual cost of transporting

1 such things, and all such fees and compensations shall be paid  
2 out of the proceeds of the sale.

3 (2) The clerks of the courts performing duties under  
4 the provisions aforesaid shall receive the same fees as  
5 prescribed by the general law for the performance of similar  
6 duties, and witnesses attending any investigation pursuant to  
7 subpoena shall receive the same mileage and per diem as if  
8 attending as a witness before the circuit court in term time.

9 (3) All fees and costs provided for shall be paid from  
10 the proceeds of the sale, or if there be no sale or if the  
11 proceeds of such sale be insufficient to meet such fees and  
12 costs then such fees and costs shall be paid out of the Gas  
13 Tax Collection Trust Fund or other funds available for the  
14 enforcement of the gas tax laws by the department.

15 (4) In the event the proceeds of the sale are more  
16 than sufficient to pay all costs and fees attending the sale,  
17 then the surplus thereof shall be sent to the department to be  
18 disposed of as provided for the disposition of the taxes  
19 collected under the gas tax laws of the state; provided,  
20 however, that any property seized under s. 206.465 ~~s. 206-205~~  
21 against which there is existing a mortgage lien or retain  
22 title contract held by a person who has no knowledge that such  
23 property is being used for the purpose of illegally evading or  
24 avoiding the payment of the gas taxes provided for under the  
25 laws of the state, then such seizure shall not invalidate such  
26 lien or retain title contract, but the same shall be paid out  
27 of any funds derived from a sale of said property, provided  
28 the retain titleholder or mortgagee shall within 30 days after  
29 seizure come into court and set up his claim to such retained  
30 title lien or mortgage.

31

1 Section 37. Section 206.24, Florida Statutes, is  
2 renumbered as section 206.453, Florida Statutes, and amended  
3 to read:

4 206.453 ~~206-24~~ Department and agents may make arrests,  
5 seize property, and execute warrants.--

6 (1) The department and its deputies, agents, and  
7 employees may make arrests without warrants for any violation  
8 of the provisions of this part. Any person arrested for  
9 violation of any provision of this part shall be surrendered  
10 without delay to the sheriff of the county in which the arrest  
11 was made and formal complaint made against him, in accordance  
12 with law.

13 (2) The department and its deputies, agents, and  
14 employees also may seize property as set out in ss. 206.435,  
15 206.443, and 206.465 ~~ss-206-205,-206-21,-and-206-215,~~ and  
16 upon said seizure being made shall surrender without delay  
17 such seized property to the sheriff of the county where said  
18 property was seized for further procedure as set out in said  
19 sections.

20 (3) When the department deems advisable, it may direct  
21 the warrant provided for in s. 206.408 ~~s-206-075~~ to one of  
22 the said department's deputies, agents, and employees who  
23 shall then execute said warrant and proceed thereon in the  
24 same manner provided for sheriffs in such cases.

25 Section 38. Section 206.27, Florida Statutes, is  
26 renumbered as section 206.503, Florida Statutes, and  
27 subsection (1) of said section is amended to read:

28 206.503 ~~206-27~~ Records and files as public records.--

29 (1) The records and files in the office of the  
30 department appertaining to ~~part-I-and-part-II-of~~ this chapter  
31 ~~and-part-II-of-chapter-212~~ shall be available in Tallahassee

1 to the public at any time during business hours. The  
 2 department shall prepare a list each month of all current  
 3 licensed refiners, importers, and wholesalers which also shall  
 4 include all new licenses issued and all licenses canceled  
 5 during the past 12 months, and mail a copy thereof to each  
 6 licensee. Such list shall be used to verify license numbers  
 7 of purchasers issuing exemption certificates or affidavits.

8 Section 39. Section 206.59, Florida Statutes, is  
 9 renumbered as section 206.525, Florida Statutes, and amended  
 10 to read:

11 206.525 ~~206.59~~ Department to make rules; powers.--

12 (1) The department shall make rules and regulations,  
 13 which shall have the force and effect of law, to govern  
 14 reports and accounts by all persons dealing in or handling  
 15 motor fuel for the purpose of enabling the department to  
 16 ascertain whether or not any motor fuels are being dealt with,  
 17 handled, or stored in this state under such circumstances as  
 18 to become liable to the tax imposed by any law relating to a  
 19 tax on motor fuel.

20 (2) The department is further given power to  
 21 investigate, or cause to be investigated under its authority,  
 22 all cases involving dealing in motor fuel by persons  
 23 receiving, handling, or storing the same and to determine from  
 24 such investigation whether or not any section in this chapter  
 25 ~~or part II of chapter 212~~ relating to the gas tax is being  
 26 evaded or illegally avoided. The determination of the  
 27 department in any case shall be prima facie valid and  
 28 authentic in all courts in this state and in all actions  
 29 involving the validating of taxes on persons subject to the  
 30 provisions of ~~part I or part II of~~ this chapter ~~or part II of~~  
 31 ~~chapter 212~~.

1           (3) The department may investigate and audit  
 2 inventories, receipts, and disposals of motor fuel to  
 3 ascertain the validity of all taxes collected and remitted to  
 4 the department. Any motor fuel which cannot be accounted for  
 5 by a refiner, importer, jobber, or wholesaler is subject to  
 6 all taxes levied under this part. Any person who collects on  
 7 any one sale of motor fuel more tax than was paid when  
 8 purchased by that person is liable for the difference in tax  
 9 plus all applicable interest and penalties. If any person  
 10 fails to properly remit this difference, the penalty shall be  
 11 equal to 100 percent of the tax.

12           (4) The department may assess and collect any tax,  
 13 penalty, or interest against any person who purchases,  
 14 receives, or disposes of motor fuel in violation of any  
 15 provision of this part.

16           (5) The department shall have the authority to  
 17 prescribe all forms upon which reports shall be made to it and  
 18 any other forms required for the proper administration of this  
 19 law and shall prescribe and publish all rules and regulations  
 20 for the enforcement of this part, which rules and regulations  
 21 shall have the force and effect of law.

22           Section 40. Section 206.406, Florida Statutes, is  
 23 renumbered as section 206.553, Florida Statutes, and amended  
 24 to read:

25           206.553 ~~206-406~~ Disposition of license tax funds.--All  
 26 moneys derived from the license tax pursuant to ss. 206.151,  
 27 206.152, 206.154, and 206.156 ~~ss. 206-027-206-0217-206-0227~~  
 28 ~~and 206-404~~, shall be paid into the State Treasury to the  
 29 credit of the General Revenue Fund.  
 30  
 31

1 Section 41. Section 206.45, Florida Statutes, is  
2 renumbered as section 206.555, Florida Statutes, and amended  
3 to read:

4 206.555 ~~206.45~~ Payment of tax into State Treasury.--  
5 All moneys derived from the gas taxes imposed by s.  
6 206.101(1)(a), (b), or (c) ~~this part~~ shall be paid into the  
7 State Treasury by the department for deposit in the Gas Tax  
8 Collection Trust Fund, which fund is hereby created and from  
9 which fund~~---The department shall maintain a balance of at~~  
10 ~~least \$50,000 within the fund after making~~ the following  
11 transfers shall be made:

12 (1) The constitutional gas tax shall be remitted to  
13 the State Board of Administration for distribution as provided  
14 in s. 206.565 ~~the State Constitution.~~

15 (2) The county gas tax collected pursuant to s.  
16 206.101(1)(b) ~~s. 206.60, as such may be amended by the 1971~~  
17 ~~legislature,~~ shall be distributed as ~~therein~~ provided in s.  
18 206.573.

19 (3) The municipal gas tax collected pursuant to s.  
20 206.101(1)(c) ~~s. 206.605~~ shall be distributed as ~~therein~~  
21 provided in s. 206.575.

22 (4) The tax collected pursuant to s. 206.101(1)(d)  
23 shall be distributed as provided in s. 206.585.

24  
25 Nothing in this section shall be construed to authorize a  
26 deduction from the constitutional gas tax in order to maintain  
27 any balance in the Gas Tax Collection Trust Fund

28 Section 42 Section 206.47, Florida Statutes, is  
29 renumbered as section 206.565, Florida Statutes, and  
30 subsections (5), (9), and (10) of said section are amended to  
31 read:

1           206.565 ~~206-47~~ Distribution of constitutional gas tax  
2 pursuant to State Constitution.--

3           (5)(a) The distribution factor, "the tax collected on  
4 retail sales or use in each county," shall be based upon a  
5 certificate of the Department of Revenue of the taxable  
6 gallons attributable to each county as of June 30 for each  
7 fiscal year. The Department of Revenue shall furnish a  
8 certificate to the State Board of Administration on or before  
9 July 31 following the end of each fiscal year, and such  
10 certificate shall be conclusive as to the tax collected on  
11 retail sales or use in each county for the prior fiscal year.  
12 The factor based on such certificate shall be applied to the  
13 gas tax collections for the following fiscal year beginning  
14 July 1 and ending June 30.

15           (b) For the purpose of this section, "taxable gallons  
16 attributable to each county" shall be calculated as a  
17 consumption factor for each county divided by the sum of such  
18 consumption factors for all counties, and multiplied by the  
19 total gallons statewide upon which a tax was paid pursuant to  
20 s. 206.101(1)(a) ~~s.-206-41~~. For each county imposing a tax  
21 pursuant to s. 206.102(1) or s. 206.102(2) ~~s.-336-021-or-s-~~  
22 ~~336-025~~, the consumption factor shall be the gallons upon  
23 which the county's tax was paid under either or both of said  
24 sections. For each other county, the consumption factor shall  
25 be calculated as the taxable gallons yielding the tax amount  
26 certified pursuant to this section for fiscal year 1984-1985  
27 for the county, multiplied by the quotient of the statewide  
28 total taxes collected pursuant to s. 206.101(1)(a) ~~s.-206-41~~  
29 for the current year divided by the statewide total taxes  
30 certified pursuant to this section for fiscal year 1984-1985.  
31



1           (9) The State Board of Administration shall ~~will~~, in  
2 each fiscal year, distribute the 80-percent surplus gas tax  
3 allocated to each county to the debt service requirements of  
4 each bond issue pledging the 80-percent surplus accruing to  
5 that county under the provisions of s. 16, Art. IX of the  
6 State Constitution of 1885, as amended. The remaining 80-  
7 percent surplus gas tax funds will be advanced monthly, to the  
8 extent practicable, to the boards of county commissioners for  
9 use in the county.

10           (10) The State Board of Administration shall ~~will~~, in  
11 each fiscal year, distribute the 20-percent surplus gas tax  
12 allocated to each county to the debt service requirements of  
13 each bond issue pledging the 20-percent surplus accruing to  
14 that county under the provisions of s. 16, Art. IX of the  
15 State Constitution of 1885, as amended. The remaining 20-  
16 percent surplus gas tax funds will be advanced monthly, to the  
17 extent practicable, to the boards of county commissioners for  
18 use in the county.

19           Section 43. Section 206.60, Florida Statutes, is  
20 renumbered as section 206.573, Florida Statutes, and amended  
21 to read:

22           206.573 ~~206.60~~ Distribution of county tax on motor  
23 fuel.--

24           ~~(1) In addition to all other taxes required by law, a~~  
25 ~~tax of 1 cent per gallon is imposed upon the first sale or~~  
26 ~~first removal from storage, after importation into this state,~~  
27 ~~of motor fuel. For purposes of this subsection, the term~~  
28 ~~"first sale" does not include exchanges or loans, gallon for~~  
29 ~~gallon, of motor fuel between licensed refiners before the~~  
30 ~~fuel has been sold or removed through the loading rack or~~  
31 ~~transfers between terminal facilities owned by the same~~

1 taxpayer. ~~The tax on motor fuel first imported into this~~  
 2 ~~state by a licensed refiner storing such fuel in a terminal~~  
 3 ~~facility shall be imposed when the product is first removed~~  
 4 ~~through the loading rack. The tax shall be remitted by the~~  
 5 ~~licensed refiner who owned the motor fuel immediately prior to~~  
 6 ~~removal of such fuel from storage.~~

7 ~~(1)(2)~~ The proceeds of the such tax imposed under s.  
 8 206.101(1)(b) are hereby appropriated for public  
 9 transportation purposes in the manner following:

10 (a) The department, after deducting its expenses of  
 11 collection, which shall include the administrative costs  
 12 incurred by the department in the collection, administration,  
 13 and distribution back to the counties of the taxes levied  
 14 pursuant to s. 206.101(1)(b) ~~this section~~, and after  
 15 transferring to the General Revenue Fund the service charge  
 16 provided for by s. 215.20, shall monthly divide the proceeds  
 17 of such tax in the same manner as the constitutional gas tax  
 18 pursuant to s. 206.565 s.-286.47 and the formula contained in  
 19 s. 9(c)(4), Art. XII of the revised State Constitution of  
 20 1968.

21 (b)1. The Department of Revenue shall, from month to  
 22 month, distribute the amount allocated to each of the several  
 23 counties under paragraph (a) to the board of county  
 24 commissioners of the county, who shall use such funds solely  
 25 for the acquisition of rights-of-way; the construction,  
 26 reconstruction, operation, maintenance, and repair of  
 27 transportation facilities, roads, and bridges therein; or the  
 28 reduction of bonded indebtedness of such county or of special  
 29 road and bridge districts within such county, incurred for  
 30 road and bridge or other transportation purposes. In the  
 31 event the powers and duties relating to transportation

1 facilities, roads, and bridges usually exercised and performed  
2 by boards of county commissioners are exercised and performed  
3 by some other or separate county board, such board shall  
4 receive the proceeds, exercise the powers, and perform the  
5 duties designated in this section to be done by the boards of  
6 county commissioners.

7           2. On and after October 1, 1971, the board of county  
8 commissioners of each county, or any separate board or local  
9 agency exercising the powers and performing the duties  
10 relating to transportation facilities, roads, and bridges  
11 usually exercised and performed by the boards of county  
12 commissioners, shall be assigned the full responsibility for  
13 the maintenance of transportation facilities in the county and  
14 of roads in the county road system.

15           3. In calculating the distribution of funds under  
16 paragraph (a), the Department of Revenue shall obtain from the  
17 Auditor General the certification of the level of assessment  
18 in each district and shall pay only the amount of money which  
19 is derived by multiplying said ratio and the amount which  
20 would be due a district under paragraph (a). The funds which  
21 are raised under this section but are not distributed under  
22 this section shall be deposited in the Gas Tax Collection  
23 Trust Fund. All funds placed in the Gas Tax Collection Trust  
24 Fund shall be distributed in the same manner as provided in  
25 paragraphs (a) and (b).

26           4. Nothing in this paragraph as amended by chapter 71-  
27 212, Laws of Florida, shall be construed to permit the  
28 expenditure of public funds in such manner or for such  
29 projects as would violate the State Constitution or the trust  
30 indenture of any bond issue or which would cause the state to  
31 lose any federal aid funds for highway or transportation

1 purposes; and the provisions of this paragraph shall be  
2 applied in a manner to avoid such result.

3 (2)+3) The gasoline inspection laws of the state shall  
4 be and are declared to be applicable to the enforcement of  
5 this section.

6 (3)+4) The license tax ~~herein~~ levied in s.  
7 206.101(1)(b) shall be in addition to all other license taxes  
8 levied under the laws of the state and in addition to the  
9 dealer's license tax for each place of business levied under  
10 the provisions of the laws of the state.

11 (4)+5) It is hereby expressly recognized and declared  
12 by the Legislature that all public roads and bridges being  
13 constructed or built or which will be hereafter constructed or  
14 built, including the acquisition of rights-of-way as incident  
15 thereto, either by the Department of Transportation or the  
16 several counties of the state, were, are, and will be  
17 constructed and built as general public projects and  
18 undertakings and that the cost of the construction and  
19 building thereof, including the acquisition of rights-of-way  
20 as incident thereto, was, is, and will be legitimate, proper  
21 state expense incurred for a general public and state purpose.  
22 And it is expressly recognized and declared that the  
23 construction, reconstruction, maintenance, and acquisition of  
24 rights-of-way of all secondary roads are essential to the  
25 welfare of the state and that such roads when constructed,  
26 reconstructed, or maintained, or such rights-of-way when  
27 acquired, are and will be for a general public and state  
28 purpose. And the Legislature has found and hereby declares  
29 that for the proper and efficient construction and maintenance  
30 of public highways designated state roads, it is in the best  
31 interest of the state to further integrate the activities of

1 the Department of Transportation and the several boards of  
 2 county commissioners as provided in subsection (1) ~~(2)~~ in  
 3 order that both state and local highway needs may be  
 4 adequately provided for.

5 (5)~~(6)~~ It is declared to be the legislative intent  
 6 that the funds derived from the tax imposed under s.  
 7 206.101(1)(b) ~~this section~~ shall be used in such manner and  
 8 for the purposes aforesaid to reduce the burden of ad valorem  
 9 taxes in the several counties.

10 Section 44. Section 206.605, Florida Statutes, is  
 11 renumbered as section 206.575, Florida Statutes, and amended  
 12 to read:

13 206.575 ~~206.605~~ Distribution of municipal tax on motor  
 14 fuel.--

15 ~~(1)--In addition to all other taxes required by law, a~~  
 16 ~~tax of 1 cent per gallon is imposed upon the first sale or~~  
 17 ~~first removal from storage, after importation into this state,~~  
 18 ~~of motor fuel.--For purposes of this subsection, the term~~  
 19 ~~"first sale" does not include exchanges or loans, gallon for~~  
 20 ~~gallon, of motor fuel between licensed refiners before the~~  
 21 ~~fuel has been sold or removed through the loading rack or~~  
 22 ~~transfers between terminal facilities owned by the same~~  
 23 ~~taxpayer.--The tax on motor fuel first imported into this~~  
 24 ~~state by a licensed refiner storing such fuel in a terminal~~  
 25 ~~facility shall be imposed when the product is first removed~~  
 26 ~~through the loading rack.--The tax shall be remitted by the~~  
 27 ~~licensed refiner who owned the motor fuel immediately prior to~~  
 28 ~~removal of such fuel from storage.~~

29 (1)~~(2)~~ The proceeds of the ~~such~~ tax imposed ~~under~~ s.,  
 30 206.101(1)(c), after deducting the service charge pursuant to  
 31

1 chapter 215, shall be transferred into the Revenue Sharing  
2 Trust Fund for Municipalities.

3 (2)~~(3)~~ Funds available under this section shall be  
4 used only for purchase of transportation facilities and road  
5 and street rights-of-way, construction, reconstruction,  
6 maintenance of roads and streets; for the adjustment of city-  
7 owned utilities as required by road and street construction,  
8 and the construction, reconstruction, transportation-related  
9 public safety activities, maintenance, and operation of  
10 transportation facilities. Municipalities are authorized to  
11 expend the funds received under this section in conjunction  
12 with other cities or counties or state or federal government  
13 in joint projects.

14 (3)~~(4)~~(a) If any municipality subject to this section  
15 does not have the transportation facilities capability, the  
16 municipality may designate by resolution the projects to be  
17 undertaken, and the engineering may be thereafter performed  
18 and administered and the construction administered by the  
19 Department of Transportation or, in the case of a  
20 municipality, by the appropriate county, if such county has  
21 the capability and agrees to undertake the projects.

22 (b) In the event the municipality desires the  
23 Department of Transportation either to perform or administer  
24 the engineering services or to administer the construction, or  
25 both, it must so indicate at the time of the presentation of  
26 the annual budget or it must so designate at the time the  
27 county presents its annual budget.

28 Section 45. Section 212.69, Florida Statutes, is  
29 renumbered as section 206.585, Florida Statutes, and amended  
30 to read:

31

1            206.585 ~~212-69~~ Distribution of the tax on the  
2 privilege of selling motor fuel proceeds.--

3            (1) Notwithstanding other provisions of law to the  
4 contrary, moneys collected pursuant to s. 206.101(1)(d) ~~this~~  
5 ~~part~~ shall be deposited in the Gas Tax Collection Trust Fund  
6 created by s. 206.555 ~~97-206-45~~. Such moneys, exclusive of  
7 the service charge imposed by s. 215.20, and exclusive of  
8 refunds granted pursuant to s. 206.285 ~~97-212-67~~, shall be  
9 distributed monthly to the State Transportation Trust Fund,  
10 except that \$3.8 million per year shall be transferred to the  
11 Department of Natural Resources in equal monthly amounts; \$1  
12 million of this amount shall be spent solely for nonchemical  
13 control of aquatic weeds, research into nonchemical controls,  
14 and enforcement of aquatic weed control programs.

15            (2) Not less than 10 percent of the moneys deposited  
16 in the State Transportation Trust Fund pursuant to this  
17 section shall be allocated by the Department of Transportation  
18 for public transit and rail capital projects, including  
19 service development projects, as defined in s. 341.031(4) and  
20 (5), unless otherwise provided in the General Appropriations  
21 Act.

22            (3) All funds transferred in this section to the  
23 Department of Natural Resources shall be used for eradication  
24 of, control of, and research in water hyacinths and noxious  
25 aquatic vegetation.

26            Section 46. Section 206.703, Florida Statutes, is  
27 created to read:

28            206.703 Levy of tax.--

29            (1) The taxes levied on motor fuel pursuant to s.  
30 206.101 and s. 206.102 apply to special fuels, unless  
31 specifically exempt.

1           (2) Unless expressly provided to the contrary in this  
2 part, every sale shall be deemed to be for use in this state.  
3 This levy of tax shall be paid upon the first sale or transfer  
4 of title within this state by a dealer, except as expressly  
5 provided in this part, who shall act as agent for the state in  
6 the collection of such tax whether he is the ultimate seller  
7 or not.

8           (3)(a) A dealer may purchase special fuel without the  
9 tax imposed by this section being paid upon the first sale or  
10 transfer of title in the state, and he shall pay the tax on  
11 all special fuel used or sold by him and shall act as agent  
12 for the state in the collection and payment thereof.

13           (b) All special fuel sold, transferred, or delivered  
14 by a licensed dealer of special fuel to any person who does  
15 not hold a valid dealer's license is taxable, except as  
16 provided by s. 206.755(1).

17           (c) The department has the authority to assess and  
18 collect any tax, penalty, and interest against any person or  
19 dealer who purchases, receives, or disposes of special fuel in  
20 violation of the provisions of this part.

21           Section 47. Section 206.89, Florida Statutes, is  
22 renumbered as section 206.713, Florida Statutes, and amended  
23 to read:

24           206.713 ~~206.89~~ Licenses; necessity; prerequisites;  
25 issuance; nonassignability.--

26           (1) No person shall act as a dealer unless he holds a  
27 valid dealer's license issued by the department. However, a  
28 service station shall not be required nor be eligible to be  
29 licensed as a dealer. A person who has no facilities for  
30 placing special fuel into the supply system of a motor vehicle  
31



1 and who sells into containers of 5 gallons or less shall not  
2 be required to be licensed as a dealer.

3 (2) To procure a dealer's license, a person shall file  
4 with the department an application in such form as the  
5 department may prescribe, with a bond. No license shall be  
6 issued upon any application unless accompanied by such bond,  
7 except as provided in s. 206.715(1) ~~s.-206-90(1)~~.

8 (3) When an application for a dealer's license is  
9 filed by a person whose license has been canceled for cause by  
10 the department or when the department is of the opinion that  
11 such application is not filed in good faith or is filed by  
12 some person as a subterfuge for the real person in interest  
13 whose license has theretofore been canceled, the department  
14 shall have authority, if the evidence warrants, to refuse to  
15 issue to that person a license.

16 (4) At the time of filing an application for a  
17 license, a filing fee of \$5 shall be paid to the department  
18 for deposit into the General Revenue Fund.

19 (5) All requirements of this section having been  
20 complied with, the department shall issue to the applicant a  
21 ~~license, and such license shall remain in effect until~~  
22 ~~canceled as provided in this part.~~

23 (6) Such license shall not be assignable and shall be  
24 valid only for the dealer in whose name issued. It shall be  
25 displayed conspicuously by the dealer in the principal place  
26 of business for which it was issued.

27 (7) Every person as defined in this part, including,  
28 but not limited to, a state agency, federal agency,  
29 municipality, county, or special district, which operates or  
30 acts under the provisions of s. 206.702(10) ~~s.-206-06(10)~~ is  
31 required to obtain a license as a dealer of special fuel and

1 report monthly to the department, or pay tax on all fuel  
2 purchases.

3 Section 48. Section 206.90, Florida Statutes, is  
4 renumbered as section 206.715, Florida Statutes, and  
5 subsection (1) of said section is amended to read:

6 206.715 ~~206-90~~ Bond required of licensed dealers.--

7 (1) Every dealer, except a municipality, county, state  
8 agency, federal agency, school board, or special district  
9 which is licensed as a dealer under this part, shall file with  
10 the department a bond or bonds in the penal sum of not more  
11 than \$100,000. The sum of such bond shall be approximately 3  
12 times the average monthly special fuels tax imposed under s.  
13 206.101 pursuant to s. 206.703 ~~and sales tax on special fuels~~  
14 paid or due by such dealer during the preceding 12 calendar  
15 months under this part, with a surety approved by the  
16 department, upon which the dealer shall be the principal  
17 obligor and the state shall be the obligee, conditioned upon  
18 the faithful compliance with the provisions of this part ~~and~~  
19 ~~of part II of chapter 212~~. If the sum of 3 times a dealer's  
20 average monthly tax is less than \$50, no bond shall be  
21 required.

22 Section 49. Section 206.91, Florida Statutes, is  
23 renumbered as section 206.745, Florida Statutes, and amended  
24 to read:

25 206.745 ~~206-91~~ Tax reports; computation and payment of  
26 tax.--

27 (1) For the purpose of determining the amount of tax  
28 imposed by s. 206.101 and s. 206.102 pursuant to s. 206.703 ~~or~~  
29 ~~206-87~~, each dealer shall, not later than the 20th day of each  
30 calendar month, mail to the department, on forms prescribed by  
31 the department, monthly reports which shall show such

1 information on inventories, purchases, nontaxable disposals,  
 2 and taxable sales in gallons of each type of special fuel,  
 3 including, but not limited to, diesel and heating fuel,  
 4 kerosene, butane gas, propane gas, and all other forms of  
 5 liquefied petroleum gases, for the preceding calendar month as  
 6 may be required by the department. However, if the 20th day  
 7 falls on a Saturday, a Sunday, or a federal or state legal  
 8 holiday, returns shall be accepted if postmarked on the next  
 9 succeeding workday. The reports shall contain or be verified  
 10 by a written declaration that such report is made under the  
 11 penalties of perjury. The dealer shall deduct from the amount  
 12 of tax shown by the report to be payable an amount equivalent  
 13 to 6 percent of the tax on special fuels imposed by ss.  
 14 206.101(1)(b) and (c) pursuant to s. 206.703 ~~this part~~ not  
 15 exceeding 500,000 taxable gallons, and less an amount  
 16 equivalent to 3 percent of the tax on special fuels imposed by  
 17 s. 206.101(1)(b) and (c) pursuant to s. 206.703 ~~this part~~ in  
 18 excess of 500,000 taxable gallons but not exceeding 1,000,000  
 19 taxable gallons, which deduction is hereby allowed to the  
 20 dealer on account of services and expenses in complying with  
 21 the provisions of this part. This allowance shall not be  
 22 deductible unless payment of the tax is made on or before the  
 23 20th day of the month as herein required. Nothing in this  
 24 subsection shall be construed to authorize a deduction from  
 25 the constitutional gas tax.

26 (2) At the time of filing the monthly report, each  
 27 dealer shall pay to the department the full amount of special  
 28 fuels tax for the preceding calendar month at the rate  
 29 provided for in s. 206.101 and s. 206.102 pursuant to s.  
 30 206.703 ~~s. 206.87~~, less the amount allowable to the dealer on  
 31

1 account of services and expenses as provided in subsection  
2 (1).

3 Section 50. Section 206.87, Florida Statutes, as  
4 amended by section 45 of chapter 87-548, Laws of Florida, is  
5 renumbered as section 206.755, Florida Statutes, and amended  
6 to read:

7 206.755 ~~206.87~~ Exemptions ~~levy of tax.~~

8 (1) ~~An excise tax of 4 cents per gallon is hereby~~  
9 ~~imposed upon every gallon of special fuel used or sold in this~~  
10 ~~state for use, except alternative fuels which are subject to~~  
11 ~~the fee imposed by s. 206.877. Unless expressly provided to~~  
12 ~~the contrary in this part, every sale shall be deemed to be~~  
13 ~~for use in this state. This levy of tax shall be paid upon~~  
14 ~~the first sale or transfer of title within this state by a~~  
15 ~~dealer, except as expressly provided in this part, who shall~~  
16 ~~act as agent for the state in the collection of such tax~~  
17 ~~whether he is the ultimate seller or not.~~

18 (2)(a) ~~A dealer may purchase special fuel without the~~  
19 ~~tax imposed by this section being paid upon the first sale or~~  
20 ~~transfer of title in the state, and he shall pay the tax on~~  
21 ~~all special fuel used or sold by him and shall act as agent~~  
22 ~~for the state in the collection and payment thereof.~~

23 (b) ~~All special fuel sold, transferred, or delivered~~  
24 ~~by a licensed dealer of special fuel to any person who does~~  
25 ~~not hold a valid dealer's license is taxable, except as~~  
26 ~~provided by subsection (3).~~

27 (c) ~~The department has the authority to assess and~~  
28 ~~collect any tax, penalty, and interest against any person or~~  
29 ~~dealer who purchases, receives, or disposes of special fuel in~~  
30 ~~violation of the provisions of this part.~~

31

1           ~~(1)~~<sup>3</sup> The following consumption or sales are not  
 2 subject to any the tax herein imposed under s. 206.101(1)(a),  
 3 (b), or (c), and the consumption or sales described in  
 4 paragraphs (a), (b), (c), (d), (f), or (h) are not subject to  
 5 any tax imposed under s. 206.102, upon the issuance of a valid  
 6 resale certificate or an exemption certificate:

7           (a) Sales by a dealer when the special fuel is  
 8 delivered by him into the purchaser's storage facilities,  
 9 which are located at the purchaser's premises, place of  
 10 business, or job site, and when the special fuel is to be used  
 11 for:

12           1. Cooking or home heating;

13           2. Industrial, commercial, agricultural, or marine  
 14 purposes, if the purchaser is not a dual user and furnishes  
 15 the dealer with an exemption certificate which states that no  
 16 portion of the special fuel purchased is to be used in a motor  
 17 vehicle; or

18           3. Consumption for nonhighway purposes, if the  
 19 purchaser is not a dual user.

20           (b) Sales at the dealer's place of business of not  
 21 more than 1,000 gallons by a dealer to a person who is not a  
 22 licensed dealer, if the special fuel is placed by the dealer  
 23 into a receptacle not connected to the fuel supply system of a  
 24 motor vehicle and the special fuel is solely for consumption  
 25 other than use.

26           (c) Sales of 5 gallons or less by a person not a  
 27 dealer who has no facilities for placing special fuel in the  
 28 fuel supply system of a motor vehicle.

29           (d) Exports of special fuel by a dealer from the state  
 30 when exempted by any provision of the constitutions of the  
 31 United States or the State of Florida. The sale for export

1 from the state of special fuel which is not exempted from the  
 2 taxes imposed by this part by either the constitution of the  
 3 United States or of the state shall also be exempt, but only  
 4 if both the seller and the exporter of the special fuel are  
 5 duly licensed as dealers of special fuel under the terms of  
 6 this part.

7 (e) Transfers or deliveries of special fuel into the  
 8 fuel supply tank of a motor vehicle operated by a common  
 9 carrier when the fuel is used on highways in another state,  
 10 provided the common carrier is a duly licensed dealer ~~who is~~  
 11 ~~under the jurisdiction of the Florida Public Service~~  
 12 ~~Commission~~ and keeps files timetables of schedules showing  
 13 operations on regular routes in interstate commerce ~~with the~~  
 14 ~~Florida Public Service Commission~~ and maintains a complete  
 15 record of miles operated; and provided the tax on the special  
 16 fuel deducted for use in another state is paid to the taxing  
 17 authorities of that state. However, when the dealer maintains  
 18 adequate records of vehicle consumption of fuel as related to  
 19 miles traveled and such records show more mileage per gallon  
 20 than standards determined by the department for mileage per  
 21 gallon, the miles shown by such records may be used for  
 22 computing the exemption on a mileage basis.

23 (f) Sales or use by a dealer of special fuel consumed  
 24 by a power takeoff or engine exhaust for the purpose of  
 25 unloading bulk cargo by pumping or turning a concrete mixer  
 26 drum used in the manufacturing process, or for the purpose of  
 27 compacting solid waste, which is mounted on a motor vehicle  
 28 and which has no separate fuel tank or power unit.

29 (g) l. Transfers or deliveries of special fuel into the  
 30 fuel supply tank of a motor vehicle regularly engaged in  
 31

1 interstate travel when such fuel is used on the highways of  
2 another state, provided:

3 a.1 The transfer or delivery occurs within this state  
4 and is executed by a duly licensed dealer who is regularly  
5 engaged in interstate travel;

6 b.2 A similar tax is paid in another state; and

7 c.3 The tax is paid to this state on all special fuel  
8 brought into the state and used in this state.

9 2. Any licensed dealer claiming such exemption must  
10 have evidence of the payments of such tax and must keep  
11 records showing the number of trips out of the state, the  
12 number of trips into the state, the number of gallons of  
13 special fuel carried out of state in fuel tanks, and the  
14 number of gallons brought into the state in fuel tanks for use  
15 in this state. However, when the dealer maintains adequate  
16 records of vehicle consumption of fuel as related to miles  
17 traveled and such records show more mileage per gallon than  
18 standards determined by the department for mileage per gallon,  
19 the miles shown by such records may be used for computing the  
20 exemption on a mileage basis.

21 (h) Sales to the United States Government or its  
22 departments or agencies when:

23 1. Delivered in bulk lots of not less than 500 gallons  
24 in each delivery to be used in motor vehicles owned and  
25 operated by the United States Government departments and  
26 agencies; or

27 2. Purchased for heating or for off-road purposes.

28 ~~(2)††~~ All special fuel sold, transferred, or  
29 delivered by a licensed dealer of special fuel to any person  
30 who does not hold a valid dealer's license is taxable, except  
31 as provided by subsection (1)††.

1           ~~(3)(5)~~ Any dealer who neglects, fails, or refuses to  
2 collect the tax upon any sale which is subject to the tax  
3 imposed by this part is liable for the payment of all tax,  
4 penalties, and interest.

5           ~~(4)(6)~~ A sale must be in strict compliance with the  
6 rules of the department, and any dealer making a sale for  
7 resale which is not in strict compliance with such rules shall  
8 himself be liable for and pay the tax.

9           ~~(5)(7)~~ Any person who has purchased at retail, used,  
10 consumed, distributed, or stored for use, resale, or  
11 consumption in this state fuel and cannot substantiate that  
12 the tax levied by this part has been paid to his vendor is  
13 directly liable to the state for any tax, interest, and  
14 penalty due on any such fuel.

15           ~~(6)(8)~~ Any person or dealer who:

16           (a) Issues or assists in issuing a fraudulent resale  
17 or exemption certificate to obtain nontaxed special fuel from  
18 a licensed dealer; or

19           (b) Has issued a resale or exemption certificate and  
20 whose exempt status has become nonexempt and who neglects,  
21 fails, or refuses to inform the licensed dealer to whom the  
22 certificate was issued of such change in status

23  
24 is guilty of a felony of the third degree, punishable as  
25 provided in s. 775.082 or s. 775.083, or s. 775.084. In  
26 addition, such person shall pay any tax due and any penalty  
27 and interest assessed, plus a mandatory penalty of not less  
28 than \$500 or an amount equal to 100 percent of the tax,  
29 whichever is greater.

30           (7) The tax levied pursuant to s. 206.101(1)(d) does  
31 not apply to special fuels when purchased or consumed for



1 stationary purposes. However, special fuels purchased or  
 2 consumed for stationary purposes are taxable under chapter  
 3 212, unless specifically exempt.

4 Section 51. Section 206.877, Florida Statutes, is  
 5 renumbered as section 206.775, Florida Statutes, and  
 6 subsections (1), (5), and (8) of said section are amended to  
 7 read:

8 206.775 ~~206-877~~ Motor vehicles fueled by liquefied  
 9 petroleum gas or compressed natural gas; payment of annual  
 10 decal fees in lieu of tax.--

11 (1) The tax imposed by s. 206.101 or s. 206.102  
 12 pursuant to s. 206.703 ~~s. 206-87~~ does not apply to motor  
 13 vehicles licensed in this state pursuant to chapter 320 which  
 14 are powered by alternative fuels and for which valid decals  
 15 have been acquired as provided in this section.

16 (a) The owners or operators of such vehicles shall, in  
 17 lieu of the excise tax imposed by this part, pay an annual  
 18 decal fee on each such motor vehicle in accordance with the  
 19 following rate schedule:

Class	Vehicle License Category	State Fee	Fee for each cent of tax imposed by <u>s. 206.102</u> chapter-336
A	Vehicles licensed pursuant to s. 320.08(1), (2), (3)(a)- (c), (e), (6)(a), and (9)(c)1.	\$44	\$11

1  
 2 B Vehicles licensed pursuant to \$60 \$15  
 3 s. 320.08 (5)(b)-(e),  
 4 (6)(b), (9)(c)2., and (14).

5  
 6 C Vehicles licensed pursuant to \$84 \$21  
 7 s. 320.08(4).

8 (b) A person fueling vehicles from his own facilities  
 9 shall, in addition to the state alternative fuel fee imposed  
 10 by this section, pay a local alternative fuel fee in lieu of  
 11 each cent of excise tax levied by a county pursuant to s.  
 12 206.102(1) or s. 206.102(2) ~~s. 336.021 and 336.025~~. This  
 13 local fee shall be \$11 for each cent of local excise tax on  
 14 class "A" vehicles, \$15 for each cent of local excise tax on  
 15 class "B" vehicles, and \$21 for each cent of local excise tax  
 16 on class "C" vehicles. Those persons who do not operate their  
 17 own fueling facilities shall indicate and pay the appropriate  
 18 local fee for the particular county where the vehicles are  
 19 predominantly used.

20 (5) Any person who violates the provisions of this  
 21 section is guilty of a misdemeanor of the first degree,  
 22 punishable as provided in s. 775.082, s. 775.083, or s.  
 23 775.084. In addition, any person who is liable for fueling a  
 24 vehicle which does not have the proper decal affixed is  
 25 subject to the provisions of this section and the provisions  
 26 of s. 206.365 ~~s. 206.94~~.

27 (8) The excise tax provided by s. 206.101(1)(a), (b),  
 28 or (c) or s. 206.102 pursuant to s. 206.703 ~~s. 206.87~~ applies  
 29 to purchases of alternative fuels by operators of vehicles  
 30 licensed in other states and other vehicles which do not have  
 31 the proper decals pursuant to this section.

1 Section 52. Section 206.875, Florida Statutes, as  
 2 amended by section 45 of chapter 87-548, Laws of Florida, is  
 3 renumbered as section 206.785, Florida Statutes, and amended  
 4 to read:

5 206.785 ~~206.875~~ Allocation of tax.--

6 (1) All moneys derived from the taxes imposed by this  
 7 part shall be paid into the State Treasury by the department  
 8 for deposit in the Gas Tax Collection Trust Fund, ~~which fund~~  
 9 ~~is created and~~ from which the following transfers shall be  
 10 made: After withholding \$10,000 from the proceeds of the  
 11 taxes imposed under s. 206.101(1)(a), (b), or (c) pursuant to  
 12 s. 206.703 ~~4-cents-of-such-tax~~, to be used as a revolving cash  
 13 balance, all other moneys shall be transferred in the same  
 14 manner and for the same purpose as provided by law for  
 15 allocation of the taxes levied in part I, including transfer  
 16 to the General Revenue Fund of the service charge provided for  
 17 in s. 215.20.

18 ~~(2) -- It is the intent of the legislature that this~~  
 19 ~~section be construed to provide for the distribution of the~~  
 20 ~~appropriate portion of the special fuels tax imposed by this~~  
 21 ~~part in the same manner as provided by ss. 206.417-206.457,~~  
 22 ~~206.607, 206.6057, and 206.625.~~

23 Section 53. Section 206.879, Florida Statutes, is  
 24 renumbered as section 206.786, Florida Statutes, and amended  
 25 to read:

26 206.786 ~~206.879~~ State and local alternative fuel user  
 27 fee clearing trust funds; distribution.--

28 (1) Notwithstanding the provisions of s. 206.785 ~~s.~~  
 29 ~~206.875~~, the revenues from the state alternative fuel fees  
 30 imposed by s. 206.775 ~~s. 206.877~~ shall be deposited into the  
 31 State Alternative Fuel User Fee Clearing Trust Fund, which is

1 hereby created. After deducting the service charge provided  
 2 in s. 215.20, the proceeds in this trust fund shall be  
 3 distributed as follows: 50 percent of the proceeds shall be  
 4 transferred to the State Board of Administration for  
 5 distribution according to the provisions of s. 16, Art. IX of  
 6 the State Constitution of 1885, as amended; 25 percent shall  
 7 be transferred to the Revenue Sharing Trust Fund for  
 8 Municipalities; and the remaining 25 percent shall be  
 9 distributed using the formula contained in s. 206.573(1) s-  
 10 206-60(2).

11 (2) Notwithstanding the provisions of s. 206.785 s-  
 12 206-075, the revenues from the local alternative fuel fees  
 13 imposed in lieu of s. 206.102 s-336-021-or-s-336-025 shall  
 14 be deposited into the Local Alternative Fuel User Fee Clearing  
 15 Trust Fund, which is hereby created. After deducting the  
 16 service charge provided in s. 215.20, the proceeds in this  
 17 trust fund shall be returned monthly to the appropriate county  
 18 or authority.

19 Section 54. Section 206.97, Florida Statutes, is  
 20 renumbered as section 206.799, Florida Statutes, and amended  
 21 to read:

22 206.799 206-97 Applicability of specified sections of  
 23 part I.--The provisions of ss. 206.122, 206.125, 206.152,  
 24 206.154, 206.161, 206.162, 206.166, 206.172, 206.206, 206.213,  
 25 206.225, 206.235, 206.245, 206.253, 206.255, 206.275, 206.285,  
 26 206.303, 206.305, 206.325, 206.327, 206.329, 206.353, 206.355,  
 27 206.363, 206.365, 206.408, 206.413, 206.416, 206.423, 206.424,  
 28 206.433, 206.435, 206.443, 206.445, 206.453, 206.455, 206.463,  
 29 206.465, 206.503, 206.505, 206.525, 206.555, 206.563, 206.565,  
 30 206.573, 206.575, and 206.585. ss-206-0267-206-0277-206-0287  
 31 206-047-206-0557-206-077-206-0757-206-087-206-097-206-0957

1 206:107-206:117-206:127-206:137-206:147-206:157-206:167  
2 206:177-206:1757-206:187-206:197-206:207-206:2047-206:2057  
3 206:217-206:2157-206:227-206:237-206:247-206:257-206:277  
4 206:287-206:41(3)7-206:447-206:497-206:567-206:597-206:617-and

5 206:62 of part I of this chapter shall, as far as lawful or  
6 practicable, be applicable to the tax herein levied and  
7 imposed and to the collection thereof as if fully set out in  
8 this part. However:

9 (1) "Refiner, importer, jobber, or wholesaler" means  
10 "dealer."

11 (2) "Motor fuel" means "special fuel."

12 (3) No provision of any such section shall apply if it  
13 conflicts with any provision of this part.

14 (4) The refund provisions of s. 206.285(1)(b), (f), or  
15 (g) do not apply to special fuels.

16 Section 55. Subsection (8) of section 206.01, Florida  
17 Statutes, is amended to read:

18 206.01 Definitions.--As used in part I of this  
19 chapter:

20 (8) "Jobber" means any person who holds a valid jobber  
21 of motor fuel license and who does not qualify for a license  
22 as a refiner, importer, or wholesaler under this chapter. A  
23 jobber's license grants the privilege of storing and  
24 transporting tax-paid fuel in this state and making sales to  
25 persons other than the ultimate consumer, as well as the  
26 ultimate consumer.

27 Section 56. Subsection (3) of section 206.9915,  
28 Florida Statutes, is amended to read:

29 206.9915 Legislative intent and general provisions.--

30 (3) The provisions of ss. 206.01, 206.161, 206.164,  
31 206.165, 206.166, 206.168, 206.206, 206.213, 206.225, 206.235,

1 206.275, 206.285(14), 206.303, 206.305, 206.325, 206.327,  
 2 206.329, 206.353, 206.355, 206.363, 206.365, 206.403, 206.408,  
 3 206.413, 206.416, 206.423, 206.424, 206.433, 206.435, 206.443,  
 4 206.445, 206.453, 206.455, 206.463, 206.465, 206.503, 206.505,  
 5 206.525, 206.702, ~~206.0267-206.0277-206.0287-206.0557-206.067~~  
 6 ~~206.077-206.0757-206.087-206.097-206.0957-206.107-206.117~~  
 7 ~~206.127-206.137-206.147-206.157-206.167-206.177-206.1757~~  
 8 ~~206.187-206.197-206.207-206.2047-206.2057-206.217-206.2157~~  
 9 ~~206.227-206.247-206.277-206.287-206.4257-206.4267-206.447~~  
 10 ~~206.4457-206.487-206.497-206.567-206.597-206.867-206.947~~  
 11 ~~206.9457~~ and 206.9815 shall, as far as lawful or practicable,  
 12 be applicable to the levy and collection of taxes imposed  
 13 pursuant to this part as if fully set out in this part and  
 14 made expressly applicable to the taxes imposed herein.

15 Section 57. Section 206.9825, Florida Statutes, is  
 16 amended to read:

17 206.9825 Aviation fuel tax.--An excise tax of 5.7  
 18 cents per gallon of aviation fuel is imposed upon every gallon  
 19 of aviation fuel sold in this state, or brought into this  
 20 state for use, upon which such tax has not been paid or the  
 21 payment thereof has not been lawfully assumed by some person  
 22 handling the same in this state. Fuel taxed pursuant to this  
 23 part shall not be subject to the taxes imposed by s. 206.102  
 24 ~~ss. 336.0217-336.0257-and-336.026.~~

25 Section 58. Section 206.9845, Florida Statutes, is  
 26 amended to read:

27 206.9845 Distribution of proceeds.--Moneys collected  
 28 pursuant to this part shall be deposited in the Gas Tax  
 29 Collection Trust Fund created by s. 206.555 ~~ss. 206.45~~. Such  
 30 moneys, exclusive of the service charge imposed by s. 215.20  
 31 and exclusive of refunds granted pursuant to s. 206.9855,

1 shall be distributed monthly to the State Transportation Trust  
2 Fund.

3 Section 59. Subsection (1) of section 206.9931,  
4 Florida Statutes, as amended by chapters 87-6, 87-99, and 87-  
5 101, Laws of Florida, is amended to read:

6 206.9931 Administrative provisions.--

7 (1) Any person producing in, importing into, or  
8 causing to be imported into this state taxable pollutants for  
9 sale, use, or otherwise and who is not registered or licensed  
10 pursuant to other parts of this chapter is hereby required to  
11 register and become licensed for the purposes of this part.

12 Such person shall register as either a producer or importer of  
13 pollutants and shall be subject to all applicable registration  
14 and licensing provisions of this chapter, as if fully set out  
15 in this part and made expressly applicable to the taxes

16 imposed herein, including, but not limited to, ss. 206.151,  
17 206.152, 206.154, 206.162, 206.171, 206.172, and 206.174 ~~ss.~~

18 ~~206.027-206.027-206.0227-206.0257-206.037-206.047-and-206.05.~~

19 For the purposes of this section, registrations required  
20 exclusively for this part shall be made within 90 days of July  
21 1, 1986, for existing businesses, or prior to the first  
22 production or importation of pollutants for businesses created  
23 after July 1, 1986. The fee for registration shall be \$30.

24 Failure to timely register is a misdemeanor of the first  
25 degree, punishable as provided in s. 775.082, s. 775.083, or  
26 s. 775.084.

27 Section 60. Subsection (2) of section 206.9941,  
28 Florida Statutes, is amended to read:

29 206.9941 Exemptions.--

30 (2) Petroleum products exported from the first storage  
31 facility at which they are held in this state by the licensed

1 refiner, importer, jobber, wholesaler, producer, or dealer who  
2 first imported said products are exempt from the tax imposed  
3 under s. 206.9935(3).

4 Section 61. Subsection (1) of section 206.9942,  
5 Florida Statutes, is amended to read:

6 206.9942 Refunds and credits.--

7 (1) Any licensed refiner, importer, producer, jobber,  
8 wholesaler, or dealer who has purchased petroleum products,  
9 who has paid the tax pursuant to s. 206.9935(3) to his  
10 supplier, and who subsequently exports said products from the  
11 state may deduct the amount of tax paid thereon pursuant to s.  
12 206.9935(3) from the amount owed to the state and remitted  
13 pursuant to s. 206.9931(2) or may apply for a refund of the  
14 amount of tax paid thereon pursuant to s. 206.9935(3).  
15 Administrative procedures governing such refunds shall be  
16 those specified in s. 206.285 ~~ss-212-67~~, except for the  
17 provisions requiring refund permits.

18 Section 62. Section 207.026, Florida Statutes, as  
19 amended by section 13 of chapter 87-198, Laws of Florida, is  
20 amended to read:

21 207.026 Allocation of tax.--All moneys derived from  
22 the taxes and fees imposed by this chapter shall be paid into  
23 the State Treasury by the department for deposit in the Gas  
24 Tax Collection Trust Fund, from which the following transfers  
25 shall be made: After withholding \$50,000 from the proceeds  
26 therefrom, to be used as a revolving cash balance, and the  
27 amount of funds necessary for the administration and  
28 enforcement of this tax, all other moneys shall be transferred  
29 in the same manner and for the same purpose as provided in ss.  
30 206.565, 206.573, 206.575, and 206.585 ~~ss-206-417-206-457~~  
31 ~~206-607-206-6057-and-212-69.~~



1 Section 63. Paragraph (g) of subsection (1) of section  
2 212.05, Florida Statutes, as amended by chapter 87-548, Laws  
3 of Florida, is amended to read:

4 212.05 Sales, storage, use tax.--It is hereby declared  
5 to be the legislative intent that every person is exercising a  
6 taxable privilege who engages in the business of selling  
7 tangible personal property at retail in this state, including  
8 the business of making mail order sales, or who rents or  
9 furnishes any of the things or services taxable under this  
10 section, or who stores for use or consumption in this state  
11 any item or article of tangible personal property as defined  
12 herein and who leases or rents such property within the state.

13 (1) For the exercise of such privilege, a tax is  
14 levied on each taxable transaction or incident, which tax is  
15 due and payable as follows:

16 (g) ~~At the rate of 5 percent of the price as~~  
17 ~~determined pursuant to part II of this chapter, of each gallon~~  
18 ~~of motor fuel or special fuel taxable pursuant to that part,~~  
19 ~~except that~~ Motor fuel and special fuel expressly taxable  
20 under this part shall be taxed as provided in paragraphs (a)  
21 and (b).

22 Section 64. Paragraph (a) of subsection (4) and  
23 paragraph (e) of subsection (5) of section 212.08, Florida  
24 Statutes, as amended by chapter 87-548, Laws of Florida, are  
25 amended to read:

26 212.08 Sales, rental, use, consumption, distribution,  
27 and storage tax; specified exemptions.--The sale at retail,  
28 the rental, the use, the consumption, the distribution, and  
29 the storage to be used or consumed in this state of the  
30 following are hereby specifically exempt from the tax imposed  
31 by part I of this chapter.

1 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,  
2 ETC.--

3 (a) Also exempt are:

4 1. Water (not exempting mineral water or carbonated  
5 water).

6 2. All fuels used by a public or private utility,  
7 including any municipal corporation or rural electric  
8 cooperative association, in the generation of electric power  
9 or energy for sale. Fuel other than motor fuel and special  
10 fuel is taxable as provided in this part, with the exception  
11 of fuel expressly exempt herein. However, diesel fuel and  
12 kerosene used in any tractor, vehicle, or other farm equipment  
13 which is used exclusively on a farm or for processing farm  
14 products on the farm are taxable as provided in s.

15 206.101(1)(d) part-ff. Motor fuels and special fuels are  
16 taxable as provided in s. 206.101(1)(d) part-ff, with the  
17 exception of those motor fuels and special fuels used by  
18 railroad locomotives or vessels to transport persons or  
19 property in interstate or foreign commerce which are taxable  
20 under this part only to the extent provided herein. The basis  
21 of the tax shall be the ratio of intrastate mileage to  
22 interstate or foreign mileage traveled by the carrier's  
23 railroad locomotives or vessels which were used in interstate  
24 or foreign commerce and which had at least some Florida  
25 mileage during the previous fiscal year of the carrier, such  
26 ratio to be determined at the close of the fiscal year of the  
27 carrier. This ratio shall be applied each month to the total  
28 Florida purchases made in this state of gasoline and other  
29 fuels to establish that portion of the total used and consumed  
30 in intrastate movement and subject to tax under this part.

31

1 Fuels used exclusively in intrastate commerce do not qualify  
2 for the proration of tax.

3 3. The transmission or wheeling of electricity.

4 (5) EXEMPTIONS; ACCOUNT OF USE.--

5 (e) Gas used for certain agricultural purposes.--

6 Butane gas, propane gas, and all other forms of liquefied  
7 petroleum gases are exempt from the tax imposed by this  
8 chapter if used in any tractor, vehicle, or other farm  
9 equipment which is used exclusively on a farm or for  
10 processing farm products on the farm and no part of which gas  
11 is used in any vehicle or equipment driven or operated on the  
12 public highways of this state. This restriction does not  
13 apply to the movement of farm vehicles or farm equipment  
14 between farms. The transporting of bees by water and the  
15 operating of equipment used in the apiary of a beekeeper is  
16 also deemed an exempt use. This exemption shall inure to the  
17 taxpayer only through refund of previously paid taxes.  
18 Refunds under this paragraph shall be authorized and  
19 administered as provided in s. 206.285 ~~st-212-67~~.

20 Section 65. Section 336.021, Florida Statutes, is  
21 amended to read:

22 336.021 County transportation system; ~~levy of~~ voted  
23 gas tax on motor fuel and special fuel.--

24 (1) Any county in the state which imposes a gas tax  
25 pursuant to s. 206.102(1) shall use the revenues from such  
26 tax, in the discretion of its governing body and subject to a  
27 referendum, may impose, in addition to all other taxes  
28 required or allowed by law, a one-cent voted gas tax upon every  
29 gallon of motor fuel and special fuel sold in such county and  
30 taxed under the provisions of part I or part II of chapter  
31 206 for the purpose of paying the costs and expenses of

1 establishing, operating, and maintaining a transportation  
 2 system and related facilities and the cost of acquisition,  
 3 construction, reconstruction, and maintenance of roads and  
 4 streets. ~~The governing body of the county may provide that~~  
 5 ~~the referendum be worded to limit the number of years such tax~~  
 6 ~~will remain in effect.~~ The governing body of the county may,  
 7 by joint agreement with one or more of the municipalities  
 8 located therein, provide for these transportation purposes and  
 9 the distribution of the proceeds of this tax within both the  
 10 unincorporated and incorporated areas of the county. ~~The tax~~  
 11 ~~shall be collected and remitted by any person engaged in~~  
 12 ~~selling at retail motor fuel or using or selling at retail~~  
 13 ~~special fuel within a county in which the tax is authorized~~  
 14 ~~and shall be distributed monthly by the department to the~~  
 15 ~~county where collected.~~ ~~The provisions for refund provided in~~  
 16 ~~ss. 206.625 and 206.64 shall not be applicable to such tax~~  
 17 ~~levied by any county.~~ ~~Any person licensed under part I or~~  
 18 ~~part II of chapter 206 who uses motor fuel or special fuel or~~  
 19 ~~who engages in selling motor fuel or special fuel at retail~~  
 20 ~~shall deduct from the amount of tax shown by the report to be~~  
 21 ~~payable an amount equivalent to 3 percent of the tax on motor~~  
 22 ~~or special fuels imposed by this section, which deduction is~~  
 23 ~~hereby allowed on account of services and expenses in~~  
 24 ~~complying with the provisions of the law.~~ ~~If the amount of~~  
 25 ~~taxes due and remitted to the department for the reporting~~  
 26 ~~period exceeds \$17000, the 3 percent allowance shall be~~  
 27 ~~reduced to 1 percent for all amounts in excess of \$17000.~~  
 28 ~~However, this allowance shall not be deductible unless payment~~  
 29 ~~of the tax is made on or before the 20th day of the month as~~  
 30 ~~required.~~ ~~The United States post office date stamped on the~~  
 31

1 envelope in which the report is submitted shall be considered  
 2 as the date the report is received by the department.  
 3 ~~(2)~~ (2) The additional tax collected by the department  
 4 pursuant to subsection (1) shall be transferred to the Voted  
 5 Gas Tax Trust Fund, which fund is created for distribution to  
 6 the county in which the tax was collected. The department has  
 7 the authority to prescribe and publish all forms upon which  
 8 reports shall be made to it and other forms and records deemed  
 9 to be necessary for proper administration and collection of  
 10 the tax levied by any county and shall promulgate such rules  
 11 as may be necessary for the enforcement of this section, which  
 12 rules shall have the full force and effect of law. The  
 13 sections of chapter 2067, including, but not limited to, those  
 14 sections relating to timely filing of reports and tax  
 15 collected, surts for collection of unpaid taxes, department  
 16 warrants for collection of unpaid taxes, penalties, interest,  
 17 retention of records, inspection of records, liens on  
 18 property, foreclosure, and enforcement and collection also  
 19 apply to the tax authorized in this section.

20 (2)(3) It is expressly recognized and declared by the  
 21 Legislature that the establishment, operation, and maintenance  
 22 of a transportation system and related facilities and the  
 23 acquisition, construction, reconstruction, and maintenance of  
 24 roads and streets fulfill a public purpose and that payment of  
 25 the costs and expenses therefor may be made from county  
 26 general funds, special taxing district funds, or such other  
 27 funds as may be authorized by special or general law.  
 28 Counties are authorized to expend the funds received under  
 29 this section in conjunction with the state or federal  
 30 government in joint projects.

31

1           (3) Within 10 days after the ordinance levying the tax  
 2 is approved, the county shall provide the department with a  
 3 certified copy of the ordinance and

4           ~~(4)--A certified copy of the ordinance proposing to~~  
 5 ~~levy the tax allowed by this section shall be furnished by the~~  
 6 ~~county to the department within 10 days of approval of such~~  
 7 ~~ordinance.--Furthermore, the county levying such tax shall~~  
 8 ~~notify the department within 10 days after the passage of the~~  
 9 ~~referendum of such passage and of the time period during which~~  
 10 ~~the tax will be levied. The failure to furnish the certified~~  
 11 ~~copy will not invalidate the passage of the ordinance.~~

12           (4)(5) The tax shall not take effect until at least 60  
 13 days after the county notifies the department of passage of  
 14 the referendum. No decision to rescind the tax shall take  
 15 effect until at least 60 days after the county notifies the  
 16 department of such decision.

17           Section 66. Section 336.025, Florida Statutes, is  
 18 amended to read:

19           336.025 County transportation system; levy of local  
 20 option gas tax on motor fuel and special fuel.--

21           ~~(1)(a)--In addition to other taxes allowed by law,~~  
 22 ~~there may be imposed as provided in this section a 1-cent, 2-~~  
 23 ~~cent, 3-cent, 4-cent, 5-cent, or 6-cent local option gas tax~~  
 24 ~~upon every gallon of motor fuel and special fuel sold in a~~  
 25 ~~county and taxed under the provisions of part I or part II of~~  
 26 ~~chapter 206.~~

27           (a)(b) Any ~~the~~ tax imposed under s. 206.102(2) shall  
 28 be imposed before July 1 to be effective September 1 of any  
 29 year for a period not to exceed 30 years, and the applicable  
 30 method of distribution shall be established pursuant to  
 31 subsection (2)(3) or subsection (3)(4). Upon expiration, the

1 tax may be reimposed provided that a redetermination of the  
2 method of distribution is made as provided in this section.

3 (b)~~(e)~~ County and municipal governments shall utilize  
4 moneys received pursuant to this section only for  
5 transportation expenditures.

6 (c)~~(d)~~ Any tax imposed pursuant to s. 206.102(2) ~~this~~  
7 ~~section~~ may be extended on a majority vote of the governing  
8 body of the county. A redetermination of the method of  
9 distribution shall be established pursuant to subsection  
10 (2)~~(3)~~ or subsection (3)~~(4)~~, if, after July 1, 1986, the tax  
11 is extended or the tax rate changed, for the period of  
12 extension or for the additional tax.

13 (d)~~(e)~~ Local governments may use the services of the  
14 Division of Bond Finance of the Department of General Services  
15 pursuant to the State Bond Act to issue any bonds through the  
16 provisions of this section and may pledge the revenues from  
17 the local option gas tax to secure the payment of the bonds.  
18 In no case may a jurisdiction issue bonds pursuant to this  
19 section more frequently than once per year. Counties and  
20 municipalities may join together for the issuance of bonds  
21 issued pursuant to this section.

22 ~~(2)(a) -- The tax shall be collected and remitted by any~~  
23 ~~person engaged in selling at retail motor fuel or using or~~  
24 ~~selling at retail special fuel within a county in which the~~  
25 ~~tax is authorized and shall be distributed monthly by the~~  
26 ~~Department of Revenue to the county where collected. -- The tax~~  
27 ~~remitted to the Department of Revenue pursuant to this section~~  
28 ~~shall be transferred to the Local Option Gas Tax Trust Fund,~~  
29 ~~which fund is created for distribution to the county and~~  
30 ~~eligible municipal governments within the county in which the~~  
31 ~~tax was collected and which fund is subject to the service~~

1 charge imposed in chapter 215. The Department of Revenue has  
 2 the authority to prescribe and publish all forms upon which  
 3 reports shall be made to it and other forms and records deemed  
 4 to be necessary for proper administration and collection of  
 5 the tax and shall promulgate such rules as may be necessary  
 6 for the enforcement of this section. The sections of chapter  
 7 206, including, but not limited to, those sections relating to  
 8 timely filing of reports and tax collected, suits for  
 9 collection of unpaid taxes, department warrants for collection  
 10 of unpaid taxes, penalties, interest, retention of records,  
 11 inspection of records, liens on property, foreclosure, and  
 12 enforcement and collection also apply to the tax authorized in  
 13 this section.

14 (b) The provisions for refund provided in s. 206.625  
 15 are not applicable to such tax levied by any county. Any  
 16 person licensed under part I or part II of chapter 206 who  
 17 uses motor fuel or special fuel or who engages in selling  
 18 motor fuel or special fuel at retail shall deduct from the  
 19 amount of tax shown by the report to be payable an amount  
 20 equivalent to 3 percent of the tax on motor or special fuels  
 21 imposed by this section, which deduction is hereby allowed on  
 22 account of services and expenses in complying with the  
 23 provisions of the law. If the amount of taxes due and  
 24 remitted to the Department of Revenue for the reporting period  
 25 exceeds \$1,000, the 3 percent allowance shall be reduced to 1  
 26 percent for all amounts in excess of \$1,000. However, this  
 27 allowance shall not be deductible unless payment of the tax is  
 28 made on or before the 20th day of the month as required. The  
 29 United States post office date stamped on the envelope in  
 30 which the report is submitted shall be considered as the date  
 31 the report is received by the Department of Revenue. The



1 ~~provisions for refund in s. 212.67(1)(a) and (e) apply to such~~  
2 ~~tax, and the refund shall be administered in accordance with~~  
3 ~~the provisions of s. 212.67. However, the amount refunded~~  
4 ~~shall be deducted from moneys in the local option gas tax~~  
5 ~~trust fund otherwise distributed to the county area in which~~  
6 ~~the tax is levied.~~

7 (2)(3) The tax shall be imposed using either of the  
8 following procedures:

9 (a) The tax may be levied by an ordinance adopted by a  
10 majority vote of the governing body or upon approval by  
11 referendum. Such ordinance shall be adopted in accordance  
12 with the requirements imposed under one of the following  
13 circumstances, whichever is applicable:

14 1. The county may, prior to June 1, establish by  
15 interlocal agreement with one or more of the municipalities  
16 located therein, representing a majority of the population of  
17 the incorporated area within the county, a distribution  
18 formula for dividing the entire proceeds of the local option  
19 gas tax among the county government and all eligible  
20 municipalities within the county. If no interlocal agreement  
21 exists, a new interlocal agreement may be established prior to  
22 August 1, 1986, or June 1 of any year thereafter pursuant to  
23 this subparagraph. However, any interlocal agreement agreed  
24 to under this subparagraph after the initial imposition of the  
25 tax, extension of the tax, or change in the tax rate  
26 authorized in this section shall under no circumstances  
27 materially or adversely affect the rights of holders of  
28 outstanding bonds which are backed by taxes authorized by this  
29 section, and the amounts distributed to the county government  
30 and each municipality shall not be reduced below the amount  
31 necessary for the payment of principal and interest and

1 reserves for principal and interest as required under the  
2 covenants of any bond resolution outstanding on the date of  
3 establishment of the new interlocal agreement.

4           2. If an interlocal agreement has not been executed  
5 pursuant to subparagraph 1., the county may, prior to June 10,  
6 adopt a resolution of intent to levy the tax allowed in this  
7 section.

8           (b) If no interlocal agreement or resolution is  
9 adopted pursuant to subparagraph (a)1. or subparagraph (a)2.,  
10 municipalities representing more than 50 percent of the county  
11 population may, prior to June 20, adopt uniform resolutions  
12 approving the local option tax, establishing the duration of  
13 the levy and the rate authorized in s. 206.102(2) paragraph  
14 ~~(1)(a)~~, and setting the date for a countywide referendum on  
15 whether to impose the tax. A referendum shall be held in  
16 accordance with the provisions of such resolution and  
17 applicable state law, provided that the county shall bear the  
18 costs thereof. The tax shall be imposed and collected  
19 countywide on September 1 following 30 days after voter  
20 approval.

21           ~~(3)(a)~~ (a) If the tax is imposed under the  
22 circumstances of subparagraph (2)(a)2. ~~(3)(a)2.~~ or paragraph  
23 (2)(b) ~~(3)(b)~~, the proceeds of the tax shall be distributed  
24 among the county government and eligible municipalities based  
25 on the transportation expenditures of each for the immediately  
26 preceding 5 fiscal years, as a proportion of the total of such  
27 expenditures for the county and all municipalities within the  
28 county. After the initial imposition of a tax being  
29 distributed pursuant to the provisions of this paragraph, the  
30 proportions shall be recalculated every 10 years based on the  
31 transportation expenditures of the immediately preceding 5

1 years. However, such recalculation shall under no  
2 circumstances materially or adversely affect the rights of  
3 holders of bonds outstanding on July 1, 1986, which are backed  
4 by taxes authorized in s. 206.102(2) ~~this section~~, and the  
5 amounts distributed to the county government and each  
6 municipality shall not be reduced below the amount necessary  
7 for the payment of principal and interest and reserves for  
8 principal and interest as required under the covenants of any  
9 bond resolution outstanding on the date of the recalculation.

10 (b) Any newly incorporated municipality which is  
11 eligible for participation in the distribution of moneys under  
12 parts II and VI of chapter 218 and which is located in a  
13 county levying the tax imposed pursuant to s. 206.102(2) ~~this~~  
14 ~~section~~ is entitled to receive a share of the tax revenues.

15 Distribution of such revenues to a newly incorporated  
16 municipality shall begin in the first full fiscal year  
17 following incorporation. The distribution to a newly  
18 incorporated municipality shall be:

19 1. Equal to the county's per lane mile expenditure in  
20 the previous year times the lane miles within the jurisdiction  
21 or responsibility of the municipality, in which case the  
22 county's share shall be reduced proportionately; or

23 2. Determined by the local act incorporating the  
24 municipality.

25  
26 Such distribution shall under no circumstances materially or  
27 adversely affect the rights of holders of outstanding bonds  
28 which are backed by taxes authorized in s. 206.102(2) ~~this~~  
29 ~~section~~, and the amounts distributed to the county government  
30 and each municipality shall not be reduced below the amount  
31 necessary for the payment of principal and interest and

1 reserves for principal and interest as required under the  
2 covenants of any bond resolution outstanding on the date of  
3 the redistribution.

4       ~~(4)~~(5)(a) By July 1 of each year, the county shall  
5 notify the Department of Revenue of the rate of tax levied, of  
6 its decision to rescind the tax, if applicable, and provide  
7 the department with a certified copy of the interlocal  
8 agreement established under subparagraph (2)(a)1. ~~(3)(a)1.~~  
9 with distribution proportions established by such agreement or  
10 pursuant to subsection (3)4, if applicable. No decision to  
11 rescind the tax shall take effect until at least 60 days after  
12 the county notifies the Department of Revenue of such  
13 decision.

14       (b) Any dispute as to the determination by the county  
15 of distribution proportions shall be resolved through an  
16 appeal to the Administration Commission in accordance with  
17 procedures developed by the commission. Pending final  
18 disposition of such proceeding, the tax shall be collected  
19 pursuant to this section, and such funds shall be held in  
20 escrow by the clerk of the circuit court of the county until  
21 final disposition.

22       ~~(5)~~(6) Only those municipalities and counties eligible  
23 for participation in the distribution of moneys under parts II  
24 and VI of chapter 218 are eligible to receive moneys under  
25 this section. Any funds otherwise undistributed because of  
26 ineligibility shall be distributed to eligible governments  
27 within the county in proportion to other moneys distributed  
28 pursuant to this section.

29       ~~(6)~~(7) For the purposes of this section, the term  
30 "transportation expenditures" means expenditures by the local  
31 government from local or state shared revenue sources,

1 | excluding expenditures of bond proceeds, for the following  
2 | programs:

3 |       (a) Public transportation operations and maintenance.

4 |       (b) Roadway and right-of-way maintenance and  
5 | equipment.

6 |       (c) Roadway and right-of-way drainage.

7 |       (d) Streetlighting.

8 |       (e) Traffic signs, traffic engineering, signalization,  
9 | and pavement markings.

10 |       (f) Bridge maintenance and operation.

11 |       (g) Debt service and current expenditures for  
12 | transportation capital projects in the foregoing program  
13 | areas, including construction or reconstruction of roads.

14 |       Section 67. Section 336.026, Florida Statutes, is  
15 | amended to read:

16 |       336.026 Metropolitan transportation system; levy of  
17 | local option gas tax on motor fuel and special fuel.--

18 |       ~~(1)(a)--In addition to other taxes allowed by law  
19 | including the 6-cent local option gas tax on motor fuel and  
20 | special fuel as provided in s. 336.025, there may be imposed  
21 | as provided herein a 1-cent, 2-cent, 3-cent, or 4-cent local  
22 | option gas tax upon every gallon of motor fuel and special  
23 | fuel sold in a regional ground transportation area as defined  
24 | in s. 163.803(4) and taxed under the provisions of part I or  
25 | part II of chapter 206.~~

26 |       (a)(b) Any The tax imposed under s. 206.102(3) shall  
27 | take effect be imposed effective 60 days after the first day  
28 | of the month following the referendum ratifying the regional  
29 | ground transportation plan pursuant to s. 163.805. The tax  
30 | shall only be collected in those counties in a regional ground  
31 | transportation area, as defined in s. 163.803(4), which have

1 ratified the regional ground transportation plan adopted by  
 2 the metropolitan transportation authority pursuant to s.  
 3 163.805.

4 (b)~~(c)~~ Metropolitan transportation authorities shall  
 5 utilize moneys received pursuant to this section only as  
 6 authorized in the Metropolitan Transportation Authority Act.

7 ~~(2)(a)--The tax shall be collected and remitted by any~~  
 8 ~~person engaged in selling at retail motor fuel or using or~~  
 9 ~~selling at retail special fuel within a regional ground~~  
 10 ~~transportation area in which the tax is authorized and shall~~  
 11 ~~be distributed monthly by the department to the authority in~~  
 12 ~~the regional ground transportation area where collected.--The~~  
 13 ~~tax remitted to the Department of Revenue pursuant to this~~  
 14 ~~section shall be transferred to the Local Option Gas Tax Trust~~  
 15 ~~Fund, which fund is created for distribution to the~~  
 16 ~~Metropolitan Transportation Authority in the regional ground~~  
 17 ~~transportation area in which the tax was collected and which~~  
 18 ~~fund is subject to the service charge imposed in chapter 215.~~  
 19 ~~The department has the authority to prescribe and publish all~~  
 20 ~~forms upon which reports shall be made to it and other forms~~  
 21 ~~and records deemed to be necessary for proper administration~~  
 22 ~~and collection of the tax and shall promulgate such rules as~~  
 23 ~~may be necessary for the enforcement of this section.--The~~  
 24 ~~sections of chapter 206, including, but not limited to, those~~  
 25 ~~sections relating to timely filing of reports and tax~~  
 26 ~~collected, suits for collection of unpaid taxes, department~~  
 27 ~~warrants for collection of unpaid taxes, penalties, interest,~~  
 28 ~~retention of records, inspection of records, liens on~~  
 29 ~~property, foreclosure, and enforcement and collection also~~  
 30 ~~apply to the tax authorized in this section.~~  
 31

1           ~~(b)--The provisions for refund provided in ss. 206.625~~  
 2 ~~and 206.64 are not applicable to such tax levied by any~~  
 3 ~~authority.--The provisions for refund in s. 212.67(1)(a) and~~  
 4 ~~(e) apply to such tax, and the refund shall be administered in~~  
 5 ~~accordance with the provisions of s. 212.67.--However, the~~  
 6 ~~amount refunded shall be deducted from moneys in the local~~  
 7 ~~Option Gas Tax Trust Fund otherwise distributed to the~~  
 8 ~~authority in the regional ground transportation area in which~~  
 9 ~~the tax is levied.~~

10           (2)(3) At least 60 days prior to the effective date of  
 11 any tax under this section, the authority shall provide the  
 12 Department of Revenue with the amount of the tax levied and  
 13 imposed under this section pursuant to the regional ground  
 14 transportation plan approved in the referendum required by s.  
 15 163.805. No decision to rescind the tax may take effect until  
 16 at least 60 days after the authority notifies the Department  
 17 of Revenue of such decision.

18           Section 68. Sections 206.022, 206.025, 206.095,  
 19 206.12, 206.15, 206.16, 206.17, 206.175, 206.20, 206.204,  
 20 206.205, 206.22, 206.28, 206.405, 206.445, 206.46, 206.61,  
 21 206.85, 206.86, 206.88, 206.92, and 206.96, Florida Statutes,  
 22 are renumbered as sections 206.154, 206.162, 206.213, 206.353,  
 23 206.413, 206.416, 206.423, 206.424, 206.455, 206.463, 206.465,  
 24 206.445, 206.505, 206.158, 206.327, 206.563, 206.122, 206.701,  
 25 206.702, 206.788, 206.722, and 206.790, Florida Statutes,  
 26 respectively.

27           Section 69. Section 7.52, Florida Statutes, is amended  
 28 to read:

29           7.52 Pinellas County.--The boundary lines of Pinellas  
 30 County are as follows: Beginning at a point where the line  
 31 dividing townships twenty-six and twenty-seven south if

1 projected in a westerly direction intersects with the western  
 2 boundary of the jurisdictional waters of the State of Florida  
 3 in the Gulf of Mexico; thence east on said line to the  
 4 northeast corner of section one in township twenty-seven  
 5 south, range sixteen east; thence south to the shore of old  
 6 Tampa Bay; thence in a southerly direction through the middle  
 7 waters of old Tampa Bay and Tampa Bay, to a point in Tampa Bay  
 8 due east of the north shore of Mullet Key; thence due west to  
 9 a point due north of a point 100 yards due east from the  
 10 easternmost point of Mullet Key; thence in a line 100 yards  
 11 from the shoreline around the southern portion of Mullet Key  
 12 to a point 100 yards west of the northernmost shore of Mullet  
 13 Key; thence west to a point where such line intersects the  
 14 western boundary of the jurisdictional waters of the State of  
 15 Florida in the Gulf of Mexico and northward, including the  
 16 waters of said gulf within the jurisdiction of the State of  
 17 Florida, to point of beginning; provided however that nothing  
 18 herein contained shall now or at any time hereafter in any  
 19 manner whatsoever repeal, amend, change or disturb in any  
 20 manner whatsoever the apportionment, allotment, allocation,  
 21 basis of computation, or other formula wherein and whereby the  
 22 participation in the gas tax by both counties hereto under and  
 23 by virtue of ss. 206.263 and 206.565 ~~ss-206-41-and-206-47~~ or  
 24 any law hereafter enacted, is changed so that Hillsborough  
 25 County would receive a lesser amount and Pinellas County would  
 26 receive a greater amount of such gas funds or tax by reason of  
 27 the change of the boundary line herein authorized.

28 Section 70. Paragraph (a) of subsection (11) of  
 29 section 163.3184, Florida Statutes, is amended to read:

30 163.3184 Process for adoption of comprehensive plan or  
 31 amendment thereto.--



1 (11) ADMINISTRATION COMMISSION.--

2 (a) If the Administration Commission, upon a hearing  
3 pursuant to subsection (9) or subsection (10), finds that the  
4 comprehensive plan or plan amendment is not in compliance with  
5 this act, the commission shall specify remedial actions which  
6 would bring the comprehensive plan or plan amendment into  
7 compliance. The commission may direct state agencies not to  
8 provide funds to increase the capacity of roads, bridges, or  
9 water and sewer systems within the boundaries of those local  
10 governmental entities which have comprehensive plans or plan  
11 elements that are determined not to be in compliance. The  
12 commission order may also specify that the local government  
13 shall not be eligible for grants administered under the  
14 following programs:

- 15 1. The Florida Small Cities Community Development  
16 Block Grant Program, as authorized by ss. 290.0401-290.049.  
17 2. The Florida Recreation Development Assistance  
18 Program, as authorized by chapter 375.  
19 3. Revenue sharing pursuant to ss. 206.573 ~~ss. 206.60~~,  
20 210.20, and 218.61 and part I of chapter 212, to the extent  
21 not pledged to pay back bonds.

22 Section 71. Subsection (3) of section 207.023, Florida  
23 Statutes, as amended by chapter 87-198, Laws of Florida, is  
24 amended to read:

25 207.023 Authority to inspect vehicles, make arrests,  
26 seize property, and execute warrants.--

27 (3) Commercial motor vehicles owned or operated by any  
28 motor carrier who refuses to comply with this chapter may be  
29 seized by authorized agents or employees of the Department of  
30 Highway Safety and Motor Vehicles, the Department of  
31 Agriculture and Consumer Services, or the Department of

1 Transportation; or authorized agents and employees of any of  
2 these departments also may seize property as set out in ss.  
3 206.435, 206.443, and 206.465 ~~ss.-206-2057-206-217-and~~  
4 ~~206-215~~. Upon such seizure, the property shall be surrendered  
5 without delay to the sheriff of the county where the property  
6 was seized for further proceedings.

7 Section 72. Section 207.026, Florida Statutes, as  
8 amended by sections 46 and 47 of chapter 87-548, Laws of  
9 Florida, is amended to read:

10 207.026 Allocation of tax.--All moneys derived from  
11 the taxes and fees imposed by this chapter shall be paid into  
12 the State Treasury by the department for deposit in the Gas  
13 Tax Collection Trust Fund, from which the following transfers  
14 shall be made: After withholding \$50,000 from the proceeds  
15 therefrom, to be used as a revolving cash balance, and the  
16 amount of funds necessary for the administration and  
17 enforcement of this tax, all other moneys shall be transferred  
18 in the same manner and for the same purpose as provided in ss.  
19 206.263, 206.555, 206.573, 206.575, 206.585, and 206.785 ~~ss-~~  
20 ~~206-417-206-457-206-607-206-6057-and-212-69.~~

21 Section 73. Subsection (1) of section 212.235, Florida  
22 Statutes, as amended by section 40 of chapter 87-548, Laws of  
23 Florida, is amended to read:

24 212.235 State Infrastructure Fund; deposits.--

25 (1) Notwithstanding the provisions of ss. 212.20(1)  
26 and 218.61, in fiscal year 1987-1988 an amount equal to 2  
27 percent, and in each fiscal year thereafter an amount equal to  
28 5 percent, of the proceeds remitted pursuant to this part by a  
29 dealer, or the sums sufficient to provide the maximum receipts  
30 specified herein, shall be transferred into the State  
31 Infrastructure Fund, which is created in the State Treasury.

1 "Proceeds" means all funds collected and received by the  
 2 Department of Revenue, including any interest and penalties.  
 3 However, any receipts of the fund, including those received  
 4 pursuant to s. ss- 201.15(5) and ~~206-075(3)~~ and interest  
 5 earned, in excess of ~~\$200 million in fiscal year 1987-1988,~~  
 6 and \$550 million thereafter, shall revert to the General  
 7 Revenue Fund.

8 Section 74. Subsections (1), (2), (3), (4), (5), and  
 9 (14) of section 215.22, Florida Statutes, are amended to read:

10 215.22 Certain moneys and certain trust funds  
 11 enumerated.--The following described moneys and income of a  
 12 revenue nature deposited in the following described trust  
 13 funds, by whatever name designated, shall be those from which  
 14 the deductions authorized by s. 215.20 shall be made:

15 (1) The Gas Tax Collection Trust Fund created in s.  
 16 206.555 ~~s-206-45~~.

17 (2) All income derived from outdoor advertising and  
 18 overweight violations which is deposited in the State  
 19 Transportation Trust Fund created in s. 206.563 ~~s-206-46~~.

20 (3) All taxes levied on motor fuels other than  
 21 gasoline levied pursuant to the provisions of s. 206.755 ~~s-~~  
 22 ~~206-07~~.

23 (4) The State Alternative Fuel User Fee Clearing Trust  
 24 Fund established pursuant to s. 206.786(1) ~~s-206-079(1)~~.

25 (5) The Local Alternative Fuel User Fee Clearing Trust  
 26 Fund established pursuant to s. 206.786(2) ~~s-206-079(2)~~.

27 (14) The Local Option Gas Tax Trust Fund created  
 28 pursuant to s. 206.102 ~~s-336-025~~.

29  
 30 The enumeration of the above moneys or trust funds shall not  
 31 prohibit the applicability thereto of s. 215.24 should the

1 Governor determine that for the reasons mentioned in s. 215.24  
2 the money or trust fund should be exempt herefrom, as it is  
3 the purpose of this law to exempt all trust funds from its  
4 force and effect when, by the operation of this law, federal  
5 matching funds or contributions to any trust fund would be  
6 lost to the state.

7 Section 75. Paragraph (b) of subsection (6) of section  
8 218.21, Florida Statutes, is amended to read:

9 218.21 Definitions.--As used in this part, the  
10 following words and terms shall have the meanings ascribed  
11 them in this section, except where the context clearly  
12 indicates a different meaning:

13 (6) "Guaranteed entitlement" means the amount of  
14 revenue which must be shared with an eligible unit of local  
15 government so that:

16 (b) No eligible municipality shall receive less funds  
17 from the Revenue Sharing Trust Fund for Municipalities in any  
18 fiscal year than the aggregate amount it received from the  
19 state in fiscal year 1971-1972 under the provisions of the  
20 then existing s. 210.20(2)(a), tax on cigarettes; s.  
21 323.16(3), road tax; s. 206.575 ~~sr-206-605~~, tax on motor  
22 fuel; except that any government exercising municipal powers  
23 pursuant to s. 6(f), Art. VIII of the State Constitution shall  
24 not receive less funds from any such revenue sharing trust  
25 fund than the aggregate amount it received from the state in  
26 the preceding state fiscal year under the provisions of this  
27 part, plus a 7 percent increase in such amount.

28 Section 76. Section 336.024, Florida Statutes, is  
29 amended to read:

30 336.024 Distribution of constitutional gas tax.--  
31 Effective July 1, 1983, the State Board of Administration

1 shall assume the responsibility for distribution of the  
2 counties' 80-percent share of the constitutional gas tax in  
3 the same manner as the 20-percent share is currently  
4 distributed pursuant to s. 206.565 ~~s. 206.47~~; however, the  
5 State Board of Administration shall assure that county funds  
6 are made available to the department to be held in escrow for  
7 any construction underway on behalf of the county pursuant to  
8 resolution of the county governing body.

9 Section 77. Paragraph (c) of subsection (11) of  
10 section 376.301, Florida Statutes, is amended to read:

11 376.301 Definitions of terms used in ss. 376.30-  
12 376.319.--When used in ss. 376.30-376.319, unless the context  
13 clearly requires otherwise, the term:

14 (11) "Petroleum storage system" means a stationary  
15 tank not covered under the provisions of chapter 377, together  
16 with any onsite integral piping or dispensing system  
17 associated therewith, which is used, or intended to be used,  
18 for the storage or supply of any petroleum product as defined  
19 herein, and which:

20 (c) Is located in a storage facility licensed with the  
21 Department of Revenue under s. 206.154 ~~s. 206.022~~ or s.  
22 206.9930, excluding offsite pipelines;

23 Section 78. Section 849.092, Florida Statutes, is  
24 amended to read:

25 849.092 Retail merchandising business; certain  
26 activities permitted.--The provisions of s. 849.09 shall not  
27 be construed to prohibit or prevent persons who are licensed  
28 to conduct business under s. 206.156 ~~s. 206.404~~, from giving  
29 away prizes to persons selected by lot, if such prizes are  
30 made on the following conditions:

1 (1) Such gifts are conducted as advertising and  
2 promotional undertakings, in good faith, solely for the  
3 purpose of advertising the goods, wares, merchandise and  
4 business of such licensee; and

5 (2) The principal business of such licensee is the  
6 business permitted to be licensed under s. 206.156 ~~or 206.404~~;  
7 and

8 (3) No person to be eligible to receive such gift  
9 shall ever be required to:

10 (a) Pay any tangible consideration to such licensee in  
11 the form of money or other property or thing of value, or

12 (b) Purchase any goods, wares, merchandise or  
13 anything of value from such licensee.

14 (4) The person selected to receive any such gift or  
15 prize offered by any such licensee in connection with any such  
16 advertising or promotion is notified of his selection at his  
17 last known address. Newspapers, magazines, television and  
18 radio stations may, without violating any law, publish and  
19 broadcast advertising matter describing such advertising and  
20 promotional undertakings of such licensees which may contain  
21 instructions pursuant to which persons desiring to become  
22 eligible for such gifts or prizes may make their name and  
23 address known to such licensee.

24 (5) All brochures, advertisements, promotional  
25 material, and entry blanks promoting such undertakings shall  
26 contain a clause stating that residents of Florida are  
27 entitled to participate in such undertakings and are eligible  
28 to win gifts or prizes.

29 Section 79. Sections 206.08, 206.25, 206.41, 206.435,  
30 206.49, 206.625, 206.63, 206.64, 206.93, 206.94, 206.945,  
31 212.60, 212.62, 212.6201, 212.63, 212.635, 212.64, 212.65,

1 | 212.655, and 212.66, Florida Statutes, and section 212.61,  
2 | Florida Statutes, as amended by section 34 of chapter 87-548,  
3 | Laws of Florida, are hereby repealed.

4 |           Section 80. This act shall take effect July 1, 1988,  
5 | or upon becoming a law, whichever occurs later.

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SENATE SUMMARY

Combines provisions of ch. 206, ch. 212, and ch. 336, F.S., which impose a state gas tax on motor fuel and special fuel and a state sales tax on motor fuel and special fuel, and allow a local option county gas tax on motor fuel and special fuel. Provides for collection, enforcement, and administration of such taxes. Revises provisions relating to certain tax refunds and tax exemptions. See bill for details.

Florida Information Associates Florida Legislature Staff Analyses 1988 Sessions	<u>LAWS OF FLORIDA CHAPTER NO.</u>  88-0119
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<u>PRIME BILL NUMBER</u>	<u>TYPE OF BILL</u>	<u>SPONSOR</u>
88/S1203 *	general	Deratany

PRIME BILL TITLE (short title)

Tax Administration

SIMILAR/IDENTICAL BILL SUBSTITUTED BY PRIME BILL:      88/H0350

<u>DOCUMENTATION REPRODUCED</u>	<u>Analysis</u>
PRIME SENATE COMMITTEE:      Finance, Taxation & Claims	(   )
----- FINAL SENATE COMMITTEE:      Finance, Taxation & Claims	( X )
----- PRIME HOUSE COMMITTEE:      n/a	(   )
----- FINAL HOUSE COMMITTEE:      n/a	(   )
----- SUBSTITUTED BILL:      (88/H0350)	( X )
----- OTHER:	(   )

**NOTE:** Consult the Final Legislative Bill Information (from Joint Legislative Management Committee, Division of Legislative Information, 1988) for more detailed bill history data. If prime bill number above is followed by an asterisk (\*), it was amended on the floor, and the staff analysis for that bill may not be in accordance with the enacted law. The analyses reproduced here were supplied by the appropriate committee, who is solely responsible for their accuracy and completeness.

ADDITIONAL INFORMATION:

(FRM 25-12/88)



By Senator Deratany

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

1 A bill to be entitled

2 An act relating to tax administration; amending

3 s. 213.75, F.S., providing for specifying

4 application of tax payments; amending s. 108 of

5 ch. 87-6, Laws of Florida, and s. 66 of ch. 87-

6 101, Laws of Florida; providing for application

7 of certain sections of such laws; providing an

8 effective date.

9

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

11

12 Section 1. Subsection (1) of section 213.75, Florida

13 Statutes, is amended to read:

14 213.75 Application of payments.--

15 (1) Except for any payment made pursuant to s. 213.21,

16 or as otherwise specified by the taxpayer at the time he makes

17 a payment, whenever any payment is made to the department with

18 respect to any of the revenue laws of this state, such payment

19 shall be applied as follows:

- 20 (a) First, against the accrued interest, if any;
- 21 (b) The amount, if any, remaining after the
- 22 application to interest shall be credited against any accrued
- 23 penalty; and
- 24 (c) The amount, if any, remaining after application to
- 25 interest and penalty shall be credited to any tax due.

26 Section 2. Section 108 of chapter 87-6, Laws of

27 Florida, is amended to read:

28 Section 108. Effective July 1, 1988, Except for

29 ~~violations for which the period of time for bringing an action~~

30 ~~or enforcing a lien has expired prior to July 17, 1986, the~~

31 ~~penalties provided by sections 49 through 98 of this act apply~~

1 with respect to any period of time for which a tax may be  
2 assessed on July 1, 1988 are applicable to the failure to pay  
3 taxes which are due before and remain unpaid on July 1, 1988.

4 Section 3. Section 66 of chapter 87-101, Laws of  
5 Florida, is amended to read:

6 Section 66. Effective July 1, 1988, Except for  
7 violations for which the period of time for bringing an action  
8 or enforcing a lien has expired prior to July 1, 1988, the  
9 penalties provided by sections 29 through 62 of this act apply  
10 with respect to any period of time for which a tax may be  
11 assessed on July 1, 1988 are applicable to the failure to pay  
12 taxes which are due before and remain unpaid on July 1, 1988.

13 Section 4. This act shall take effect July 1, 1988, or  
14 upon becoming a law, whichever occurs later.

15  
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20  
21 SENATE SUMMARY

22 Provides exceptions to the statutory scheme of applying  
23 tax payments first against accrued interest, next against  
any accrued penalty, then against any tax due.

24 Amends s. 108 of ch. 87-6, Laws of Florida, and s. 66 of  
25 ch. 87-101, Laws of Florida, to provide that certain  
26 sections of those laws apply with respect to any period  
27 of time for which a tax may be assessed on July 1, 1988.  
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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Boyle</u>	<u>Beggs</u>	1. <u>FTC</u>	<u>Fav/3 amends.</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Tax Administration

BILL NO. AND SPONSOR:

SB 1203 by  
Senator Deratany

I. SUMMARY:

A. Present Situation:

Under s. 213.75, F.S., the Department of Revenue is required to apply any payment made by a taxpayer first to any accrued interest, then to any accrued penalties, and finally to any taxes due. Even if a taxpayer designates the application of any payment he makes, the department is without recourse in applying the payment other than as prescribed. However, under s. 213.21, F.S., the department may settle or compromise any tax, penalty, or interest which is the subject of a dispute between the department and the taxpayer.

Before enactment of Chapters 87-6 and 87-101, Laws of Florida, the Department of Revenue could audit a taxpayer's records for the last three years and taxpayers had to keep records for three years to preserve the departments' ability to audit. Under Chapters 87-6 and 87-101, Laws of Florida, the departments' ability to audit was extended to 5 years but the record keeping requirement was left at 3 years.

B. Effect of Proposed Changes:

Section 213.75, F.S., is amended to allow a taxpayer to specify the application of any payment he makes as to tax, penalty, or interest and to recognize that compromises of taxes, penalties, or interest under s. 213.21, F.S., are exceptions to the statutorily specified application of payments.

Chapters 87-6 and 87-101, Laws of Florida, are amended to bring into alignment the department's ability to audit with the period of time a taxpayer must maintain an auditable record.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

To the extent a taxpayer may specify the application of a particular payment he may save on certain penalties or interest.

B. Government:

If a taxpayer saves any penalties or interest by specifying application of a payment, the state would fail to receive the corresponding amount.

III. COMMENTS: None.

IV. AMENDMENTS:

Amendment #1 by FT&C: Adds the contents of CS/SB 956 to SB 1203, allowing local governments to accept credit cards in payment for goods or services, allowing such payments to be subject to a surcharge, authorizing the Treasurer to contract with financial institutions or credit card companies, and providing for confidentiality of credit card numbers.

Amendment #2 by FT&C: Provides for retroactive operation of the bill to July 1, 1988, if it becomes a law after that date.

Amendment #3 by FT&C: Title Amendment corresponding to Amendment #1.

SENATE COMMITTEE AMENDMENT

SB 1203

No. 1  
(reported favorably)

HB \_\_\_\_\_

The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page 2, between lines 12 & 13,

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes
			<input type="checkbox"/>	<input type="checkbox"/>

insert:

Section 4. Section 215.322, Florida Statutes, is amended to read:

215.322 Acceptance of credit cards by state agencies and units of local government.--

(1) A state agency, as defined in s. 216.011, may accept credit cards in payment for goods and services with the prior approval of the Treasurer.

(2) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards by state agencies, including, but not limited to, the following:

(a) Utilization of a standardized contract between the financial institution and the agency which shall be developed by the Treasurer or approval by the Treasurer of a substitute agreement.

(b)1. The types of revenue or collections that may be subject to service fees or surcharges by the financial institution. Taxes, license fees, tuition, and other statutorily prescribed revenues may ~~shall not~~ be subject to a service fee or surcharge.

CODING: Words stricken are deletions; words underlined are additions.

\*\*\*\*\*  
\* Amendment No. 01, taken up by committee: 5/10/88 Adopted x \*  
\* Offered by Plummer Failed    \*  
\*\*\*\*\*  
( Amendment No.    Adopted    Failed    Date   /  /   )

1           2. The minimum public disclosure requirements to  
2 persons who elect to pay taxes, license fees, tuition, and  
3 other statutorily prescribed revenues by credit card which are  
4 subject to a surcharge pursuant to this section. Any state  
5 agency or unit of local government that surcharges a person  
6 who pays by credit card shall be subject to the minimum public  
7 disclosure requirements adopted by the Treasurer pursuant to  
8 this subparagraph.

9           (c) All service fees payable to financial institutions  
10 when practicable shall be invoiced and paid by state warrant  
11 in accordance with s. 215.422.

12           (d) Submission of information to the Treasurer  
13 concerning the acceptance of credit cards by all state  
14 agencies.

15           (3) The Treasurer is authorized to establish contracts  
16 with one or more financial institutions or credit card  
17 companies, in a manner consistent with chapter 287, for  
18 processing credit card collections for deposit into the State  
19 Treasury or another qualified public depository. Any state  
20 agency which accepts payment by credit card shall use at least  
21 one of the contractors established by the Treasurer unless the  
22 state agency obtains authorization from the Treasurer to use  
23 another contractor which is more financially advantageous to  
24 such state agency. Such contracts may authorize a unit of  
25 local government to use the services upon the same terms and  
26 conditions for deposit of credit card transactions into its  
27 qualified public depositories.

28           (4) A unit of local government is authorized to accept  
29 credit cards in payment of financial obligations which are  
30 owing to such unit of local government and to surcharge the  
31 person who uses a credit card in payment of taxes, license

SB 1203

HB \_\_\_\_\_

1 fees, tuition, or other statutorily prescribed revenues an  
2 amount sufficient to pay the service fee charges by the  
3 financial institution or credit card company for such  
4 services.

5 (5) Credit card account numbers in the possession of a  
6 state agency or unit of local government are confidential and  
7 exempt from the provisions of chapter 119. This exemption is  
8 subject to the Open Government Sunset Review Act in accordance  
9 with s. 119.14.

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SENATE COMMITTEE AMENDMENT

SB 1203

No. 2  
(reported favorably)

HB \_\_\_\_\_

The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

On page 2, line 14,  
after the word "later"

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes
			<input type="checkbox"/>	<input type="checkbox"/>

insert:

, but if it becomes a law after July 1, 1981, it shall operate retroactively to July 1, 1988

CODING: Words stricken are deletions; words underlined are additions.

\*\*\*\*\*  
 \* Amendment No. 03, taken up by committee: 5/10/88 Adopted x \*  
 \* Offered by Plummer Failed \_ \*  
 \*\*\*\*\*  
 (Amendment No. \_\_\_\_ Adopted \_\_ Failed \_\_ Date \_\_/\_\_/\_\_)



SENATE COMMITTEE AMENDMENT

SB 1203

No. 3  
(reported favorably)

HB \_\_\_\_\_

The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator.....and adopted: and failed:

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Senate Amendment

In title, on page 1, line 7,  
after the semicolon ";"

If amendment is text from another bill insert:

Bill No.	Draft No.	With Changes?	No	Yes

and insert:

amending s. 215.322, F.S.; authorizing state agencies and units of local government to collect service fees for financial institutions after receiving payment by credit card; authorizing rules for public disclosure; authorizing the Treasurer to establish contracts with financial institutions for processing credit card collections; creating an exemption from ch. 119, F.S., for certain records;

CODING: Words stricken are deletions; words underlined are additions.

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 \* Amendment No. 02, taken up by committee: 5/10/88 Adopted x \*  
 \* Offered by Plummer Failed \_ \*  
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 (Amendment No. \_\_\_\_ Adopted \_\_\_\_ Failed \_\_\_\_ Date \_\_/\_\_/\_\_)

Florida House of Representatives - 1988

By Representatives Tobiasen, Nergard, Hanson, Kelly

1 A bill to be entitled

2 An act relating to the local government half-  
3 cent sales tax; amending s. 218.65, F.S.;  
4 revising requirements for qualification of  
5 county governments for emergency distributions  
6 from the Local Government Half-cent Sales Tax  
7 Clearing Trust Fund; increasing the annual  
8 appropriation to the fund; creating s. 218.66,  
9 F.S.; providing for emergency distributions to  
10 municipalities from the fund; specifying  
11 requirements for qualification for such  
12 distributions; providing for an annual  
13 appropriation to the fund; providing an  
14 effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:17  
18 Section 1. Section 218.65, Florida Statutes, is  
19 amended to read:20 218.65 Emergency distribution; counties.--

21 (1) Each county government which meets the provisions  
22 of subsection (2) and which participates in the local  
23 government half-cent sales tax shall receive an emergency  
24 distribution from the Local Government Half-cent Sales Tax  
25 Clearing Trust Fund in addition to its regular monthly  
26 distribution as provided in this part.

27 (2) The Legislature hereby finds and declares that a  
28 fiscal emergency exists in any county which meets all of the  
9 following criteria:

30 ~~(a)--Its population is less than 50,000-~~

31

1 (a) If the county has a population of 50,000 or above;

2 ~~(b)1.~~ In any year from 1977 to 1981, inclusive, the  
3 value of net new construction and additions placed on the tax  
4 roll for that year was less than 2 percent of the taxable  
5 value for school purposes on the roll for that year, exclusive  
6 of such net value; or

7 2. The percentage increase in county taxable value  
8 from 1979 to 1980, 1980 to 1981, or 1981 to 1982 was less than  
9 3 percent.

10 (b)(c) The moneys estimated to be distributed to the  
11 county government pursuant to s. 218.62 for the year will be  
12 less than the current \$20 per capita limitation, based on the  
13 population of that county.

14 (3) Qualification under this section shall be  
15 determined annually prior to the start of the local government  
16 fiscal year. Emergency moneys shall be distributed monthly  
17 with other moneys provided pursuant to this part.

18 (4) For the local government fiscal year beginning  
19 October 1, 1988, the per capita limitation shall be \$24.60.  
20 Thereafter, commencing with the local government fiscal year  
21 which begins October 1, 1989, this limitation shall be  
22 adjusted annually for inflation. The annual adjustment to the  
23 per capita limitation for each fiscal period shall be the  
24 percentage change in the state and local government price  
25 deflator for purchases of goods and services, all items, 1983  
26 equals 100, or successor reports for the preceding calendar  
27 year as initially reported by the United States Department of  
28 Commerce, Bureau of Economic Analysis, as certified by the  
29 Florida Consensus Estimating Conference.

30 (5)(4) The moneys appropriated for emergency  
31 distribution shall be divided equally per capita among

1 qualified county governments; however, such moneys, when  
2 combined with other moneys distributed pursuant to this part,  
3 shall not exceed the current \$20 per capita limitation, based  
4 on the population of each for-any county government. Any  
5 excess shall be redistributed in the same fashion to remaining  
6 qualified county governments; however, in no event shall the  
7 current per capita limitation \$20-limitation be exceeded.

8       ~~(6)~~(5) There is hereby annually appropriated from the  
9 General Revenue Fund to the Local Government Half-cent Sales  
10 Tax Clearing Trust Fund \$4.2 ~~\$2.5~~ million to be used for  
11 emergency distributions pursuant to this section and to be  
12 expended during the local government fiscal year. If any  
13 excess exists pursuant to subsection (5) ~~(4)~~ at the end of the  
14 local government fiscal year after all qualified county  
15 governments have reached the current per capita limitation  
16 \$20-limitation, it shall revert to the General Revenue Fund.

17       ~~(7)~~(6)(a) Any county eligible for an emergency  
18 distribution pursuant to this section the inmate population of  
19 which in any year is greater than 7 percent of the total  
20 population of the county is eligible for a supplemental  
21 distribution for that year from funds expressly appropriated  
22 therefor. The sum of such supplemental distribution plus all  
23 other moneys distributed pursuant to this part may not exceed  
24 the current \$20 per capita limitation, based on the total  
25 population of the county. Any balance of moneys appropriated  
26 for such purposes remaining at the end of the local government  
27 fiscal year shall revert to the state General Revenue Fund.  
28 If moneys appropriated for such purposes are insufficient to  
29 meet the current limit-of-\$20 per capita limitation for the of  
30 total population of eligible counties, such moneys shall be  
31 prorated among eligible counties. The distributions

1 authorized pursuant to this subsection shall be made monthly  
2 during the local government fiscal year in combination with  
3 other moneys distributed pursuant to this part.

4 (b) For the purposes of this subsection, the term:

5 1. "Inmate population" means inmates and patients  
6 residing in institutions operated by the Federal Government,  
7 the Department of Corrections, or the Department of Health and  
8 Rehabilitative Services.

9 2. "Total population" includes inmate population and  
10 noninmate population.

11 Section 2. Section 218.66, Florida Statutes, is  
12 created to read:

13 218.66 Emergency distributions; municipalities.--

14 (1) Each municipal government which meets the  
15 provisions of subsection (2) and which participates in the  
16 local government half-cent sales tax shall receive an  
17 emergency distribution from the Local Government Half-cent  
18 Sales Tax Clearing Trust Fund in addition to its regular  
19 monthly distribution as provided in this part.

20 (2) The Legislature hereby finds and declares that a  
21 fiscal emergency exists in any municipality where the moneys  
22 estimated to be distributed to the municipal government  
23 pursuant to s. 218.62 for the year will be less than the  
24 current per capita limitation, based on the population of that  
25 municipality.

26 (3) Qualification under this section shall be  
27 determined annually prior to the start of the local government  
28 fiscal year. Emergency moneys shall be distributed monthly  
29 with other moneys provided pursuant to this part.

30 (4) For the local government fiscal year beginning  
31 October 1, 1988, the per capita limitation shall be \$24.60.

2 Thereafter, commencing with the local government fiscal year  
3 which begins October 1, 1989, this limitation shall be  
4 adjusted annually for inflation. The annual adjustment to the  
5 per capita limitation for each fiscal period shall be the  
6 percentage change in the state and local government price  
7 deflator for purchases of goods and services, all items, 1983  
8 equals 100, or successor reports for the preceding calendar  
9 year as initially reported by the United States Department of  
10 Commerce, Bureau of Economic Analysis, as certified by the  
11 Florida Consensus Estimating Conference.

12 (5) The moneys appropriated for emergency distribution  
13 shall be divided equally per capita among qualified municipal  
14 governments; however, such moneys, when combined with other  
15 moneys distributed pursuant to this part, shall not exceed the  
16 current per capita limitation, based on the population of each  
17 municipality. Any excess shall be redistributed in the same  
18 fashion to remaining qualified municipal governments; however,  
19 in no event shall the current per capita limitation be  
20 exceeded.

21 (6) There is hereby annually appropriated from the  
22 General Revenue Fund to the Local Government Half-cent Sales  
23 Tax Clearing Trust Fund \$1.2 million to be used for emergency  
24 distributions pursuant to this section and to be expended  
25 during the local government fiscal year. If any excess exists  
26 pursuant to subsection (5) at the end of the local government  
27 fiscal year after all qualified municipal governments have  
28 reached the current per capita limitation, it shall revert to  
29 the General Revenue Fund.

30 Section 3. This act shall take effect upon becoming a  
31 law.

\*\*\*\*\*

HOUSE SUMMARY

Revises requirements for qualification of county governments for emergency distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund, including the per capita limitation, and increases the annual appropriation to the fund for such distributions.

Provides for emergency distributions to municipalities from the fund and specifies requirements for qualification for such distributions. Provides an annual appropriation to the fund for such distribution.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: h0249s-f.ca  
Date: July 6, 1988

HOUSE OF REPRESENTATIVES  
COMMITTEE ON COMMUNITY AFFAIRS  
FINAL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 249

RELATING TO: The Local Government Half-Cent Sales Tax

SPONSOR(S): Reps. Tobiassen, Nergard, Hanson, Kelly

EFFECTIVE DATE: Upon becoming a law

COMPANION BILL(S): SB 1103

OTHER COMMITTEES OF REFERENCE: (1) Finance & Taxation

(2) Appropriations

\*\*\*\*\*

I. SUMMARY:

Had it passed, CS/HB 249 would have revised eligibility requirements for emergency distributions ("small county kicker") from the Local Government Half-Cent Sales Tax Clearing House Trust Fund, including population and per capita limitations, and increased the annual appropriation to the fund for such distributions.

The bill also would have provided for emergency distributions to certain sparsely populated or economically distressed cities and specified eligibility requirements for such distributions, requiring an annual appropriation to fund such program.

A. PRESENT SITUATION:

**Revenue Sharing: Background**

According to the Florida Advisory Council on Intergovernmental Relations (ACIR) in its report Two State Shared Revenue Programs: Municipal Revenue Sharing and the Half-Cent Sales Tax Emergency Distribution (December 1987):

The state, in recognition of local governments' restricted revenue generating capacity and the states superior ability to raise revenues and to coordinate the collection and redistribution of funds efficiently, has instituted various programs for sharing revenues with local governments. The State of Florida has shared revenues with cities and counties since the 1930's.... [pp. 2-3]

Three basic reasons are given for sharing state-collected revenues with local governments: To promote equity in



recognition of the differing revenue-raising capacities of local governments; to compensate local governments for revenues lost through state-imposed taxing restrictions, millage caps, and required tax rollbacks and to offset the costs of state mandates; and to provide general fiscal relief to local governments facing loss of federal revenues and escalating infrastructure costs attributable to growth.

### **The Local Government Half-Cent Sales Tax Program**

This revenue sharing program, as it is currently administered, returns to cities and counties 9.697 percent of sales tax proceeds. The funds are distributed to cities and counties from the Local Government Half-Cent Sales Tax Clearing Trust Fund and are intended to allow local discretion in providing for public service needs. This program began with the implementation of ch. 82-154, Laws of Florida, which required the sharing with local governments of one-half of the 5th cent of sales tax (excluding taxes on agricultural equipment, interest, penalties, back assessments, and out-of-state use taxes).

Originally there were two distributions for counties (the regular distribution and an emergency distribution, known informally as the "small county kicker) and one for cities (the regular distribution). In 1983, the Legislature added a third distribution for counties with high inmate populations (over 7 percent of the total population) because, when distributions are figured, inmate populations are subtracted from the total county population which would otherwise result in reduced distributions for Baker, Bradford, Dixie, Gilchrist, Lafayette, and Union Counties (1987-1988 distribution estimates, Local Government Financial Information Handbook, July 1987).

#### **Eligibility.--**

Eligibility to get half-cent sales tax revenues is limited to cities and counties that qualify to receive funds under the county and municipal revenue sharing programs.

To receive these funds, a local government must:

1. Report its finances for the most recently completed fiscal year to the Department of Banking and Finance and provide for an annual post audit.
2. Raise revenues equal to at least 3 mills per dollar of the assessed valuation of its property tax base (except that certain units of government implementing state-mandated tax rollbacks are not rendered ineligible if the tax reduction dropped revenues below the required amount). For counties and for cities eligible in 1972, the required amount is based upon 1973 property values; for cities coming into the program later, the amount is based on the property values in effect the year the city incorporated.

3. Certify that police and firefighters meet salary and training standards.
4. Certify that budget notice and hearing requirements (TRIM requirements) have been met.

To qualify to receive an emergency distribution, a county must qualify for the regular distribution; have a population under 50,000; be a slow-growth county (based upon the value of net new construction and additions placed on the tax rolls and upon increases in county taxable value); and earn less than \$20 per capita in the regular distribution.

To get a supplemental distribution, a county must be eligible for the other two distributions; have an inmate population greater than 7 percent of the total county population; and earn less than \$20 per capita in the regular and emergency distributions. (Counties eligible for the emergency and supplemental distributions may not go above \$20 per capita in total distributions. Other counties are under no such limitation, and may be entitled to considerably higher per capita distributions.)

**Distribution of funds.--**

How are funds distributed? The county formula looks like this:

$$\text{County Distribution Factor} = \frac{\text{Unincorporated County Population}}{\text{Total County Population}} + \frac{\text{Incorporated } 2/3 \text{ Population}}{\text{Incorporated } 2/3 \text{ Population} + \text{Unincorporated Population}}$$

Each county's share is determined by multiplying its distribution factor (above) by the total countywide half-cent sales tax collections.

The municipal distribution formula looks like this:

$$\text{Municipal Distribution Factor} = \frac{\text{Municipal Population}}{\text{Total County Population} + \text{Incorporated } 2/3 \text{ Population}}$$

Each city's share is determined by multiplying its distribution factor (above) by the total countywide half-cent sales tax collections.

Emergency distributions are divided equally per capita among qualified counties up to a total allowable distribution of \$20 per capita. Moneys are distributed monthly, and as counties drop out (due to reaching the \$20 cap) remaining funds are also distributed equally among remaining qualified counties. (These sums are estimated by DOR and overages and underages are reconciled in the 11th month of the program year.) At the end of

the local government fiscal year, excess funds revert to the General Revenue Fund.

Supplemental distributions are divided among qualifying counties.

**Strings.--**

Restrictions on the ways cities and counties may use these funds are not significant:

1. Proceeds may be bonded.
2. Counties must spend their dollars on "countywide tax relief or countywide programs."
3. Cities must spend their dollars on "municipality-wide programs or for municipality-wide property tax or municipal utility tax relief." Utility tax relief must be applied "uniformly across all types of taxed utility services."

**ACIR Subcommittee on State Shared Revenue**

After more than a decade, several possible problems were recognized in Florida's revenue sharing programs. In February 1986, an ACIR subcommittee was established to examine the Municipal Revenue Sharing Program and the Local Government Half-Cent Sales Tax Emergency Program. (The sponsors of HB 249 were members of either the subcommittee or the ACIR and actively participated in this process.)

For 20 months, the subcommittee conducted a comprehensive examination of these programs. Meetings were held throughout Florida and public testimony was solicited. Their efforts resulted in the ACIR working paper entitled Two State Shared Revenue Programs: Municipal Revenue Sharing and the Half-Cent Sales Tax Emergency Distribution. (All page references in this analysis not otherwise identified cite this paper.) The paper identifies potential problems in the two programs and recommends ways to mitigate these problems.

**Issues Addressed in CS/HB 249.--**

The problems identified by the ACIR subcommittee that led to the solutions proposed in CS/HB 249 pertain to three basic issues:

1. **\$20 per capita limitation.--**According to the ACIR, "As sales tax collections and county populations rise, and the per capita limitation remains constant, the number of counties eligible to receive emergency funds is steadily decreasing.... There is evidence that the meaning of the \$20 per capita limitation is eroding." [pp. 83-84]

In FY 1985, the median distribution was about \$21.61. For larger counties (ineligible for the emergency or

supplemental distributions), the average distribution was \$27.53. The subcommittee considered whether or not the per-capita limit should be revised, and recommended tying the cap to a price index to account for inflation (Gross National Product Implicit Price Deflators, or GNPIDP). The fiscal effect of applying this index yearly is illustrated in section II., B.2., relating to recurring or annualized effects on local governments.

2. **Eligibility for emergency distribution.**--Emergency distributions are limited to counties under 50,000 in population. Currently eligible counties are growing and may be rendered ineligible in the future. The subcommittee considered whether this requirement should be revised or deleted, and recommended deletion.

In addition, the subcommittee reviewed a requirement that limited participation to counties in which, for specified years, the value of new construction and additions was less than 2 percent and the overall increase in county taxable value was less than 3 percent. According to the ACIR, throughout the life of the program, only one county with a population below 50,000 otherwise eligible for emergency dollars (Walton County) was rendered ineligible as a result of this eligibility criteria. The ACIR subcommittee recommended that this criteria be eliminated for counties below 50,000 in population.

3. **Emergency distributions for cities.**--The subcommittee noted that the Legislature annually appropriates over \$2.5 million to fund emergency distributions to counties. ACIR staff calculated that, with the current cap in place, it would cost the state less than \$1 million to provide emergency distributions to cities qualified to receive half-cent sales tax moneys (regardless of population or ad valorem-related restrictions). If the cap were raised, it would cost the state about \$2.1 million to fund distributions of about \$24 per capita. The subcommittee recommended that an emergency distribution program be initiated for cities.

**B. EFFECT OF PROPOSED CHANGES:**

Had it passed, CS/HB 249 would have modified emergency distribution provisions ("small county kicker") of the Local Government Half-Cent Sales Tax Program as follows:

1. The requirement limiting participation to counties below 50,000 in population is deleted and provisions disqualifying counties that don't meet new-construction and ad-valorem related requirements (Walton County) is eliminated for small counties and remains applicable to larger counties (counties having a population of 50,000 or more).

2. The \$20 per capita limitation is raised to \$24.60 in FY 1988-1989. Thereafter the cap is adjusted annually for inflation. (See section II., B.2., relating to fiscal impact on local governments for estimated caps for fiscal years 1989-1990 through 1994-1995.)
3. The annual appropriation for emergency distributions is raised from \$2.5 million to \$4.2 million to account for increased distributions made possible by the changes listed in items 1 and 2 above.
4. A program to provide emergency distributions to municipalities is initiated. To qualify, a city must receive less than the current per capita limitation in a given year. The per capita limit and the distribution method are the same as for counties. Excess moneys revert to the General Revenue Fund.

The sum of \$2.1 million is annually appropriated from the General Revenue Fund to fund this program.

C. SECTION-BY-SECTION ANALYSIS:

- Section 1. Amends s. 218.65, F.S., to modify emergency distribution eligibility requirements for counties and to provide for annual adjustment of the per capita limitation.
- Section 2. Creates s. 218.66, F.S., to establish an emergency distribution program for cities suffering a "fiscal emergency" (falling below the current per capita limitation).
- Section 3. Stipulates that the act will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:  
Nominal.
2. Recurring or Annualized Continuation Effects:

The ACIR estimates a first year cost to GR of \$4.2 million (or a \$1.7 million increase) for the increase to the small county kicker.

The ACIR estimates a first year cost to GR of \$2.1 million (as amended) to fund the emergency distribution for sparsely populated or economically distressed cities.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

The ACIR estimates a first year cost to GR of \$4.2 million (or a \$1.7 million increase in current funding) for the increase to the small county kicker.

The ACIR estimates a first year cost to GR of \$2.1 million (as amended) to fund the new program to provide an emergency distribution for sparsely populated or economically distressed cities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

**For counties.**--Overall, counties entitled to receive emergency distribution moneys would have an additional \$1.7 million to split among themselves. According to ACIR estimates, deleting the population criteria should allow additional counties access to emergency moneys.

Based on a per-capita limitation of about \$24, four additional counties (Santa Rosa, St. Lucie, Alachua, and Putnam) possibly would qualify for emergency distributions. [However, it should be noted that retaining the ad valorem eligibility criteria for counties 50,000 or above in population would render these counties ineligible, according to ACIR preliminary analysis.] In addition, those counties now reaching their limit in either the emergency or supplemental distribution would receive additional money to bring them up to the new limit.

**For cities.**--Sparsely populated or economically distressed cities (those whose per-capita distributions fall below about \$24 per capita) will have an additional \$2.1 million to split among themselves which should enable them to reach a minimum distribution amount of around \$24 per capita. An ACIR table

based on distribution of 1985 half-cent sales tax revenues reveals potential candidates for this money:

<u>City</u>	<u>1985 Population</u>	<u>Total Dollars</u>	<u>Dollars Per Capita</u>	<u>\$ Below Cap</u>
Archer	1,394	31,660	22.71	1,796
South Pasadena	5,157	117,964	22.87	5,804
Tavares	5,895	134,894	22.88	6,586
Lake Placid	992	22,766	22.95	1,042
Sebring	9,962	230,522	23.14	8,566
New Port Richey	12,558	292,144	23.26	9,248
Cooper City	14,254	333,132	23.37	8,964
High Springs	2,729	64,004	23.45	1,492
West Melbourne	7088	166,421	23.48	3,691
Sebastian	5,604	132,091	23.57	2,405
Coral Springs	56,193	1,326,489	23.61	22,143
Laurel Hill	673	15,929	23.67	223
Zephyrhills	6,476	153,486	23.70	1,938
Ft. Pierce	37,478	889,615	23.74	9,857
St. Leo	955	22,694	23.76	226
Alachua	4,171	99,138	23.77	966
Okeechobee	4,397	104,681	23.81	847
Crystal River	3,544	84,557	23.86	499
Gainesville	82,882	1,979,024	23.88	10,144
Umatilla	2,052	49,028	23.89	220
Pinellas Park	39,871	952,769	23.90	4,135
Ponce Inlet	1,328	31,794	23.94	78
Clermont	5,928	142,044	23.96	228
Dade City	5,608	134,485	23.98	107

2. Recurring or Annualized Continuation Effects:

According to ACIR, indexing the per capita limitation to inflation using the IPD/GNP would raise the per capita limitation for emergency/supplemental distributions to counties and cities yearly, as follows:

<u>Year</u>	<u>Dollars Per Capita</u>	<u>IDGNP (%)</u>
1988-89	\$24.60	1.0363
1989-90	\$25.49	1.0370
1990-91	\$26.43	1.0405
1991-92	\$27.50	1.0472
1992-93	\$28.80	1.0515
1993-94	\$30.28	1.0532
1994-95	\$31.89	1.0554

[Note: The IPD/GNP factors would be annually calculated and certified by the Florida Consensus Estimating Conference and, therefore, could vary from the projections listed above.]

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Under the concurrency doctrine of the State Comprehensive Plan, private developers cannot build unless local governments can provide the necessary services and infrastructure. Therefore, providing cities and counties more of the dollars they desperately need to keep up with the growing demand for such services and infrastructure, thereby "paving the way" for the developers can only benefit the private sector.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

According to the ACIR:

As sales tax collections and county populations rise, while the per capita limitation remains constant, the number of counties eligible to receive emergency funds is steadily decreasing.... Although it appears that there will most likely continue to be some counties with sales tax revenues far enough below the \$20 per capita limitation to benefit from the emergency distribution, it is apparent that the number of eligible counties will continue to decline. Thus a fundamental goal of the program is undermined unless the per capita limitation is revised. [Florida ACIR Report-in-Brief, pp. 4-5]

IV. COMMENTS:

Finding that "the Legislature annually appropriates over \$2.5 million to fund emergency and supplementary distributions to counties," the ACIR recommended institution of an emergency distribution program for cities "in the interest of equity." [Florida ACIR Report-in-Brief, p. 6]



V. AMENDMENTS:

No amendments to committee substitute.

VI. FINAL ACTION:

HB 249, by Rep. Tobiassen and others, was first heard by the House Committee on Community Affairs Subcommittee on Oversight on April 7, 1988. The bill was recommended by the subcommittee favorably with 2 amendments. On April 14, 1988, the bill was taken up by the Committee on Community Affairs and passed as a committee substitute by a vote of 13 to 0. The bill was placed on the agenda of a subcommittee of the House Committee on Finance and Taxation on April 25, 1988, but no action was taken and the bill died in committee.

VII. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Sharon K. Lowe  
Sharon K. Lowe

Staff Director:

Mario L. Taylor  
Mario L. Taylor

FINANCE & TAXATION:

Prepared by:

Sarah Bleakley

Staff Director:

Henry C. Cain

APPROPRIATIONS:

Prepared by:

Staff Director:

By the Committee on Governmental Operations and  
Representative Hodges

1                   A bill to be entitled  
2           An act relating to tax records; amending s.  
3           192.105, F.S., which provides an exemption from  
4           public records requirements for certain federal  
5           tax information; saving such exemption from  
6           repeal; providing for future review and repeal;  
7           providing an effective date.  
8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11           Section 1. Subsection (1) of section 192.105, Florida  
12 Statutes, is amended to read:

13           192.105 Unlawful disclosure of federal tax  
14 information; penalty.--

15           (1) Notwithstanding the provisions of s. 119.14, it is  
16 unlawful for any person to divulge or make known federal tax  
17 information obtained pursuant to 26 U.S.C. s. 6103, except in  
18 accordance with a proper judicial order or as otherwise  
19 provided by law for use in the administration of the tax laws  
20 of this state, and such information is exempt from the  
21 requirements of s. 119.07(1). This exemption is subject to  
22 the Open Government Sunset Review Act in accordance with s.  
23 119.14.

24           Section 2. This act shall take effect October 1, 1988.  
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HOUSE SUMMARY

Provides that an exemption from public records requirements for certain federal tax information shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 14-1988  
Date: January 14, 1988  
Revised: February 5, 1988  
Final: \_\_\_\_\_

HB 250

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 14  
RELATING TO: Confidentiality of Federal Tax Returns  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

\*\*\*\*\*

I. SUMMARY:

This bill would reenact the public records exemption found in section 192.105, Florida Statutes, for federal tax returns and return information. The law provides that it is unlawful for any person to divulge or make known federal tax information obtained pursuant to 26 U. S. C. 6103. The information can be released pursuant to a judicial order or in the administration of the tax laws of the State of Florida. Violation of this provision is a misdemeanor of the first degree.

Federal law requires that a state enact appropriate legislation to protect the confidentiality of federal tax information in order for the state to receive this information.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

The State of Florida would be unable to obtain federal tax returns and return information without this exemption from the public records law. Without this information, it would be more difficult to audit taxpayer information and to determine who should be paying taxes to the State of Florida. The state would lose a significant amount of revenue without the ability to audit federal returns; and the cost of performing audits would increase dramatically, according to the Department of Revenue.

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APR 13 1988

III. STATE COMPREHENSIVE PLAN IMPACT:

None.

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemptions pursuant to the Open Government Sunset Review Act.

Staff found the exemption of federal tax information met all of the criteria of an identifiable public purpose.

The exemption meets the first criterion by allowing the Florida Department of Revenue to effectively and efficiently administer the tax laws of this state which would be significantly impaired without the exemption. Federal law requires that a state enact appropriate legislation to protect the confidentiality of federal tax returns or return information in order for a state to receive such returns or information pursuant to 26 U. S. C. 6103, entitled Confidentiality and disclosure of returns and return information. The state would be unable to audit federal information without this exemption and without this ability to audit, the state would lose a significant amount of revenue each year. The revenue loss would increase each year as tax compliance and audit trails deteriorate as a result of the loss of federal tax information, according to the Department of Revenue.

The exemption meets the second criterion as it protects sensitive personal information which could embarrass or cause damage to the good name of an individual if it were released. Federal tax returns and return information contain comprehensive information about a private citizens financial status.

The exemption meets the third criterion as it protects information of a confidential nature concerning entities. The release of this information on a business taxpayers return could injure the affected entity in the marketplace or further a business advantage over those who do not know it.

V. AMENDMENTS:

None.

VI. PREPARED BY: Susan G. Bisbee *sgb*

VII. STAFF DIRECTOR: Jack M. Holland *jh*

*61*

By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to ad valorem tax exemptions;  
3 amending s. 196.101, F.S., which provides an  
4 exemption from public records requirements for  
5 records produced by a taxpayer in connection  
6 with the exemption granted totally and  
7 permanently disabled persons; saving such  
8 exemption from repeal; providing for future  
9 review and repeal; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Paragraph (b) of subsection (4) of section  
14 196.101, Florida Statutes, is amended to read:

15 196.101 Exemption for totally and permanently disabled  
16 persons.--

17 (4)

18 (b) The department shall require by rule that the  
19 taxpayer annually submit a sworn statement of gross income,  
20 pursuant to paragraph (a). The department shall require that  
21 the filing of such statement be accompanied by copies of  
22 federal income tax returns for the prior year, wage and  
23 earnings statements (W-2 forms), and other documents it deems  
24 necessary, for each member of the household. The taxpayer's  
25 statement shall attest to the accuracy of such copies. The  
26 department shall prescribe and furnish a form to be used for  
27 this purpose, which form shall include spaces for a separate  
28 listing of Veterans Administration benefits and social  
29 security benefits. Notwithstanding the provisions of s.  
30 119.14, all records produced by the taxpayer under this  
31 paragraph are confidential in the hands of the property

1 appraiser, the department, the tax collector, and the Auditor  
 2 General and shall not be divulged to any person, firm, or  
 3 corporation, except upon court order or order of an  
 4 administrative body having quasi-judicial powers in ad valorem  
 5 tax matters, and such records are exempt from the requirements  
 6 of s. 119.07(1). This exemption is subject to the Open  
 7 Government Sunset Review Act in accordance with s. 119.14.

8 Section 2. This act shall take effect October 1, 1988.

9  
10 \*\*\*\*\*

11 HOUSE SUMMARY

12 Provides that the exemption from public records  
 13 requirements for records produced by a taxpayer in  
 14 connection with the ad valorem tax exemption granted to  
 15 totally and permanently disabled persons shall not be  
 16 repealed October 1, 1988, under the Open Government  
 17 Sunset Review Act, and provides for future review and  
 18 repeal under said act.

19  
 20 This publication was produced at an average cost of 1.12 cents  
 21 per single page in compliance with the Rules and for  
 22 the information of members of the Legislature and the public.

STORAGE NAME: PCBGO 20  
Date: February 8, 1988  
Revised: March 2, 1988  
Final:

HB 188

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 20  
RELATING TO: Benefit Records, Disabled Persons  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS:  
OTHER COMMITTEES OF REFERENCE: (1)  
(2)

\*\*\*\*\*

I. SUMMARY:

The bill revives and reenacts the public records exemption for benefit records of disabled taxpayers.

Section 196.101, Florida Statutes, exempts from taxation any real estate used and owned as a homestead by totally and permanently disabled persons, who are also residents of the state and whose total household income does not exceed \$12,000.

The statute requires the disabled taxpayer to annually submit a sworn statement of gross income. The statement must be accompanied by copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents the Department of Revenue deems necessary for each member of the household.

Presently, under section 196.101(4)(b), Florida Statutes, benefit records produced by a disabled taxpayer or the taxpayer's family, are confidential in the hands of the property appraiser, the Department of Revenue, the tax collector, and the Auditor General. The statute prohibits the benefit records from being divulged to any person, firm, or corporation, except upon court order or order of an administrative body having quasi-judicial powers in ad valorem tax matters.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

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1 APR 25 1988



III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

This bill is the result of an Open Government Sunset Review conducted by the staff of the Governmental Operations Committee. Section 196.101(4)(b), Florida Statutes, was reviewed pursuant to chapter 85-301, Laws of Florida. For an exemption to be maintained pursuant to Florida law it must serve an identifiable public purpose significant enough to override Florida's strong policy of open government.

The staff of the Governmental Operations Committee found the public records exemption meets two of the three criterion for an identifiable public public purpose. First, the exemption allows the property appraiser to effectively administer the homestead tax exemption for disabled taxpayers. Second, the public records exemption prevents public disclosure of sensitive personal information of disabled taxpayers or their family members.

After reviewing the findings, staff concluded the exemption should be revived and reenacted.

An extensive analysis of the criteria for sunset review is set out in the Open Government Sunset Review report prepared by the staff of the Committee on Governmental Operations.

V. AMENDMENTS: None

VI. PREPARED BY: Susan D. Tassell

VII. STAFF DIRECTOR: Jack M. Holland

By the Committee on Governmental Operations and Representative Hodges

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A bill to be entitled  
An act relating to tax records; amending s.  
193.074, F.S., which provides an exemption from  
public records requirements for taxpayers'  
property returns and returns stating the  
consideration paid for an interest in real  
property; saving such exemption from repeal;  
providing for future review and repeal;  
providing an effective date.

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

Section 1. Section 193.074, Florida Statutes, is  
amended to read:

193.074 Confidentiality of returns.--Notwithstanding  
the provisions of s. 119.14, all returns of property and  
returns required by s. 201.022 submitted by the taxpayer  
pursuant to law shall be deemed to be confidential in the  
hands of the property appraiser, the clerk of the circuit  
court, the department, the tax collector, and the Auditor  
General, except upon court order or order of an administrative  
body having quasi-judicial powers in ad valorem tax matters  
and such returns are exempt from the requirements of s.  
119.07(1). This exemption is subject to the Open Government  
Sunset Review Act in accordance with s. 119.14.

Section 2. This act shall take effect October 1, 1988

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HOUSE SUMMARY

Provides that the exemption from public records requirements for taxpayers' property returns and returns stating the consideration paid for an interest in real property shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCBGO 21  
Date: February 11, 1988  
Revised: March 2, 1988  
Final: \_\_\_\_\_

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

HB 489

BILL #: PCB GO 21  
RELATING TO: The public records exemption for ad valorem taxes  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

\*\*\*\*\*

I. SUMMARY:

This bill would reenact the public records exemption in section 193.074, Florida Statutes, which provides that all returns of property and returns required by section 201.022, Florida Statutes are confidential in the hands of the property appraiser, the clerk of the circuit court, the Department of Revenue, the tax collector and the Auditor General except upon court order or order of administrative body having quasi-judicial powers in ad valorem tax matters.

These records and returns include information such as income tax returns, income and loss statements, accounting records, commissions, inventory list, and supplier lists among others.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

Without the exemption, state and county officials stated that loss of revenue could result as taxpayers would tend to be less truthful and forthcoming.

III. STATE COMPREHENSIVE PLAN IMPACT:

None.

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Page 2  
Bill #: PCB GO 21  
Date: March 2, 1988

IV. COMMENTS:

The provisions of the bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

In their review, staff found that:

--the exemption met the first criterion of an identifiable public purpose in that it allowed the Department of Revenue, property appraisers, and tax collectors to effectively and efficiently administer their governmental program as the confidentiality provisions encouraged taxpayers to be more forthcoming and truthful. Officials were therefore, able to levy and collect the appropriate taxes due;

--the exemption met the second criterion of an identifiable public purpose in that records and returns including information such as federal tax returns, and income statements among others, could be damaging to an individual if it were released; and,

--the exemption met the third criterion of an identifiable public purpose in that similar information to that mentioned above; federal tax returns, profit and loss statements, tangible property tax returns, and supplier lists, if released, could be detrimental to the affected entity.

V. AMENDMENTS:

None.

VI. PREPARED BY: Vickie M. Smith

VII. STAFF DIRECTOR: Jack M. Holland

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By the Committee on Governmental Operations and  
Representative Hodges

1                   A bill to be entitled  
2           An act relating to property tax records;  
3           amending s. 195.027, F.S., which provides an  
4           exemption from public records requirements for  
5           financial records relating to nonhomestead  
6           property and for information forms which  
7           disclose certain fees, costs, and financing  
8           terms; saving such exemptions from repeal;  
9           providing for future review and repeal;  
10          providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1. Subsections (3) and (6) of section 195.027,  
15 Florida Statutes, are amended to read:

16           195.027 Rules and regulations.--

17           (3) The rules and regulations shall provide procedures  
18 whereby the property appraiser, the Department of Revenue, and  
19 the Auditor General shall be able to obtain access, where  
20 necessary, to financial records relating to nonhomestead  
21 property, which records are required to make a determination  
22 of the proper assessment as to the particular property in  
23 question. Access to a taxpayer's records shall be provided  
24 only in those instances in which it is determined that such  
25 records are necessary to determine either the classification  
26 or the value of the taxable nonhomestead property. Access  
27 shall be provided only to those records which pertain to the  
28 property physically located in the taxing county as of January  
29 1 of each year and to the income from such property generated  
30 in the taxing county for the year in which a proper assessment  
31 is made. Notwithstanding the provisions of s. 119.14, all

1 records produced by the taxpayer under this subsection shall  
2 be deemed to be confidential in the hands of the property  
3 appraiser, the department, the tax collector, and the Auditor  
4 General and shall not be divulged to any person, firm, or  
5 corporation, except upon court order or order of an  
6 administrative body having quasi-judicial powers in ad valorem  
7 tax matters, and such records are exempt from the requirements  
8 of s. 119.07(1). This exemption is subject to the Open  
9 Government Sunset Review Act in accordance with s. 119.14.

10 (6) The fees and costs of the sale or purchase and  
11 terms of financing shall be presumed to be usual unless the  
12 buyer or seller, or agent thereof, files a form which  
13 discloses the unusual fees, costs, and terms of financing.  
14 Such form shall be filed with the clerk of the circuit court  
15 at the time of recording. The rules and regulations shall  
16 prescribe an information form to be used for this purpose.  
17 Either the buyer or the seller, or the agent of either, shall  
18 complete the information form and certify that the form is  
19 accurate to the best of his knowledge and belief.  
20 Notwithstanding the provisions of s. 119.14, the information  
21 form shall be confidential in the hands of all persons after  
22 delivery to the clerk, except that the Department of Revenue  
23 and the Auditor General shall have access to it in the  
24 execution of their official duties, and such form is exempt  
25 from the requirements of s. 119.07(1). This exemption is  
26 subject to the Open Government Sunset Review Act in accordance  
27 with s. 119.14. The information form may be used in any  
28 judicial proceeding, upon a motion to produce duly made by any  
29 party to such proceedings. Failure of the clerk to obtain an  
30 information form with the recording shall not impair the  
31 validity of the recording or the conveyance. The form shall

1 provide for a notation by the clerk indicating the book and  
2 page number of the conveyance in the official record books of  
3 the county. The clerk shall promptly deliver all information  
4 forms received by him to the property appraiser for his  
5 custody and use.

6 Section 2. This act shall take effect October 1, 1988.

7  
8 \*\*\*\*\*

9 HOUSE SUMMARY

10 Provides that the exemptions from public records  
11 requirements for financial records relating to  
12 nonhomestead property and for information forms which  
13 disclose unusual fees, costs, and financing terms with  
14 respect to the sale or purchase of property shall not be  
15 repealed October 1, 1988, under the Open Government  
16 Sunset Review Act, and provides for future review and  
17 repeal under said act.

18 This publication was produced at an average cost of 1.12 cents  
19 per single page in compliance with the Rules and for  
20 the information of members of the Legislature and the public.



STORAGE NAME: PCBGO 22  
Date: February 11, 1988  
Revised: March 2, 1988  
Final: \_\_\_\_\_

**H B 490**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 22  
RELATING TO: Public records exemption ad valorem tax  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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**I. SUMMARY:**

This bill reenacts the public records exemption found in section 195.027(3) and 195.027(6), Florida Statutes.

The public records exemption in section 195.027(3), Florida Statutes, provides that all records produced by the taxpayer under this subsection, will be confidential in the hands of the property appraiser, the Department of Revenue, the tax collector and the Auditor General and cannot be made public except upon court order or order of an administrative body having quasi-judicial powers in ad valorem tax matters.

Section 195.027(3) relates to the financial records of non-homestead property and states that the taxpayer will provide access to his records in instances when it is necessary for the determination of either the classification or value of the taxable non-homestead property in question.

The public records exemption in section 195.027(6), Florida Statutes, provides that the "information form" shall be confidential in the hands of all persons after delivery to the clerk of the circuit court. The exemption further provides that the Department of Revenue and the Auditor General shall have access to the form in the course of their official duties.

Section 195.027(6), Florida Statutes, provides that all fees and costs of the sale or purchase and terms of financing of a property are considered "usual" unless the agent, buyer, or seller, files a form stating the "unusual fees". Such fees would be disclosed on the information form. The Department of Revenue stated that property appraisers use this information in the valuation of property.

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II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

The Department of Revenue indicated that, without the exemptions, loss of revenue could result as taxpayers would tend to be less truthful and forthcoming.

III. STATE COMPREHENSIVE PLAN IMPACT:

None.

IV. COMMENTS:

The provisions of the bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

In their review, staff found that for:

sections 195.027(3) and 195.027(6), Florida Statutes,

--the exemptions met the first criterion of an identifiable public purpose in that it allowed the Department of Revenue, property appraisers and tax collectors to effectively and efficiently administer their governmental program as the confidentiality provisions encouraged taxpayers to be more forthcoming and truthful. Officials were therefore, able to levy and collect the appropriate taxes due;

sections 195.027(3) and 195.027(6), Florida Statutes,

--the exemptions met the second criterion of an identifiable public purpose in that records and returns including information such as federal tax returns, and income statements among others, could be damaging to an individual if such information were released; and,

section 195.027(3), Florida Statutes,

--the exemption met the third criterion of an identifiable public purpose in that similar information to that mentioned above; federal tax returns, profit and loss statements, tangible personal property tax returns, and supplier lists, if released, could be detrimental to the affected entity.

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Page 3  
Bill #: PCB GO 22  
Date: March 2, 1988

V. AMENDMENTS:

None.

VI. PREPARED BY: Vickie M. Smith

VII. STAFF DIRECTOR: Jack M. Holland

237

By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to property tax records;  
3 amending s. 195.084, F.S., which specifies that  
4 the Auditor General and property appraisers are  
5 bound by the same confidentiality requirements  
6 as the Department of Revenue and provides  
7 requirements and penalties applicable thereto;  
8 including tax collectors within such  
9 provisions; saving such exemption from public  
10 records requirements from repeal; providing for  
11 future review and repeal; providing an  
12 effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16 Section 1. Subsection (1) of section 195.084, Florida  
17 Statutes, is amended to read:

18 195.084 Information exchange.--

19 (1) The department shall promulgate rules and  
20 regulations for the exchange of information among the  
21 department, the property appraisers' offices, the tax  
22 collectors' offices, and the Auditor General. All records and  
23 returns of the department useful to the property appraiser or  
24 tax collector shall be made available upon his request, but  
25 subject to the reasonable conditions imposed by the  
26 department. This section shall supersede statutes prohibiting  
27 disclosure only with respect to the property appraiser, the  
28 tax collector, and the Auditor General, but the department may  
29 establish regulations setting reasonable conditions upon the  
30 access to and custody of such information. Notwithstanding  
31 the provisions of s. 119.14, the Auditor General, and the

1 property appraisers, and the tax collectors shall be bound by  
2 the same requirements of confidentiality as the Department of  
3 Revenue. This exemption is subject to the Open Government  
4 Sunset Review Act in accordance with s. 119.14. Breach of  
5 confidentiality shall be a misdemeanor of the first degree  
6 punishable as provided by ss. 775.082 and 775.083.

7 Section 2. This act shall take effect October 1, 1988.

8  
9 \*\*\*\*\*

10 HOUSE SUMMARY

11 Amends provisions which specify that the Auditor General  
12 and property appraisers are bound by the same  
13 confidentiality requirements as the Department of Revenue  
14 with respect to exchange of information regarding  
15 property tax records, to include tax collectors within  
16 such provisions and to provide that this exemption from  
17 public records requirements shall not be repealed October  
18 1, 1988, under the Open Government Sunset Review Act.  
19 Provides for future review and repeal under said act.

20 This publication was produced at an average cost of 1.12 cents  
21 per single page in compliance with the Rules and for  
22 the information of members of the Legislature and the public.

STORAGE NAME: PCBGO 23  
Date: February 11, 1988  
Revised: March 2, 1988  
Final: \_\_\_\_\_

HB 491

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 23  
RELATING TO: Public records exemption for ad valorem records  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

\*\*\*\*\*

I. SUMMARY:

Section 195.084(1), Florida Statutes, relates to the exchange of confidential information among the Auditor General's office, the property appraiser and the Department of Revenue as may be useful. This bill would reenact the public records exemption found in section 195.084(1) and add "tax collector" as a party who can participate in the exchange of confidential information.

Although section 195.084(2), Florida Statutes, provides that records of the tax collector will be made available to the department, the Auditor General's office and the property appraiser, it does not currently name the tax collectors as a participant in this information exchange.

Both tax collectors and the department indicated that the inclusion of "tax collectors" in this section would enable them to more efficiently carry out the duties of their office. Tax collectors often need to acquire confidential information from the property appraiser in the collection of delinquent tangible personal property taxes.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

The Department of Revenue indicated that, without the exemption, loss of revenue could result as taxpayers would tend to be less truthful and forthcoming.

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III. STATE COMPREHENSIVE PLAN IMPACT:

None.

IV. COMMENTS:

The provisions of the bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

In their review, staff found that:

--the exemption met the first criterion of an identifiable public purpose in that it allowed the Department of Revenue, property appraisers and tax collectors to effectively and efficiently administer their governmental program as the confidentiality provisions encouraged taxpayers to be more forthcoming and truthful. Officials were therefore, able to levy and collect the appropriate taxes due;

--the exemption met the second criterion of an identifiable public purpose in that records and returns including information such as federal tax returns, and income statements among others, could be damaging to an individual if such information were released; and,

--the exemption met the third criterion of an identifiable public purpose in that similar information to that mentioned above; federal tax returns, profit and loss statements, tangible personal property tax returns, and supplier lists, if released, could be detrimental to the affected entity.

V. AMENDMENTS:

None.

VI. PREPARED BY: Vickie M. Smith

VII. STAFF DIRECTOR: Jack M. Holland

By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to returns stating  
3 consideration paid for real property; amending  
4 s. 201.022, F.S., which requires such return as  
5 a condition for recording a deed transferring  
6 an interest in real property, and which  
7 provides an exemption from public records  
8 requirements for such returns; saving such  
9 exemption from repeal; providing for future  
10 review and repeal; providing an effective date.  
11

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

13  
14 Section 1. Subsection (1) of section 201.022, Florida  
15 Statutes, is amended to read:

16 201.022 Consideration for realty; filing of return  
17 condition precedent to recordation; failure to file does not  
18 impair validity.--

19 (1) As a condition precedent to the recordation of any  
20 deed transferring an interest in real property, the grantor or  
21 the grantee or agent for grantee shall execute and file a  
22 return with the clerk of the circuit court. The return shall  
23 state the actual consideration paid for the interest in real  
24 property. Notwithstanding the provisions of s. 119.14, the  
25 return shall not be recorded, or otherwise become a public  
26 record, and shall be confidential as provided by s. 193.074,  
27 and shall be exempt from the requirements of s. 119.07(1).  
28 This exemption is subject to the Open Government Sunset Review  
29 Act in accordance with s. 119.14. The original return shall  
30 be forwarded to the department, and a copy shall be forwarded  
31 to the property appraiser.



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Section 2. This act shall take effect October 1, 1988.

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HOUSE SUMMARY

Provides that the exemption from public records requirements for a return stating the consideration paid for real property required as a condition for recording a deed shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCBGO 24  
Date: February 11, 1988  
Revised: March 2, 1988  
Final: \_\_\_\_\_

HB 192

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 24  
RELATING TO: Public records exemption ad valorem taxes, s. 201.022  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill reenacts the public records exemption found in section 201.022, Florida Statutes. This section provides for the filing of a return, as a condition precedent to the recordation of a deed transferring an interest in real property. The return states the actual consideration paid for such property.

A buyer or his agent must execute and file the return with the clerk of the circuit court any time in which the transfer of real property is made. The return is then forwarded to the property appraiser's office for his use.

The public records exemption provides that the return will remain confidential as provided in section 193.074, Florida Statutes.

II. ECONOMIC IMPACT:

A. Public:

None.

B. Government:

The Department of Revenue indicated that, without the exemption, loss of revenue could result as taxpayers would tend to be less truthful and forthcoming.

III. STATE COMPREHENSIVE PLAN IMPACT:

None.

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IV. COMMENTS:

The provisions of the bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

In their review, staff found that:

--the exemption met the first criterion of an identifiable public purpose in that it allowed the Department of Revenue, and property appraisers to effectively and efficiently administer their governmental program as the confidentiality provisions encouraged taxpayers to be more forthcoming and truthful. Officials were, therefore, able to levy and collect the appropriate taxes due.

Some respondents stated that the exemption should be repealed because they felt that alternative access to information disclosing the amount paid for a property was available by calculating the documentary stamp tax on the deeds. However, the Department of Revenue indicated that developers, realtors, and others in the real estate industry often "overstamp" (placing documentary stamp tax on a deed greater than the tax due) deeds in order to keep confidential, the amount paid or received for property. In essence, calculating the documentary stamps on a deed would not always reveal the true amount paid for a property. Additionally, the department stated that the confidentiality provisions of the return encouraged the taxpayer to be more truthful and forthcoming.

V. AMENDMENTS:

None.

VI. PREPARED BY: Vickie M. Smith

VII. STAFF DIRECTOR: Jack M. Holland

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By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to confidentiality of tax  
3 information; amending s. 213.053, F.S., which  
4 provides an exemption from public records  
5 requirements for specified tax information  
6 received or prepared by the Department of  
7 Revenue and which provides for application of  
8 confidentiality requirements to specified state  
9 officers and agencies; including property  
10 appraisers and tax collectors within provisions  
11 authorizing information sharing and providing  
12 for application of confidentiality requirements  
13 and penalties; saving such exemptions from  
14 repeal; providing for future review and repeal;  
15 providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Subsections (2) and (6) of section 213.053,  
20 Florida Statutes, and subsection (7) of said section, as  
21 amended by chapter 87-198, Laws of Florida, are amended to  
22 read:

23 213.053 Confidentiality and information sharing.--

24 (2) Notwithstanding the provisions of s. 119.14,  
25 except as provided in subsections (3), (4), (5), (6), (7),  
26 (8), and (9), all information contained in returns, reports,  
27 accounts, or declarations received by the department,  
28 including investigative reports and information and including  
29 letters of technical advice, is confidential except for  
30 official purposes, and is exempt from the requirements of s.  
31 119.07(1). Any officer or employee, or former officer or

1 employee, of the department who divulges any such information  
2 in any manner, except for such official purposes or in  
3 accordance with the provisions of subsection (3), subsection  
4 (4), subsection (5), subsection (6), subsection (7),  
5 subsection (8), or subsection (9), is guilty of a misdemeanor  
6 of the first degree, punishable as provided in s. 775.082, s.  
7 775.083, or s. 775.084. This exemption is subject to the Open  
8 Government Sunset Review Act in accordance with s. 119.14.  
9         (6) Any information received by the Department of  
10 Revenue in connection with the administration of taxes,  
11 including, but not limited to, information contained in  
12 returns, reports, accounts, or declarations filed by persons  
13 subject to tax, shall be made available by the department to  
14 the Auditor General or his authorized agent, the Comptroller  
15 or his authorized agent, a property appraiser or tax collector  
16 or their authorized agents pursuant to s. 195.084(1), and the  
17 Treasurer or his authorized agent, in the performance of their  
18 official duties; however, no information shall be disclosed to  
19 the Auditor General or his authorized agent, the Comptroller  
20 or his authorized agent, the property appraiser or tax  
21 collector or their authorized agents pursuant to s.  
22 195.084(1), or the Treasurer or his authorized agent, if such  
23 disclosure is prohibited by federal law. Notwithstanding the  
24 provisions of s. 119.14, the Auditor General or his authorized  
25 agent, the Comptroller or his authorized agent, the property  
26 appraiser or tax collector or their authorized agents, and the  
27 Treasurer or his authorized agent shall be subject to the same  
28 requirements of confidentiality and the same penalties for  
29 violation of the requirements as the department. This  
30 exemption is subject to the Open Government Sunset Review Act  
31 in accordance with s. 119.14.

1 (7) Nothing in this section shall prevent the  
2 department from providing information relative to chapter 211,  
3 chapter 376, or chapter 377 to the proper state agency in the  
4 conduct of its official duties or from providing information  
5 relative to chapter 212 to the Division of Alcoholic Beverages  
6 and Tobacco of the Department of Business Regulation in the  
7 conduct of its official duties. Notwithstanding the  
8 provisions of s. 119.14, such state agencies shall be bound by  
9 the same requirements of confidentiality as the Department of  
10 Revenue. Breach of confidentiality is a misdemeanor of the  
11 first degree, punishable as provided by s. 775.082 or s.  
12 775.083. This exemption is subject to the Open Government  
13 Sunset Review Act in accordance with s. 119.14.

14 Section 2. This act shall take effect October 1, 1988.

15

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17 HOUSE SUMMARY

18 Provides that the exemption from public records  
19 requirements for specified tax information received or  
20 prepared by the Department of Revenue and the application  
21 of confidentiality requirements to specified state  
22 officers and agencies shall not be repealed October 1,  
23 1988, under the Open Government Sunset Review Act, and  
24 provides for future review and repeal under said act.

25 Includes property appraisers and tax collectors within  
26 provisions which authorize information sharing and which  
27 provide for application of confidentiality requirements  
28 and penalties.

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32 This publication was produced at an average cost of 1.12 cents  
33 per single page in compliance with the Rules and for  
34 the information of members of the Legislature and the public.

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STORAGE NAME: PCB GO 25  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

*HB* 759

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 25  
RELATING TO: Confidentiality and information sharing - taxation  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public records exemptions found in section 213.053, Florida Statutes, which makes confidential all information contained in returns, reports, accounts, or declarations received by the Department or Revenue, including investigative reports and letters of technical advice. Any officer or employee of the department who divulges such information except for official purposes, is guilty of a misdemeanor of the first degree.

The department is authorized to release the information to the Auditor General and the Comptroller or their authorized agents in the performance of their official duties unless prohibited by federal law. The Auditor General and the Comptroller are bound by the same requirements of confidentiality as is the department.

The confidentiality requirements apply to all sections of Chapter 207, the Florida Special Fuel and Motor Fuel Use Tax of 1981, except for section 207.025, exchange of information. The department can provide information to proper state agencies pursuant to the conduct of their official statutory duties in respect to the following statutes: Chapter 211, Chapter 376, Chapter 377, and Chapter 212.

The confidentiality provisions in section 213.053, Florida Statutes specifically apply to the following sections of the Florida Statutes: Section 125.0104, Chapter 198, Chapter 199, Chapter 201, Chapter 203, Chapter 207, Chapter 211, Part I of Chapter 212, Chapter 214, Chapter 220, Chapter 376, and Sections, 624.509 through 624.514, Florida Statutes.

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II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

The Department of Revenue asserts that the confidentiality of tax records encourages truthfulness about amount of taxes owed and encourages the right amount of tax to be paid and collected.

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemptions pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the department to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information concerning an individual's financial status.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

The Florida Tax Collectors, Inc. requested that section 213.053 be amended to allow property appraisers and tax collectors to receive information relative to Section 195.084, Florida Statutes from the department. This information would allow a crosscheck of occupational licenses with sales tax registrants to insure that the appropriate licenses have been obtained. In addition, property appraisers could obtain information about governmental leaseholds which would allow the property appraisers to determine property taxes owed to the state versus the county. The Department of Revenue



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Bill #: PCB GO 25  
Date: March 22, 1988

agreed that the sharing of this information would assist the property appraisers and tax collectors to effectively and efficiently administer the tax laws and, therefore, is justified under the first criterion of the Open Government Sunset Review Act.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

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Florida House of Representatives - 1988

By the Committee on Governmental Operations and  
Representative Hodges

A bill to be entitled

An act relating to confidentiality of tax  
information; amending s. 199.222, F.S., which  
provides an exemption from public records  
requirements for annual personal property tax  
returns; saving such exemption from repeal;  
providing for future review and repeal;  
providing an effective date.

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

Section 1. Section 199.222, Florida Statutes, is  
amended to read:

199.222 Confidentiality of returns.--Notwithstanding  
the provisions of s. 119.14, all annual personal property tax  
returns filed with the department shall be confidential, as  
provided in s. 213.053, and shall be exempt from the  
requirements of s. 119.07(1). This exemption is subject to  
the Open Government Sunset Review Act in accordance with s.  
119.14.

Section 2. This act shall take effect October 1, 1988.

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HOUSE SUMMARY

Provides that the exemption from public records  
requirements for annual personal property tax returns  
shall not be repealed October 1, 1988, under the Open  
Government Sunset Review Act, and provides for future  
review and repeal under said act.

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This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 26  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 760

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 26  
RELATING TO: Confidentiality of personal property tax returns  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

\*\*\*\*\*

I. SUMMARY:

This bill would reenact the public record exemption found in section 199.222, Florida Statutes, which protects annual personal property tax returns filed with the Department of Revenue. Section 199.222, Florida Statutes, makes these personal property tax returns confidential pursuant to section 213.053, Florida Statutes, which protects such records from unauthorized disclosure.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the department to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer

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Page 2  
Bill #: PCB GO 26  
Date: March 22, 1988

trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

246

By the Committee on Governmental Operations and  
Representative Hodges

1                   A bill to be entitled  
2                   An act relating to confidentiality of tax  
3                   information; amending s. 206.27, F.S., which  
4                   provides an exemption from public records  
5                   requirements for audits in progress and pending  
6                   investigations concerning taxation of fuels and  
7                   other pollutants; saving such exemption from  
8                   repeal; providing an effective date.  
9

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

11  
12                   Section 1. Subsection (2) of section 206.27, Florida  
13 Statutes, is amended to read:

14                   206.27 Records and files as public records.--

15                   (2) Notwithstanding the provisions of s. 119.14,

16 nothing herein shall be construed as requiring the department  
17 to provide as a public record any information concerning  
18 audits in progress or those records and files of the  
19 department described in this section which are currently the  
20 subject of pending investigation by the Department of Revenue  
21 or the Florida Department of Law Enforcement. It is  
22 specifically provided that the foregoing information shall be  
23 exempt from the provisions of s. 119.07(1) chapter-119 and  
24 shall be considered confidential pursuant to s. 213.053. Any  
25 officer, employee, or former officer or employee of the  
26 department who divulges any such information in any manner  
27 except for such official purposes or under s. 213.053 is  
28 guilty of a misdemeanor of the first degree, punishable as  
9 provided in s. 775.082, s. 775.083, or s. 775.084. This  
30 exemption is subject to the Open Government Sunset Review Act  
31 in accordance with s. 119.14.

1 Section 2. This act shall take effect October 1, 1988.  
2

3 \*\*\*\*\*  
4

HOUSE SUMMARY

5 Provides that the exemption from public records  
6 requirements for audits in progress and pending  
7 investigations concerning taxation of motor and special  
8 fuels and other pollutants shall not be repealed October  
9 1, 1988, under the Open Government Sunset Review Act.  
10

11 This publication was produced at an average cost of 1.12 cents  
12 per single page in compliance with the Rules and for  
13 the information of members of the Legislature and the public.  
14

STORAGE NAME: PCB GO 27  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 761

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 27  
RELATING TO: Records and files pursuant to the Motor and Other Fuel Tax  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public record exemption found in section 206.27, Florida Statutes, which protects records and files and audits in progress concerning Motor and Other Fuel Taxes that are currently the subject of a pending investigation by the Department of Law Enforcement or the Department of Revenue. Such information is confidential pursuant to section 213.053, Florida Statutes, which protects such records from unauthorized disclosure. The disclosure of this information by officer or employee or former officer or employee, except for official purposes, is a first degree misdemeanor.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

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Bill #: PCB GO 27

Date: March 22, 1988

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

Florida House of Representatives - 1988

By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to confidentiality of tax  
3 information; amending s 211.33, F.S., which  
4 provides an exemption from public records  
5 requirements for returns and books, records, or  
6 documents of a producer filed with the  
7 Department of Revenue in connection with the  
8 tax on severance of solid minerals; saving such  
9 exemption from repeal; providing for future  
10 review and repeal; providing an effective date.  
11

12 Be It Enacted by the Legislature of the State of Florida;

13  
14 Section 1. Subsection (5) of section 211.33, Florida  
15 Statutes, is amended to read:16 211.33 Administration of the tax; returns; delinquency  
17 penalties and interest; departmental inspections of records.--

18 (5) Notwithstanding the provisions of s. 119.14, the  
19 use of information contained in any return filed by a producer  
20 under this part or in any books, records, or documents of a  
21 producer shall be as provided in s. 213.053 and shall be  
22 exempt from the requirements of s. 119.07(1). This exemption  
23 is subject to the Open Government Sunset Review Act in  
24 accordance with s. 119.14.

25 Section 2. This act shall take effect October 1, 1988.  
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HOUSE SUMMARY

Provides that the exemption from public records requirements for returns and books, records, or documents of a producer filed with the Department of Revenue in connection with the tax on severance of solid minerals shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 28  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 762

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 28

RELATING TO: Administration of tax on severance and production of minerals, public record exemptions

SPONSOR(S): Governmental Operations & Hodges

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public record exemption found in section 211.33, Florida Statutes, which makes confidential any declaration of estimated tax filed by a producer subject to the tax on severance and production of minerals. "Producer" means an oil or gas property or well owner or royalty interest owner. Section 213.053, Florida Statutes governs the use of information contained in any books, records, or documents of a producer concerning a declaration of estimated tax. Section 213.053, Florida Statutes, protect such records from unauthorized disclosure. Any officer or employee of the Department of Revenue who divulges such information except for official purposes is guilty of a misdemeanor of the first degree.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental

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Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

Florida House of Representatives - 1988

By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to confidentiality of tax  
3 information; amending s. 211.125, F S., which  
4 provides an exemption from public records  
5 requirements for returns and information filed  
6 with the Department of Revenue in connection  
7 with the tax on production of oil and gas;  
8 saving such exemption from repeal; providing  
9 for future review and repeal; providing an  
10 effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:13  
14 Section 1. Subsection (10) of section 211.125, Florida  
15 Statutes, is amended to read:16 211.125 Administration of law; books and records;  
17 powers of the department; refunds; enforcement provisions;  
18 confidentiality.--

19 (10) Notwithstanding the provisions of s. 119.14, all  
20 returns and information filed with the department under this  
21 part are confidential and exempt from the requirements of s.  
22 119.07(1), and such returns or information shall be protected  
23 from unauthorized disclosure as provided in s. 213 053 This  
24 exemption is subject to the Open Government Sunset Review Act  
25 in accordance with s. 119.14.

26 Section 2. This act shall take effect October 1, 1988.  
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HOUSE SUMMARY

Provides that the exemption from public records requirements for returns and information filed with the Department of Revenue in connection with the tax on production of oil and gas shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 29  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

**HB 763**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 29

RELATING TO: Confidentiality of books and records relating to the tax on severance and production of taxable products

SPONSOR(S): Governmental Operations & Hodges

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_

(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public records exemption found in section 211.125, Florida Statutes, which protects books and records relating to the severance and production of taxable products in this state. Producers, operators, purchasers, royalty interest owners, taxpayers, or transporters of taxable products are required to keep certain books and records which are open to inspection by the Department of Revenue. These books and records are confidential and are protected from unauthorized disclosure pursuant to section 213.053, Florida Statutes.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

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**APR 25 1988**



Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

By the Committee on Governmental Operations and  
Representative Hodges

1                   A bill to be entitled  
2                   An act relating to confidentiality of tax  
3                   information; amending s. 212 0305, F.S., which  
4                   provides an exemption from public records  
5                   requirements for records concerning convention  
6                   development tax collections; saving such  
7                   exemption from repeal; providing for future  
8                   review and repeal; providing an effective date  
9

10 Be It Enacted by the Legislature of the State of Florida;

11

12                   Section 1. Paragraph (d) of subsection (3) of section  
13 212.0305, Florida Statutes, is amended to read:

14                   212 0305 Convention development taxes; intent;  
15 administration; authorization; use of proceeds.--

16                   (3) APPLICATION; ADMINISTRATION, PENALTIES.--

17                   (d) The department shall keep records showing the  
18 amount of taxes collected, which records shall disclose the  
19 taxes collected from each county in which a local government  
20 resort tax is levied. Notwithstanding the provisions of s.  
21 119.14, these records shall be open-for-inspection-during-the  
22 regular-office-hours-of-the-department, subject to the  
23 provisions of s 213.053, and are exempt from the requirements  
24 of s. 119.07(1)). This exemption is subject to the Open  
25 Government Sunset Review Act in accordance with s. 119.14.

26                   Section 2. This act shall take effect October 1, 1988.  
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HOUSE SUMMARY

Provides that the exemption from public records requirements for records concerning convention development tax collections shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 30  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

HB 764

BILL #: PCB GO 30

RELATING TO: Confidentiality of convention development taxes

SPONSOR(S): Governmental Operations & Hodges

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_

(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public records exemption found in section 212.0305, Florida Statutes, which makes confidential the amount of convention development taxes collected. Section 212.0305, Florida Statutes authorizes a county to levy a convention development tax. The Department of Revenue is responsible for keeping records showing the total amount of taxes collected, and the amount collected from each county. These records are confidential pursuant to section 213.053, Florida Statutes, which protects such records from unauthorized disclosure.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer

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the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

254

STORAGE NAME: PCB GO 31  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 765

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 31

RELATING TO: Confidentiality of taxation of unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances

SPONSOR(S): Governmental Operations & Hodges

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public records exemption found in section 212.0505, Florida Statutes, which makes confidential all information and documents furnished by a state attorney concerning a request to settle or compromise the tax on the unlawful sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage of any medicinal drug, cannabis, or controlled substance. Section 212.0505, Florida Statutes, provides that such sale, use, etc. is a taxable privilege at the rate of twenty percent of the estimated retail value. This tax cannot be settled or compromised except upon the written request of a state attorney which sets out the reason. Section 212.0505, Florida Statutes, is subject to the provisions of Section 213.053, Florida Statutes, which protects such records from unauthorized disclosure.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

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APR 25 1988

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

Florida House of Representatives - 1988

By the Committee on Governmental Operations and  
Representative Hodges

1 A bill to be entitled

2 An act relating to confidentiality of tax  
3 information; amending s. 213.21, F S., which  
4 provides an exemption from public records  
5 requirements for records relating to  
6 compromises of taxes or interest due maintained  
7 by the Department of Revenue; saving such  
8 exemption from repeal; providing for future  
9 review and repeal; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Subsection (3) of section 213.21, Florida  
Statutes, is amended to read:

14 213.21 Informal conferences; compromises.--

15  
16 (3) A taxpayer's liability for any tax or interest  
17 specified in s. 72.011(1), except taxes imposed under chapter  
18 206, may be compromised by the department upon the grounds of  
19 doubt as to liability for or collectibility of such tax or  
20 interest. A taxpayer's liability for penalties under any of  
21 the chapters specified in s. 72.011(1) may be settled or  
22 compromised if it is determined by the department that the  
23 noncompliance is due to reasonable cause and not to willful  
24 negligence, willful neglect, or fraud. The department shall  
25 maintain records of all compromises, and the records shall  
26 state the basis for the compromise. Notwithstanding the  
27 provisions of s. 119.14, the records of compromise shall not  
28 be subject to disclosure pursuant to s. 119.07(1) chapter-119  
29 and shall be considered confidential information governed by  
30 the provisions of s. 213.053. This exemption is subject to  
31



1 the Open Government Sunset Review Act in accordance with s.  
2 119.14.

3 Section 2. This act shall take effect October 1, 1988.

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5 \*\*\*\*\*

6 HOUSE SUMMARY

7 Provides that the exemption from public records  
8 requirements for records relating to compromises of taxes  
9 or interest due maintained by the Department of Revenue  
10 shall not be repealed October 1, 1988, under the Open  
11 Government Sunset Review Act, and provides for future  
12 review and repeal under said act.  
13

14 This publication was produced at an average cost of 1.12 cents  
15 per single page in compliance with the Rules and for  
16 the information of members of the Legislature and the public.  
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STORAGE NAME: PCB GO 32  
Date: February 25, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 766

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 32

RELATING TO: Confidentiality relating to informal conferences;  
compromises

SPONSOR(S): Governmental Operations & Hodges

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_

(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public record exemption found in section 213.21, Florida Statutes, which makes confidential records of compromise of a taxpayers liability for any tax or interest. The Department of Revenue may compromise liability for tax or interest (except for taxes imposed under Chapter 206, Florida Statutes,) upon the ground of doubt as to liability for or collectibility of such tax or interest. The department may compromise a penalty imposed based upon a determination that the noncompliance is due to a reasonable cause and not to willful negligence, willful neglect, or fraud. Section 213.053, Florida Statutes governs the confidentiality of such information, and protects such records from unauthorized disclosure.

II. ECONOMIC IMPACT:

A. Public:  
None

B. Government:  
None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

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APR 25 1988

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

## Florida House of Representatives - 1988

By the Committee on Governmental Operations and  
Representative Hodges

1                   A bill to be entitled  
2           An act relating to confidentiality of tax  
3           information; amending s. 213.22, F.S., which  
4           provides an exemption from public records  
5           requirements for technical assistance  
6           advisements issued by the Department of  
7           Revenue; saving such exemption from repeal;  
8           providing for future review and repeal;  
9           providing an effective date.

10

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

12

13           Section 1. Subsection (2) of section 213.22, Florida  
14 Statutes, is amended to read:

15           213.22 Technical assistance advisements.--

16           (2) Notwithstanding the provisions of s. 119.14, the  
17 department may not disclose pursuant to s. 119.07(1) chapter  
18 119, or otherwise, a technical assistance advisement or a  
19 request for a technical assistance advisement to any person  
20 other than the person who requested the advisement, or his  
21 authorized representative, or for official departmental  
22 purposes, without first deleting the name, address, and other  
23 identifying details of the person to whom the technical  
24 assistance advisement was issued. This exemption is subject  
25 to the Open Government Sunset Review Act in accordance with s.  
26 119.14.

27           Section 2. This act shall take effect October 1, 1988.

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HOUSE SUMMARY

Provides that the exemption from public records requirements for technical assistance advisements issued by the Department of Revenue shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 32  
Date: February 26, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 767

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 33  
RELATING TO: Confidentiality of technical assistance advisements  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public record exemption found in section 213.22, Florida Statutes, which makes confidential informal technical assistance advisements to persons, upon written request, as to the position of the Department of Revenue on the tax consequences of a stated transaction or event, under existing statutes, rules or policies. The public record exemption provides that the department shall not disclose under chapter 119 a technical assistance advisement or a request for a technical assistance advisement without first deleting the name, address, and other identifying details of the person to whom the advisement was issued.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

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Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

By the Committee on Governmental Operations and Representative Hodges

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A bill to be entitled  
An act relating to confidentiality of tax information; amending s. 213.27, F.S., which provides an exemption from public records requirements for confidential information shared by the Department of Revenue with debt collection or auditing agencies; clarifying language; saving such exemption from repeal; providing for future review and repeal; providing an effective date

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

Section 1. Subsections (1) and (6) of section 213.27, Florida Statutes, are amended to read:

213.27 Contracts with debt collection agencies.--

(1) The Department of Revenue may, for the purpose of collecting any delinquent taxes due from a taxpayer, contract with any debt collection agency or attorney doing business within or without this state for the collection of such delinquent taxes including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of delinquent taxes. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by certified mail by the department, its employees, or its authorized representative 30 days prior to commencing any litigation to recover any delinquent taxes. The taxpayer must be notified by certified mail by the department 30 days prior to the department assigning the collection of any delinquent taxes to the debt collection agency.

CODING: Words stricken are deletions, words underlined are additions.



1           (6) Notwithstanding the provisions of s. 119.14,  
2 confidential information shared with debt collection or  
3 auditing agencies is exempt from the requirements of s.  
4 119.07(1), and these agencies shall be bound by the same  
5 requirements of confidentiality as the Department of Revenue.  
6 Breach of confidentiality is a misdemeanor of the first  
7 degree, punishable as provided by ss. 775.082 and 775.083.  
8 This exemption is subject to the Open Government Sunset Review  
9 Act in accordance with s. 119.14.

10           Section 2. This act shall take effect October 1, 1988.

11  
12                                   \*\*\*\*\*

13                                   HOUSE SUMMARY

14           Provides that the exemption from public records  
15 requirements for confidential information shared by the  
16 Department of Revenue with debt collection or auditing  
17 agencies shall not be repealed October 1, 1988, under the  
18 Open Government Sunset Review Act, and provides for  
19 future review and repeal under said act.  
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21           This publication was produced at an average cost of 1.12 cents  
22 per single page in compliance with the Rules and for  
23 the information of members of the Legislature and the public.  
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STORAGE NAME: PCB GO 34  
Date: February 26, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

**HB 768**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 34

RELATING TO: Confidentiality of tax information held by debt collection or auditing agency pursuant to contract with the Department of Revenue

SPONSOR(S): Governmental Operations & Hodges

EFFECTIVE DATE: October 1, 1988

COMPANION BILLS: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public record exemption found in section 213.27 which requires debt collection and auditing agencies to maintain tax information in a confidential manner which is shared by the Department of Revenue pursuant to a contract for the purpose of collecting delinquent taxes. The department is authorized to contract with attorneys, and debt collection and auditing agencies for the purpose of collecting delinquent taxes. These agencies are required to maintain tax information in a confidential manner and are bound by the same requirements of the Department of Revenue. Breach of confidentiality is a first degree misdemeanor.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental

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**APR 25 1988**

Page 2

Bill #: PCB GO 34

Date: March 22, 1988

Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

262

Florida House of Representatives - 1988

By the Committee on Governmental Operations and  
Representative Hodges

A bill to be entitled

An act relating to confidentiality of tax information; amending s 220.242, F.S., which provides an exemption from public records requirements for declarations of estimated corporate income tax; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

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

Section 1. Section 220 242, Florida Statutes, is amended to read:

220.242 Declaration as return.--Notwithstanding the provisions of s 119.14, all of the provisions of this part and of s. 213.053, relating to confidentiality, shall be applicable with respect to declarations of estimated tax unless manifestly inconsistent therewith, and such declarations shall be exempt from the requirements of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14 However, the declaration required of a preparer other than the taxpayer under s. 220.221(3) shall not be required with respect to declarations of estimated tax.

Section 2. This act shall take effect October 1, 1988.

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HOUSE SUMMARY

Provides that the exemption from public records requirements for declarations of estimated corporate income tax shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

STORAGE NAME: PCB GO 35  
Date: February 26, 1988  
Revised: March 22, 1988  
Final: \_\_\_\_\_

HB 769

HOUSE OF REPRESENTATIVES  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
STAFF ANALYSIS

BILL #: PCB GO 35  
RELATING TO: Confidentiality of declaration as return - taxation  
SPONSOR(S): Governmental Operations & Hodges  
EFFECTIVE DATE: October 1, 1988  
COMPANION BILLS: \_\_\_\_\_  
OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_  
(2) \_\_\_\_\_

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I. SUMMARY:

This bill would reenact the public record exemption found in section 220.242, Florida Statutes, which makes confidential declarations of estimated tax required to be filed by corporations and other artificial entities. The confidentiality of section 220.242, Florida Statutes is governed by the provisions of section 213.053, Florida Statutes, which protects such records from unauthorized disclosure.

II. ECONOMIC IMPACT:

A. Public:

None

B. Government:

None

III. STATE COMPREHENSIVE PLAN IMPACT:

None

IV. COMMENTS:

The provisions of this bill are consistent with the conclusions and recommendations made in a report prepared by the House Governmental Operations Committee staff following the review of the exemption pursuant to the Open Government Sunset Review Act.

Staff found that the exemption meets the first criterion by allowing the Department of Revenue to effectively and efficiently administer the tax laws of the state. The administration of the tax laws would be impaired without the exemption as our system of taxation requires

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Page 2

Bill #: PCB GO 35

Date: March 22, 1988

taxpayer trust and confidence that their records will be held in confidence, according to the Department of Revenue. In addition, the ability of the Department of Law Enforcement to conduct criminal investigations would be impeded if the records are open and criminals are able to gain intelligence into investigations.

The exemption meets the second criterion as it protects sensitive personal information which could be embarrassing and cause unwarranted damage to the good name or reputation of an individual if information contained in tax returns, reports, etc. is made public. Tax information maintained by the state contains much private information about individuals.

The exemption also meets the third criterion as it protects information of a confidential nature concerning entities. The disclosure of proprietary information contained in tax returns could harm a private entity in the marketplace.

V. AMENDMENTS:

None

VI. PREPARED BY: Susan G. Bisbee

VII. STAFF DIRECTOR: Jack M. Holland

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Florida House of Representatives - 1988

By the Committee on Finance & Taxation and Representative  
Simon

1                                   A bill to be entitled  
2           An act relating to corporate income tax;  
3           amending s. 220.03, F.S.; revising the  
4           definition of "Internal Revenue Code" under the  
5           Florida Income Tax Code; amending s. 220.11,  
6           F.S.; revising provisions relating to  
7           determination of tax applicable to certain  
8           taxpayers; amending s. 220.62, F.S., revising  
9           the definition of "bank" under said code,  
10          providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14           Section 1   Paragraph (n) of subsection (1) and  
15 paragraph (c) of subsection (2) of section 220.03, Florida  
16 Statutes, are amended to read:

17           220.03 Definitions.--

18           (1) SPECIFIC TERMS.--When used in this code, and when  
19 not otherwise distinctly expressed or manifestly incompatible  
20 with the intent thereof, the following terms shall have the  
21 following meanings:

22           (n) "Internal Revenue Code" means the United States  
23 Internal Revenue Code of 1986, as amended and in effect on  
24 January 1, 1988 1987, except as provided in subsection (3).

25           (2) DEFINITIONAL RULES.--When used in this code and  
26 neither otherwise distinctly expressed nor manifestly  
27 incompatible with the intent thereof:

28           (c) Any term used in this code shall have the same  
29 meaning as when used in a comparable context in the Internal  
30 Revenue Code and other statutes of the United States relating  
31 to federal income taxes, as such code and statutes are in



1 effect on January 1, ~~1988~~ 1987. However, if subsection (3) is  
2 implemented, the meaning of any term shall be taken at the  
3 time the term is applied under this code.

4 Section 2. Subsection (4) of section 220.11, Florida  
5 Statutes, is amended to read:

6 220.11 Tax imposed.--

7 (4) In the case of a taxpayer to which s. 55 of the  
8 Internal Revenue Code is applied for the taxable year, the  
9 amount of tax determined under this section shall be the  
10 greater of the tax determined under subsection (2) without the  
11 application of s. 55 of the Internal Revenue Code or the tax  
12 determined under subsection (3).

13 Section 3. Subsection (1) of section 220.62, Florida  
14 Statutes, is amended to read:

15 220.62 Definitions.--For purposes of this part:

16 (1) The term "bank" means a bank holding company  
17 registered under the Bank Holding Company Act of 1956 of the  
18 United States, 12 U.S.C. ss. 1841-1849, as amended, or a bank  
19 or trust company incorporated and doing business under the  
20 laws of the United States (including laws relating to the  
21 District of Columbia), of any state, or of any territory, a  
22 substantial part of the business of which consists of  
23 receiving deposits and making loans and discounts or of  
24 exercising fiduciary powers similar to those permitted to  
25 national banks under authority of the Comptroller of the  
26 Currency and which is subject by law to supervision and  
27 examination by state, territorial, or federal authority having  
28 supervision over banking institutions. The term "bank" also  
29 includes any banking association, corporation, or other  
30 similar organization organized and operated under the laws of  
31 any foreign country, which banking association, corporation,

1 or other organization is also operating in this state pursuant  
2 to chapter 663, and further includes any corporation organized  
3 under chapter 289.

4 Section 4. This act shall take effect upon becoming a  
5 law, and shall operate retroactively to January 1, 1988.

6  
7 \*\*\*\*\*

8 HOUSE SUMMARY

9 Updates references to the Internal Revenue Code for  
10 purposes of the Florida Income Tax Code. Clarifies  
11 provisions for determination of the amount of corporate  
12 income tax for taxpayers using the federal alternative  
13 minimum tax base. Revises the definition of "bank" under  
14 the code to include Florida Industrial Development  
15 Corporations.

16 This publication was produced at an average cost of 1.12 cents  
17 per single page in compliance with the Rules and for  
18 the information of members of the Legislature and the public.

STORAGE NAME: PCB FT 88-9  
Date: April 14, 1988

HB 1661

HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCE & TAXATION  
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: PCB FT 88-9

RELATING TO: Corporate Income Tax

SPONSOR(S): \_\_\_\_\_

EFFECTIVE DATE: Upon becoming law

COMPANION BILL(S): \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_

(2) \_\_\_\_\_

\*\*\*\*\*

I. SUMMARY:

A. PRESENT SITUATION:

The Florida Corporate Income Tax Code provides for utilization, to the greatest extent possible, of the concepts of law which have been developed in connection with the income tax laws of the United States. Currently, Florida law provides for use of the Internal Revenue Code of 1986 which has been amended by Congress. Consequently, our Code needs to be updated to adopt the recent changes made by Congress.

In 1987, the Legislature provided for an alternative tax rate of 3.3% for taxpayers determining taxable income under the alternative minimum tax as defined in s. 55 of the Internal Revenue Code. Section 220.11(4), F.S., was inserted and intended to be applicable only to taxpayers using the alternative minimum tax base for federal purposes. It mandates that those taxpayers pay the greater of (1) the tax on the alternative minimum tax at a 3.3% rate or (2) a tax on the standard federal taxable income at the rate of 5.5%. The amendment in this bill simply clarifies this intent.

Section 289.181, F.S., provides that any corporation organized as a Florida Industrial Development Corporation under Ch. 289 receive the same tax exemptions, tax credits, or tax privileges granted to banks, savings and loan associations, trust companies and other financial institutions. To afford tax credits to Florida Industrial Development Corporations as required by s. 289.181, the definition of banks in s. 220.62(1) is amended to include such corporations.

B. EFFECT OF PROPOSED CHANGES:

1129  
MAY 19 1988

All of the changes in this bill were proposed by the Department of Revenue as technical or clarifying changes to the Florida Income Tax Code. The bill (1) updates the corporate tax code to adopt recent Congressional amendments to the Internal Revenue Code; (2) clarifies that a taxpayer using the federal alternative minimum tax base rather than the standard federal taxable income base pay tax on whichever base imposes the greater tax liability; and (3) modifies the definition of banks in s. 220.62, F.S., to include Florida Industrial Development Corporations organized under Ch. 289 to clarify their entitlement to various tax credits.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. This section adopts the recent Congressional changes to the Internal Revenue Code. Defines "Internal Revenue Code" to mean the Internal Revenue Code of 1986, as amended and in effect on January 1, 1988.

Section 2. Clarifies that a taxpayer using the federal alternative minimum tax base rather than the standard federal taxable income base pay tax on whichever base imposes the greater tax liability, i.e., tax on the alternative minimum tax at a 3.3% or tax on the standard federal taxable income base at the rate of 5.5%.

Section 3. Amends the definition of banks on s. 220.62, F.S., to include Florida Industrial Development Corporations organized under Ch. 289 to clarify their entitlement to various tax credits.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

Indeterminate. Until final tax returns are filed under the new federal code, it is extremely difficult to determine fiscal impact.

2. Recurring or Annualized Continuation Effects:

Indeterminate. Until final tax returns are filed under the new federal code, it is extremely difficult to determine fiscal impact.

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate.

2. Direct Private Sector Benefits:

Indeterminate.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

IV. COMMENTS:

The provisions of PCB FT 88-9 are all technical or clarifying amendments proposed by the Department of Revenue.

V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:

Staff Director:

FINANCE & TAXATION:

Prepared by:

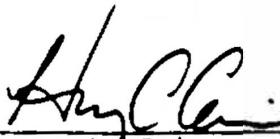
Staff Director:

Page 4

Bill #: PCB FT 88-9

Date: April 14, 1988

  
Linda Lettera

  
Hency C. Cain

APPROPRIATIONS:  
Prepared by:

Staff Director:

Florida House of Representatives - 1988

By the Committee on Finance & Taxation and Representative  
Simon

A bill to be entitled

An act relating to finance and taxation,  
amending s. 213.305, F.S., and section 66 of  
chapter 87-101, Laws of Florida; revising  
provisions relating to the application of  
specified portions of chapters 87-6 and 87-101,  
Laws of Florida; amending s. 95.091, F.S.;  
revising provisions which specify time periods  
within which the Department of Revenue may  
determine and assess taxes, penalties, and  
interest; amending s. 213.053, F.S.; revising  
provisions which authorize the department to  
disclose certain information to certain county  
or subcounty district governing bodies;  
amending s. 213.75, F.S.; revising provisions  
which specify the application of payments made  
to the department with respect to revenue laws;  
creating s. 213.35, F.S., specifying that  
persons required by law to perform any act in  
administration of certain taxes shall keep  
books and records until the expiration of the  
time within which the department may make an  
assessment with respect thereto, amending ss.  
206.12, 207.008, 211.125, 211.33, 212.04,  
212.12, 212.13, and 214.17, F.S., providing  
that records shall be preserved as required by  
s. 213.35, F.S., with respect to the following  
taxes: taxes on fuels and other pollutants;  
tax on operation of commercial motor vehicles;  
taxes on production of oil and gas and  
severance of solid minerals; tax on sales, use

1 and other transactions, including admissions  
2 and rentals and license fees; and designated  
3 nonproperty taxes; providing construction  
4 regarding retention of records; amending s  
5 215.322, F.S.; revising requirements regarding  
6 acceptance of credit cards by state agencies;  
7 removing an exemption from service fees for  
8 certain revenues; authorizing imposition of  
9 surcharges; providing for contracts with  
10 financial institutions or credit card  
11 companies; authorizing units of local  
12 government to accept credit cards; providing  
13 for confidentiality; amending s 206.425, F.S.;  
14 providing that if a person can establish to the  
15 satisfaction of the department that a fuel tax  
16 has been remitted, he may seek relief pursuant  
17 to informal conference procedures; providing an  
18 effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Section 213.305, Florida Statutes, is  
23 amended to read:

24 213.305 Application of penalties-provided-by ss. 49  
25 through 98 of chapter 87-6, Laws of Florida --Except-for  
26 ~~violations-for-which-the-period-of-time-for-bringing-an-action~~  
27 ~~or-enforcing-a-lien-has-expired-prior-to-July-1, 1988, the~~  
28 ~~penalties-provided-by~~ Sections 49 through 98 of chapter 87-6,  
29 Laws of Florida, are effective July 1, 1988, and are  
30 applicable to taxable periods which remain open to assessment  
31



1 ~~on that date the failure to pay taxes which are due before and~~  
2 ~~remain unpaid on July 1, 1988.~~

3 Section 2. Section 66 of chapter 87-101, Laws of  
4 Florida, is amended to read:

5 Section 66. ~~Except for violations for which the period~~  
6 ~~of time for bringing an action or enforcing a lien has expired~~  
7 ~~prior to July 1, 1988, the penalties provided by Sections 29~~  
8 ~~through 62 of this act are effective July 1, 1988, and are~~  
9 ~~applicable to taxable periods which remain open to assessment~~  
10 ~~on that date the failure to pay taxes which are due before and~~  
11 ~~remain unpaid on July 1, 1988~~

12 Section 3 Paragraph (a) of subsection (3) of section  
13 95.091, Florida Statutes, is amended to read.

14 95 091 Limitation on actions to collect taxes.--

15 (3)(a)1 With the exception of taxes levied under  
16 chapter 198 and tax adjustments made pursuant to s 220 23,  
17 the Department of Revenue may determine and assess the amount  
18 of any tax, penalty, or interest due under any tax enumerated  
19 in s. 72.011

20 a.1- Within 5 years after the date the tax is due, any  
21 return with respect to the tax is due, or such return is  
22 filed, whichever occurs later;

23 b.2- Within 6 years after the date the taxpayer either  
24 makes a substantial underpayment of tax, or files a  
25 substantially incorrect return,

26 c.3- At any time while the right to a refund or credit  
27 of the tax is available to the taxpayer;

28 d.4- At any time after the taxpayer has fraudulently  
29 failed to make any required payment of the tax, has  
30 fraudulently failed to file a required return, or has filed a  
31 grossly false or fraudulent return; or

1 e.5. In any case in which there has been a an  
2 erroneous refund of tax erroneously made for any reason,  
3 within 5 years after making such refund, or at any time after  
4 making such refund if it appears that any part of the refund  
5 was induced by fraud or the misrepresentation of a material  
6 fact.

7 2. For the purpose of this paragraph, a tax return  
8 filed before the last day prescribed by law, including any  
9 extension thereof, shall be deemed to have been filed on such  
10 last day and payments made prior to the last day prescribed by  
11 law shall be deemed to have been paid on such last day.

12 Section 4. Paragraph (a) of subsection (9) of section  
13 213.053, Florida Statutes, is amended to read:

14 213.053 Confidentiality and information sharing.--

15 (9)(a) Notwithstanding other provisions of this  
16 section, the department shall, subject to paragraph (c) and to  
17 the safeguards and limitations of paragraphs (b) and (d),  
18 disclose to the governing body of the county or subcounty  
19 district levying a local option tax, or any state tax which is  
20 distributed to units of local government based upon place of  
21 collection, which the department is responsible for  
22 administering, names and addresses only of the taxpayers who  
23 reside within or adjacent to the taxing boundaries of such  
24 county or subcounty district when sufficient information is  
25 supplied by the county or subcounty district as the department  
26 by rule may prescribe.

27 Section 5. Subsection (1) of section 213.75, Florida  
28 Statutes, is amended to read:

29 213.75 Application of payments.--

30 (1) Except for payments made pursuant to s. 213.21 and  
31 absent a specific assignment to the contrary made by the

1 taxpayer at the time of payment, whenever any payment is made  
2 to the department with respect to any of the revenue laws of  
3 this state, such payment shall be applied as follows:

4 (a) First, against the accrued interest, if any;

5 (b) The amount, if any, remaining after the  
6 application to interest shall be credited against any accrued  
7 penalty, and

8 (c) The amount, if any, remaining after application to  
9 interest and penalty shall be credited to any tax due.

10 Section 6 Section 213 35, Florida Statutes, is  
11 created to read:

12 213 35 Books and records --Each person required by law  
13 to perform any act in the administration of any tax enumerated  
14 in s 72 011 shall keep suitable books and records relating to  
15 that tax, such as invoices, bills of lading and other  
16 pertinent records and papers, and shall preserve such books  
17 and records until expiration of the time within which the  
18 department may make an assessment with respect to that tax  
19 pursuant to s. 95.091(3)

20 Section 7. Section 206 12, Florida Statutes, is  
21 amended to read:

22 206 12 Retention of records.--Each person shall  
23 maintain and keep, ~~for a period of 3 years,~~ such record of  
24 motor fuel received, used, transferred, sold, and delivered  
25 within this state by such person, together with invoices,  
26 bills of lading, and other pertinent records and papers, as  
27 may be required by the department for the reasonable  
28 administration of the motor fuel tax laws of this state, and  
29 shall preserve such records as long as required by s. 213.35.

30 Section 8. Section 207.008, Florida Statutes, is  
31 amended to read:

1           207.008 Retention of records by motor carrier.--Each  
2 registered motor carrier shall maintain and keep, ~~for a period~~  
3 ~~of 4 years,~~ pertinent records and papers as may be required by  
4 the department for the reasonable administration of this  
5 chapter, and shall preserve such records as long as required  
6 by s. 213.35.

7           Section 9. Paragraph (a) of subsection (3) of section  
8 211.125, Florida Statutes, is amended to read:

9           211.125 Administration of law; books and records;  
10 powers of the department; refunds; enforcement provisions;  
11 confidentiality.--

12           (3)(a) Each person subject to the provisions of this  
13 part shall keep suitable books and records relating to the  
14 severance or production of taxable products in this state to  
15 enable the department to determine the amount of tax due under  
16 this part. Such books and records shall be preserved until  
17 the time within which the department may make an assessment  
18 with respect thereto has expired, as provided in s. 213.35.

19           Section 10. Subsection (3) of section 211.33, Florida  
20 Statutes, is amended to read:

21           211.33 Administration of the tax; returns; delinquency  
22 penalties and interest; departmental inspections of records.--

23           (3) Every producer shall keep and preserve as long as  
24 required by s. 213.35 suitable records of production of solid  
25 minerals and such other books and documents as may be  
26 necessary to ensure compliance.

27           Section 11. Subsection (4) of section 212.04, Florida  
28 Statutes, is amended to read:

29           212.04 Admissions tax; rate, procedure, enforcement.--

30           (4) Each person who exercises the privilege of  
31 charging admission taxes, as herein defined, shall apply for,

1 and at that time shall furnish the information and comply with  
2 the provisions of s. 212.18 not inconsistent herewith and  
3 receive from the department, a certificate of right to  
4 exercise such privilege, which certificate shall apply to each  
5 place of business where such privilege is exercised and shall  
6 be in the manner and form prescribed by the department. Such  
7 certificate shall be issued upon payment to the department of  
8 a registration fee of \$5 by the applicant. Each person  
9 exercising the privilege of charging such admission taxes as  
10 herein defined shall cause to be kept records and accounts  
11 showing the admission which shall be in the form as the  
12 department may from time to time prescribe, inclusive of  
13 records of all tickets numbered and issued for a period of not  
14 less than the time within which the department may, as  
15 permitted by s. 95.091(3), make an assessment with respect to  
16 any admission evidenced by such records and accounts 3-years,  
17 and inclusive of all bills or checks of customers who are  
18 charged any of the taxes defined herein, showing the charge  
19 made to each for that period a-period-of-not-less-than-3  
20 years. The department is empowered to use each and every one  
21 of the powers granted herein to the department to discover the  
22 amount of tax to be paid by each such person and to enforce  
23 the payment thereof as are hereby granted the department for  
24 the discovery and enforcement of the payment of taxes  
25 hereinafter levied on the sales of tangible personal property.  
26 The failure of any person to pay such taxes before the 21st  
27 day of the succeeding month after the taxes are collected  
28 shall render such person liable to the same penalties that are  
29 hereafter imposed upon such person for being delinquent in the  
30 payment of taxes imposed upon the sales of tangible personal  
31 property; and the failure of any person to render returns and

1 to pay taxes as prescribed herein shall render such person  
2 subject to the same penalties, by way of charges for  
3 delinquencies, at the rate of 5 percent per month for a total  
4 amount of tax delinquent up to a total of 25 percent of such  
5 tax, and at the rate of 50-percent penalty for attempted  
6 evasion of payment of any such tax or for any attempt to file  
7 false or misleading returns that are required to be filed by  
8 the department.

9 Section 12. Paragraph (a) of subsection (6) and  
10 subsection (13) of section 212.12, Florida Statutes, are  
11 amended to read:

12 212.12 Dealer's credit for collecting tax; penalties  
13 for noncompliance; powers of Department of Revenue in dealing  
14 with delinquents; brackets applicable to taxable transactions;  
15 records required.--

16 (6)(a) The department is given the power to prescribe  
17 the records to be kept by all persons subject to taxes imposed  
18 by this chapter; and it shall be the duty of every person  
19 required to make a report and pay any tax under this chapter,  
20 every person receiving rentals or license fees, and owners of  
21 places of admission, to keep and preserve suitable records of  
22 the sales, leases, rentals, license fees, admissions, or  
23 purchases, as the case may be, taxable under this chapter;  
24 such other books of account as may be necessary to determine  
25 the amount of the tax due hereunder; and other information as  
26 may be required by the department. It shall be the duty of  
27 every such person so charged with such duty, moreover, to keep  
28 and preserve as long as required by s. 213.35 ~~for a period of~~  
29 ~~3-years~~ all invoices and other records of goods, wares, and  
30 merchandise, records of admissions, leases, license fees and  
31 rentals, and all other subjects of taxation under this

1 chapter; and all such books, invoices, and other records shall  
2 be open to examination at all reasonable hours to the  
3 department or any of its duly authorized agents.

4           (13) In order to aid the administration and  
5 enforcement of the provisions of this chapter with respect to  
6 the rentals and license fees, each lessor or person granting  
7 the use of any hotel, apartment house, roominghouse, tourist  
8 or trailer camp, real property, or any interest therein, or  
9 any portion thereof, inclusive of owners, property managers,  
10 lessors, landlords, hotel, apartment house, and roominghouse  
11 operators and all licensed real estate agents within the state  
12 leasing, granting the use of, or renting such property, shall  
13 be required to keep a record of each and every such lease,  
14 license, or rental transaction which is taxable under this  
15 chapter, in such a manner and upon such forms as the  
16 department may prescribe, and to report such transaction to  
17 the department or its designated agents, and to maintain such  
18 records as long as required by s. 213.35 ~~for a period of not~~  
19 ~~less than 3 years~~, subject to the inspection of the department  
20 and its agents; and, upon the failure by such owner, property  
21 manager, lessor, landlord, hotel, apartment house,  
22 roominghouse, tourist or trailer camp operator, or real estate  
23 agent to keep and maintain such records and to make such  
24 reports upon the forms and in the manner prescribed, such  
25 owner, property manager, lessor, landlord, hotel, apartment  
26 house, roominghouse, tourist or trailer camp operator,  
27 receiver of rent or license fees, or real estate agent is  
28 guilty of a misdemeanor of the second degree, punishable as  
29 provided in s. 775.082, s. 775.083 or s. 775.084, for the  
30 first offense; and for subsequent offenses, they are each  
31

1 guilty of a misdemeanor of the first degree, punishable as  
2 provided in s. 775 082, s. 775 083, or s. 775.084.

3 Section 13. Subsections (2) and (4) of section 212.13,  
4 Florida Statutes, are amended to read:

5 212 13 Records required to be kept; power to inspect;  
6 audit procedure.--

7 (2) Each dealer, as defined in this chapter, shall  
8 secure, maintain, and keep as long as required by s. 213.35  
9 ~~for a period of 3 years~~ a complete record of tangible personal  
10 property or services received, used, sold at retail,  
11 distributed or stored, leased or rented by said dealer,  
12 together with invoices, bills of lading, gross receipts from  
13 such sales, and other pertinent records and papers as may be  
14 required by the department for the reasonable administration  
15 of this chapter; and all such records which are located or  
16 maintained in this state shall be open for inspection by the  
17 department at all reasonable hours at such dealer's store,  
18 sales office, general office, warehouse, or place of business  
19 located in this state. Any dealer who maintains such books  
20 and records at a point outside this state must make such books  
21 and records available for inspection by the department where  
22 the general records are kept. Any dealer subject to the  
23 provisions of this chapter who violates these provisions is  
24 guilty of a misdemeanor of the first degree, punishable as  
25 provided in s. 775 082, s. 775.083, or s. 775.084.

26 (4) For the further purpose of enforcement of this  
27 chapter, every wholesaler of tangible personal property or  
28 services licensed within this state is required to permit the  
29 department to examine his books and records at all reasonable  
30 hours. He must also maintain such books and records as long  
31 as required by s. 213.35 ~~for a period of not less than 3 years~~



1 in order to disclose the sales of all goods or services sold,  
2 and to whom sold, and also the amount of items sold, in such  
3 form and in such manner as the department may reasonably  
4 require, and so as to permit the department to determine the  
5 volume of goods or services sold by wholesalers to dealers, as  
6 defined under this chapter, and the dates and amounts of sales  
7 made. The department may require any manufacturer or  
8 wholesaler who refuses to keep such records or to permit such  
9 inspection through the circuit courts of Florida to submit to  
10 such inspection, subject however to the right of removal of  
11 the cause as hereinbefore provided in this section.

12 Section 14. Section 214.17, Florida Statutes, is  
13 amended to read:

14 214.17 ~~Access to~~ Books and records.--

15 (1) Each person required by law to administer any  
16 nonproperty tax to which this chapter is applicable shall keep  
17 suitable books and records relating to that tax and shall  
18 preserve such books and records as long as required by s.  
19 213.35.

20 (2) All books, records, and other papers and documents  
21 which are required by applicable law to be kept shall be  
22 subject to inspection by the department or its duly authorized  
23 agents and employees at all times during business hours.

24 Section 15. (1) Nothing in this act requires the  
25 retention of records of taxable transactions or other  
26 activities that occurred or were consummated prior to July 1,  
27 1985.

28 (2) Notwithstanding subsection (1), nothing in this  
29 act shortens the time during which any record pertinent to  
30 this state's taxes was required before its enactment to be  
31 retained.

1 Section 16. Section 215.322, Florida Statutes, is  
2 amended to read:

3 215.322 Acceptance of credit cards by state agencies  
4 ~~and units of local government.--~~

5 (1) A state agency, as defined in s. 216.011, may  
6 accept credit cards in payment for goods and services with the  
7 prior approval of the Treasurer.

8 (2) The Treasurer shall adopt rules governing the  
9 establishment and acceptance of credit cards by state  
10 agencies, including, but not limited to, the following:

11 (a) Utilization of a standardized contract between the  
12 financial institution and the agency which shall be developed  
13 by the Treasurer or approval by the Treasurer of a substitute  
14 agreement.

15 (b)1. The types of revenue or collections that may be  
16 subject to service fees by the financial institution or  
17 surcharges. Taxes, license fees, tuition, and other  
18 statutorily prescribed revenues may ~~shall~~-not be subject to a  
19 service fee or surcharge.

20 2. The minimum public disclosure requirements to  
21 persons who elect to pay taxes, license fees, tuition and  
22 other statutorily prescribed revenues by credit card which are  
23 subject to a surcharge pursuant to this section. Any state  
24 agency or unit of local government that surcharges a person  
25 who pays by credit card shall be subject to the minimum public  
26 disclosure requirements adopted by the Treasurer pursuant to  
27 this subparagraph.

28 (c) All service fees payable to financial institutions  
29 when practicable shall be invoiced and paid by state warrant  
30 in accordance with s. 215.422.

31

1 (d) Submission of information to the Treasurer  
2 concerning the acceptance of credit cards by all state  
3 agencies.

4 (3) The Treasurer is authorized to establish contracts  
5 with one or more financial institutions or credit card  
6 companies in a manner consistent with chapter 287 for  
7 processing credit card collections for deposit into the State  
8 Treasury or another qualified public depository. Any state  
9 agency which accepts payment by credit card shall use at least  
10 one of the contractors established by the Treasurer unless the  
11 state agency obtains authorization from the Treasurer to use  
12 another contractor which is more financially advantageous to  
13 such state agency. Such contracts may authorize a unit of  
14 local government to use the services upon the same terms and  
15 conditions for deposit of credit card transactions into its  
16 qualified public depositories.

17 (4) A unit of local government is authorized to accept  
18 credit cards in payment of financial obligations which are  
19 owing to such unit of local government and to surcharge the  
20 person who uses a credit card in payment of taxes, license  
21 fees, tuition or other statutorily prescribed revenues an  
22 amount sufficient to pay the service fee charges by the  
23 financial institution or credit card company for such  
24 services.

25 (5) Credit card account numbers in the possession of a  
26 state agency or unit of local government shall not be public  
27 record or subject to chapter 119.

28 Section 17. Subsection (4) of section 206.425, Florida  
9 Statutes, is amended to read:

1           206.425 Tax-exempt purchasers; refiner or importer to  
2 obtain affidavits or resale certificates, relief from audit or  
3 assessment; refunds authorized.--

4           (4)(a) In order to seek relief from an audit or  
5 assessment completed on or after June 24, 1984, a person may,  
6 through the informal protest procedure established under s.  
7 213.21 and the rules of the department, provide the department  
8 with evidence of the exempt status of a sale or transfer of  
9 motor fuel. The department shall accept resale certificates  
10 or affidavits properly executed when submitted during the  
11 protest period, but such certificates or affidavits may not be  
12 considered in proceedings instituted under chapter 120 or in  
13 actions instituted in circuit court under chapter 72, unless  
14 such certificates or affidavits have been submitted and  
15 considered by the department under the procedure established  
16 in s. 213.21

17           (b) If a person or licensee can establish to the  
18 satisfaction of the department that the tax assessed has been  
19 remitted to the state, that person or licensee may seek relief  
20 from the department pursuant to s. 213.21.

21           Section 18. This act shall take effect July 1, 1988,  
22 or upon becoming a law, whichever occurs later, provided that  
23 if it becomes a law after July 1, 1988, it shall operate  
24 retroactively to said date.

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HOUSE SUMMARY

Revises provisions relating to the application of specified portions of chapters 87-6 and 87-101, Laws of Florida. Revises provisions which specify time periods within which the Department of Revenue may determine and assess taxes, penalties, and interest. Revises provisions which authorize the department to disclose certain information to certain county or subcounty district governing bodies. Revises provisions which specify the application of payments made to the department with respect to revenue laws

Specifies that persons required by law to perform any act in administration of certain taxes shall keep books and records until the expiration of the time within which the department may make an assessment with respect thereto. Provides that records shall be preserved in accordance therewith with respect to the following taxes: taxes on fuels and other pollutants; tax on operation of commercial motor vehicles, taxes on production of oil and gas and severance of solid minerals; tax on sales, use and other transactions, including admissions and rentals and license fees; and designated nonproperty taxes. Provides construction regarding retention of records.

Revises requirements regarding acceptance of credit cards by state agencies. Removes an exemption from service fees for certain revenues. Authorizes imposition of surcharges. Provides for contracts with financial institutions or credit card companies. Authorizes units of local government to accept credit cards. Provides for confidentiality.

Provides that if a person can establish to the satisfaction of the department that a fuel tax has been remitted, he may seek relief pursuant to informal conference procedures.

This publication was produced at an average cost of 1 12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

**HB 1682**

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCE AND TAXATION  
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: PCB FT 88-12

RELATING TO: Taxation

SPONSOR(S): Finance & Taxation

EFFECTIVE DATE: July 1, 1988

COMPANION BILL(S): \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE: (1) \_\_\_\_\_

(2) \_\_\_\_\_

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I. SUMMARY:

A. PRESENT SITUATION:

During the 1987 session, the legislature approved a tax amnesty program. Accompanying the program were several changes to the statute of limitations, failure to file penalties, record keeping requirements, and other penalties which were intended to make the amnesty program more successful. However, inconsistencies and incompatible requirements were created between the various taxing chapters.

Section 213.75, F.S. mandates the order in which payments are applied against outstanding tax liabilities. However, taxpayers who wish to contest an assessment must pay the uncontested amounts. The payments they wish to make are often at odds with the specified order of payments creating an administrative burden for the department.

Current law also allows the department to release certain information to local governments about taxpayers residing in their jurisdictions. However, the local officials cannot receive information about residents in nearby areas, even though they may also owe taxes in the jurisdiction requesting the information.

Section 215.322 specifies that the Treasurer shall adopt rules governing the acceptance of credit cards for payments to state agencies and the types of revenues which can be subjected to a service charge by the financial institution processing the credit card payment. However, taxes, license fees and tuition cannot be subject to a service charge. Payment by credit card is precluded in most instances.

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B. EFFECT OF PROPOSED CHANGES:

The changes in this bill were proposed by the Department of Revenue as technical or clarifying amendments.

Section 16. of the bill will allow for payment by credit card of taxes, fees, tuition and licenses with a surcharge for any service charge by the financial institution processing the card payments. The Treasurer will negotiate the amount of the service charge if he chooses to implement this change. Public agencies will be required to provide notice to the public of the opportunity to pay by credit card.

C. SECTION-BY-SECTION ANALYSIS:

Sections 1. & 2. Clarify that various amendments made in the 1987 Regular Session, which increased tax penalties and enhanced tax enforcement, are effective July 1, 1988 and are applicable to taxable periods which remain open to assessment on that date.

Section 3. Clarifies the statute of limitations period for assessment of taxes, penalties, or interest. Also clarifies when a tax return is filed for purposes of penalties and interest.

Section 4. Amends s. 213.053, F. S., to provide that the Department may disclose to the local governing body the names and addresses of taxpayers who reside adjacent to the taxing boundaries as well as within the taxing boundaries.

Section 5. Amends s. 213.75, F. S., to allow taxpayers to designate specific assignments of their payment to tax, interest, or penalty at the time of payment.

Section 6. Creates s. 213.3, F. S., mandating that taxpayers keep suitable books and records until the expiration of the time within which the Department may make an assessment pursuant to the provisions of s. 95.091(3), F. S.

Section 7. Amends s. 206.12, F.S., to provide that records relating to the fuel taxes imposed pursuant to Ch. 206 be preserved as long as required by s. 213.35, F.S.

Section 8. Amends s. 207.008, F.S., to provide that records of each registered motor carrier be preserved as long as required by s. 213.35, F.S.

Section 9. Amends s. 211.125(3)(a), F.S., to provide that records relating to the severance tax imposed in Part I, Ch. 211, shall be preserved as long as required by s. 213.35, F.S.

Section 10. Amends s. 211.33(3), F.S., to provide that records relating to the tax imposed in Part II, Ch. 211 shall be preserved as long as required by s. 213.35, F.S.

Section 11. Amends s. 212.04(4), F.S., to provide that records relating to the admissions tax imposed pursuant to Ch. 212 shall be preserved for the period within which the Department may, as permitted by s. 95.091(3), make an assessment.

Section 12. Amends s. 212.12, F.S., to provide that records relating to the dealer collection allowance for collecting sales tax shall be preserved as long as required by s. 213.35, F.S.

Sections 12. & 13 Amends s. 212.12, and s. 212.13 F.S., to provide that records relating to the sales tax shall be preserved as long as required by s. 213.35, F.S.

Section 14. Amends s. 214.17, F.S., to provide that records relating to all nonproperty taxes which are governed by Ch. 214, F.S., shall be preserved as long as required by s. 213.35, F.S.

Section 15. Clarifies that the application of the standard record retention requirement established by the bill only applies to transactions occurring after July 1, 1985.

Section 16. Authorizes state and local governments to accept payment for taxes, licenses, fees and tuition by credit card. If he chooses to implement this provision, the Treasurer must adopt rules specifying which payments may be made by credit card. Also, the Treasurer is authorized to negotiate contracts with financial institutions setting the level of any service charges for processing credit card payments. Further specifies that the opportunity to pay by credit card and the surcharge will be publicly disclosed. Clarifies that individual credit card account numbers will not be open public records. Local governments may accept credit card payments so long as the surcharges imposed are sufficient to pay any applicable service fees paid to financial institutions.

Section 17. Allows persons access to an informal conference with the Department of Revenue if they can establish that the tax has been paid under Chapter 206.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

### A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

#### 1. Non-recurring or First Year Start-Up Effects:

None

#### 2. Recurring or Annualized Continuation Effects:

Indeterminate. The state should realize some gain from more timely payment of taxes and other fees by taxpayers who would otherwise be unable to pay. Furthermore, the state will benefit because losses due to bad checks will be eliminated.



3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

Indeterminate. Local governments should realize some gain from more timely payment of taxes and other fees by taxpayers who would otherwise be unable to pay. Furthermore, local governments will benefit because losses due to bad checks will be eliminated.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Individuals who choose to pay by credit card under the provisions of Section 16. will incur the added expense of a surcharge.

2. Direct Private Sector Benefits:

Some individuals will benefit because the opportunity to pay by credit card will enable them to make a timely payment of a tax or fee and thereby avoid a late payment penalty.

3. Effects on Competition, Private Enterprise, and Employment Markets:

D. FISCAL COMMENTS:

III. LONG RANGE CONSEQUENCES:

IV. COMMENTS:

IV. COMMENTS:

V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:


Prepared by:

Staff Director:

FINANCE & TAXATION:

Prepared by:

Staff Director:

  
Alan W. Johansen

  
Henry C. Cain

APPROPRIATIONS:

Prepared by:

Staff Director:

By Committee on Finance, Taxation and Claims

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled  
An act relating to the public record exemption;  
amending ss. 192.105, 193.074, 195.027,  
195.084, 196.101, 199.222, 201.022, 206.27,  
211.125, 211.33, 212.0305, 213.053, 213.21,  
213.22, 213.27, 220.242, F.S.; continuing the  
exemptions from public record disclosure  
requirements provided for state and federal tax  
information, returns, and records, records of  
the amount paid for real property, information  
concerning audits and investigations by the  
Department of Revenue or the Florida Department  
of Law Enforcement, books and records relating  
to the tax on the production of oil, gas, and  
solid minerals, records relating to local  
government resort taxes, records of settlements  
and compromises made by the Department of  
Revenue relating to a taxpayer's liability for  
taxes, interest, or penalties, technical  
assistance advisements issued by the  
department, information shared with debt  
collection or auditing agencies, and certain  
declarations of estimated taxes; requiring  
future legislative review of such exemptions  
pursuant to the Open Government Sunset Review  
Act; authorizing the department to provide  
information to property appraisers and tax  
collectors or their authorized agents;  
providing an effective date.

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

1 Section 1. Section 192.105, Florida Statutes, is  
2 amended to read:

3 192.105 Unlawful disclosure of federal tax  
4 information; penalty.--

5 (1) Notwithstanding s. 119.14, it is unlawful for any  
6 person to divulge or make known federal tax information  
7 obtained pursuant to 26 U.S.C. s. 6103, except in accordance  
8 with a proper judicial order or as otherwise provided by law  
9 for use in the administration of the tax laws of this state.  
10 This exemption is subject to the Open Government Sunset Review  
11 Act in accordance with s. 119.14.

12 (2) Any person who violates the provisions of this  
13 section is guilty of a misdemeanor of the first degree,  
14 punishable as provided in s. 775.082, s. 775.083, or s.  
15 775.084.

16 Section 2. Section 193.074, Florida Statutes, is  
17 amended to read:

18 193.074 Confidentiality of returns.--Notwithstanding  
19 s. 119.14, all returns of property and returns required by s.  
20 201.022 submitted by the taxpayer pursuant to law shall be  
21 deemed to be confidential in the hands of the property  
22 appraiser, the clerk of the circuit court, the department, the  
23 tax collector, and the Auditor General, except upon court  
24 order or order of an administrative body having quasi-judicial  
25 powers in ad valorem tax matters. This exemption is subject  
26 to the Open Government Sunset Review Act in accordance with s.  
27 119.14.

28 Section 3. Subsections (3) and (6) of section 195.027,  
29 Florida Statutes, are amended to read:

30 195.027 Rules and regulations.--

1           (3) The rules and regulations shall provide procedures  
 2 whereby the property appraiser, the Department of Revenue, and  
 3 the Auditor General shall be able to obtain access, where  
 4 necessary, to financial records relating to nonhomestead  
 5 property, which records are required to make a determination  
 6 of the proper assessment as to the particular property in  
 7 question. Access to a taxpayer's records shall be provided  
 8 only in those instances in which it is determined that such  
 9 records are necessary to determine either the classification  
 10 or the value of the taxable nonhomestead property. Access  
 11 shall be provided only to those records which pertain to the  
 12 property physically located in the taxing county as of January  
 13 1 of each year and to the income from such property generated  
 14 in the taxing county for the year in which a proper assessment  
 15 is made. Notwithstanding s. 119.14, all records produced by  
 16 the taxpayer under this subsection shall be deemed to be  
 17 confidential in the hands of the property appraiser, the  
 18 department, the tax collector, and the Auditor General and  
 19 shall not be divulged to any person, firm, or corporation,  
 20 except upon court order or order of an administrative body  
 21 having quasi-judicial powers in ad valorem tax matters. This  
 22 exemption is subject to the Open Government Sunset Review Act  
 23 in accordance with s. 119.14.

24           (6) The fees and costs of the sale or purchase and  
 25 terms of financing shall be presumed to be usual unless the  
 26 buyer or seller, or agent thereof, files a form which  
 27 discloses the unusual fees, costs, and terms of financing.  
 28 Such form shall be filed with the clerk of the circuit court  
 29 at the time of recording. The rules and regulations shall  
 30 prescribe an information form to be used for this purpose.  
 31 Either the buyer or the seller, or the agent of either, shall

1 complete the information form and certify that the form is  
2 accurate to the best of his knowledge and belief.  
3 Notwithstanding s. 119.14, the information form shall be  
4 confidential in the hands of all persons after delivery to the  
5 clerk, except that the Department of Revenue and the Auditor  
6 General shall have access to it in the execution of their  
7 official duties. This exemption is subject to the Open  
8 Government Sunset Review Act in accordance with s. 119.14.  
9 The information form may be used in any judicial proceeding,  
10 upon a motion to produce duly made by any party to such  
11 proceedings. Failure of the clerk to obtain an information  
12 form with the recording shall not impair the validity of the  
13 recording or the conveyance. The form shall provide for a  
14 notation by the clerk indicating the book and page number of  
15 the conveyance in the official record books of the county.  
16 The clerk shall promptly deliver all information forms  
17 received by him to the property appraiser for his custody and  
18 use.

19 Section 4. Subsection (1) of section 195.084, Florida  
20 Statutes, is amended to read:

21 195.084 Information exchange.--

22 (1) The department shall promulgate rules and  
23 regulations for the exchange of information among the  
24 department, the property appraisers' offices, the tax  
25 collector, and the Auditor General. All records and returns  
26 of the department useful to the property appraiser or the tax  
27 collector shall be made available upon his request, but  
28 subject to the reasonable conditions imposed by the  
29 department. This section shall supersede statutes prohibiting  
30 disclosure only with respect to the property appraiser, the  
31 tax collector, and the Auditor General, but the department may

1 establish regulations setting reasonable conditions upon the  
 2 access to and custody of such information. Notwithstanding s.  
 3 119.14, the Auditor General, the tax collectors, and the  
 4 property appraisers shall be bound by the same requirements of  
 5 confidentiality as the Department of Revenue. This exemption  
 6 is subject to the Open Government Sunset Review Act in  
 7 accordance with s. 119.14. Breach of confidentiality shall be  
 8 a misdemeanor of the first degree punishable as provided by  
 9 ss. 775.082 and 775.083.

10 Section 5. Subsection (4) of section 196.101, Florida  
 11 Statutes, is amended to read:

12 196.101 Exemption for totally and permanently disabled  
 13 persons.--

14 (4)(a) A person entitled to the exemption in  
 15 subsection (2) must be a permanent resident of this state.  
 16 Submission of an affidavit that the applicant claiming the  
 17 exemption under subsection (2) is a permanent resident of this  
 18 state is prima facie proof of such residence. However, the  
 19 gross income of all persons residing in or upon the homestead  
 20 for the prior year shall not exceed \$12,000. For the purposes  
 21 of this section, the term "gross income" includes Veterans  
 22 Administration benefits and any social security benefits paid  
 23 to the persons.

24 (b) The department shall require by rule that the  
 25 taxpayer annually submit a sworn statement of gross income,  
 26 pursuant to paragraph (a). The department shall require that  
 27 the filing of such statement be accompanied by copies of  
 28 federal income tax returns for the prior year, wage and  
 29 earnings statements (W-2 forms), and other documents it deems  
 30 necessary, for each member of the household. The taxpayer's  
 31 statement shall attest to the accuracy of such copies. The

1 department shall prescribe and furnish a form to be used for  
 2 this purpose, which form shall include spaces for a separate  
 3 listing of Veterans Administration benefits and social  
 4 security benefits. Notwithstanding s. 119.14, all records  
 5 produced by the taxpayer under this paragraph are confidential  
 6 in the hands of the property appraiser, the department, the  
 7 tax collector, and the Auditor General and shall not be  
 8 divulged to any person, firm, or corporation, except upon  
 9 court order or order of an administrative body having quasi-  
 10 judicial powers in ad valorem tax matters. This exemption is  
 11 subject to the Open Government Sunset Review Act in accordance  
 12 with s. 119.14.

13 Section 6. Section 199.222, Florida Statutes, is  
 14 amended to read:

15 199.222 Confidentiality of returns.--Notwithstanding  
 16 s. 119.14, all annual personal property tax returns filed with  
 17 the department shall be confidential, as provided in s.  
 18 213.053. This exemption is subject to the Open Government  
 19 Sunset Review Act in accordance with s. 119.14.

20 Section 7. Subsection (1) of section 201.022, Florida  
 21 Statutes, is amended to read:

22 201.022 Consideration for realty; filing of return  
 23 condition precedent to recordation; failure to file does not  
 24 impair validity.--

25 (1) As a condition precedent to the recordation of any  
 26 deed transferring an interest in real property, the grantor or  
 27 the grantee or agent for grantee shall execute and file a  
 28 return with the clerk of the circuit court. The return shall  
 29 state the actual consideration paid for the interest in real  
 30 property. Notwithstanding s. 119.14, the return shall not be  
 31 recorded, or otherwise become a public record, and shall be



1 confidential as provided by s. 193.074. The original return  
2 shall be forwarded to the department, and a copy shall be  
3 forwarded to the property appraiser. This exemption is  
4 subject to the Open Government Sunset Review Act in accordance  
5 with s. 119.14.

6 Section 8. Subsection (2) of section 206.27, Florida  
7 Statutes, is amended to read:

8 206.27 Records and files as public records.--

9 (2) Notwithstanding s. 119.14, nothing herein shall be  
10 construed as requiring the department to provide as a public  
11 record any information concerning audits in progress or those  
12 records and files of the department described in this section  
13 which are currently the subject of pending investigation by  
14 the Department of Revenue or the Florida Department of Law  
15 Enforcement. It is specifically provided that the foregoing  
16 information shall be exempt from the provisions of chapter 119  
17 and shall be considered confidential pursuant to s. 213.053.  
18 Any officer, employee, or former officer or employee of the  
19 department who divulges any such information in any manner  
20 except for such official purposes or under s. 213.053 is  
21 guilty of a misdemeanor of the first degree, punishable as  
22 provided in s. 775.082, s. 775.083, or s. 775.084. This  
23 exemption is subject to the Open Government Sunset Review Act  
24 in accordance with s. 119.14.

25 Section 9. Subsection (10) of section 211.125, Florida  
26 Statutes, is amended to read:

27 211.125 Administration of law; books and records;  
28 powers of the department; refunds; enforcement provisions;  
29 confidentiality.--

30 (10) Notwithstanding s. 119.14, all returns and  
31 information filed with the department under this part are

1 confidential, and such returns or information shall be  
 2 protected from unauthorized disclosure as provided in s.  
 3 213.053. This exemption is subject to the Open Government  
 4 Sunset Review Act in accordance with s. 119.14.

5 Section 10. Subsection (5) of section 211.33, Florida  
 6 Statutes, is amended to read:

7 211.33 Administration of the tax; returns; delinquency  
 8 penalties and interest; departmental inspections of records.--

9 (5) Notwithstanding s. 119.14, the use of information  
 10 contained in any return filed by a producer under this part or  
 11 in any books, records, or documents of a producer shall be as  
 12 provided in s. 213.053. This exemption is subject to the Open  
 13 Government Sunset Review Act in accordance with s. 119.14.

14 Section 11. Paragraph (d) of subsection (3) of section  
 15 212.0305, Florida Statutes, is amended to read:

16 212.0305 Convention development taxes; intent;  
 17 administration; authorization; use of proceeds.--

18 (3) APPLICATION; ADMINISTRATION; PENALTIES.--

19 (d) The department shall keep records showing the  
 20 amount of taxes collected, which records shall disclose the  
 21 taxes collected from each county in which a local government  
 22 resort tax is levied. Notwithstanding s. 119.14, these  
 23 records shall be open for inspection during the regular office  
 24 hours of the department, subject to the provisions of s.  
 25 213.053. This exemption is subject to the Open Government  
 26 Sunset Review Act in accordance with s. 119.14.

27 Section 12. Subsections (2), (6), (7), and (9) of  
 28 section 213.053, Florida Statutes, are amended to read:

29 213.053 Confidentiality and information sharing.--

30 (2) Notwithstanding s. 119.14, except as provided in  
 31 subsections (3), (4), (5), (6), (7), (8), and (9), all

1 information contained in returns, reports, accounts, or  
 2 declarations received by the department, including  
 3 investigative reports and information and including letters of  
 4 technical advice, is confidential except for official  
 5 purposes. This exemption is subject to the Open Government  
 6 Sunset Review Act in accordance with s. 119.14. Any officer  
 7 or employee, or former officer or employee, of the department  
 8 who divulges any such information in any manner, except for  
 9 such official purposes or in accordance with the provisions of  
 10 subsection (3), subsection (4), subsection (5), subsection  
 11 (6), subsection (7), subsection (8), or subsection (9), is  
 12 guilty of a misdemeanor of the first degree, punishable as  
 13 provided in s. 775.082, s. 775.083, or s. 775.084.

14 (6) Any information received by the Department of  
 15 Revenue in connection with the administration of taxes,  
 16 including, but not limited to, information contained in  
 17 returns, reports, accounts, or declarations filed by persons  
 18 subject to tax, shall be made available by the department to  
 19 the Auditor General or his authorized agent, the Comptroller  
 20 or his authorized agent, and the Treasurer or his authorized  
 21 agent, or a property appraiser or tax collector or their  
 22 authorized agents pursuant to s. 195.084(1), in the  
 23 performance of their official duties; however, no information  
 24 shall be disclosed to the Auditor General or his authorized  
 25 agent, the Comptroller or his authorized agent, or the  
 26 Treasurer or his authorized agent, or to a property appraiser  
 27 or tax collector or their authorized agents if such disclosure  
 28 is prohibited by federal law. The Auditor General or his  
 29 authorized agent, the Comptroller or his authorized agent, and  
 30 the Treasurer or his authorized agent, and the property  
 31 appraiser or tax collector and their authorized agents, shall

1 be subject to the same requirements of confidentiality and the  
2 same penalties for violation of the requirements as the  
3 department.

4 (7) The provisions of this section apply to all  
5 sections of chapter 207, the Florida Special Fuel and Motor  
6 Fuel Use Tax Act of 1981, except for s. 207.025, exchange of  
7 information. However, nothing in this section shall prevent  
8 the department from providing information relative to chapter  
9 211, chapter 376, or chapter 377 to the proper state agency in  
10 the conduct of its official duties or from providing  
11 information relative to chapter 212 to the Division of  
12 Alcoholic Beverages and Tobacco of the Department of Business  
13 Regulation in the conduct of its official duties.

14 Notwithstanding s. 119.14, such state agencies shall be bound  
15 by the same requirements of confidentiality as the Department  
16 of Revenue. This exemption is subject to the Open Government  
17 Sunset Review Act in accordance with s. 119.14. Breach of  
18 confidentiality is a misdemeanor of the first degree,  
19 punishable as provided by s. 775.082 or s. 775.083.

20 (9)(a) Notwithstanding other provisions of this  
21 section, the department shall, subject to paragraph (c) and to  
22 the safeguards and limitations of paragraphs (b) and (d),  
23 disclose to the governing body of the county or subcounty  
24 district levying a local option tax, or any state tax which is  
25 distributed to units of local government based upon place of  
26 collection, which the department is responsible for  
27 administering, names and addresses only of the taxpayers who  
28 reside within the taxing boundaries of such county or  
29 subcounty district when sufficient information is supplied by  
30 the county or subcounty district as the department by rule may  
31 prescribe.

1 (b) Such information shall be disclosed only if the  
2 department receives an authenticated copy of a resolution  
3 adopted by the governing body requesting it.

4 (c) Notwithstanding s. 119.14, after receipt of such  
5 information, the governing body and its officers and employees  
6 are subject to the same requirements of confidentiality and  
7 the same penalties for violating confidentiality as the  
8 department and its employees. The resolution requesting such  
9 information shall provide assurance that the governing body  
10 and its officers and employees are aware of those requirements  
11 and of the penalties for their violation of such requirements,  
12 and shall describe the measures that will be put into effect  
13 to ensure such confidentiality. The officer of the department  
14 who is authorized to receive, consider, and act upon such  
15 requests shall, if satisfied that the assurances in the  
16 resolution are adequate to assure confidentiality, grant the  
17 request. This exemption is subject to the Open Government  
18 Sunset Review Act in accordance with s. 119.14.

19 (d) Nothing in this subsection authorizes disclosure  
20 of any information prohibited by federal law from being  
21 disclosed.

22 Section 13. Subsection (3) of section 213.21, Florida  
23 Statutes, is amended to read:

24 213.21 Informal conferences; compromises.--

25 (3) A taxpayer's liability for any tax or interest  
26 specified in s. 72.011(1), except taxes imposed under chapter  
27 206, may be compromised by the department upon the grounds of  
28 doubt as to liability for or collectibility of such tax or  
29 interest. A taxpayer's liability for penalties under any of  
30 the chapters specified in s. 72.011(1) may be settled or  
31 compromised if it is determined by the department that the

1 noncompliance is due to reasonable cause and not to willful  
2 negligence, willful neglect, or fraud. The department shall  
3 maintain records of all compromises, and the records shall  
4 state the basis for the compromise. Notwithstanding s.  
5 119.14, the records of compromise shall not be subject to  
6 disclosure pursuant to chapter 119 and shall be considered  
7 confidential information governed by the provisions of s.  
8 213.053. This exemption is subject to the Open Government  
9 Sunset Review Act in accordance with s. 119.14.

10 Section 14. Subsection (2) of section 213.22, Florida  
11 Statutes, is amended to read:

12 213.22 Technical assistance advisements.--

13 (2) Notwithstanding s. 119.14, the department may not  
14 disclose pursuant to chapter 119, or otherwise, a technical  
15 assistance advisement or a request for a technical assistance  
16 advisement to any person other than the person who requested  
17 the advisement, or his authorized representative, or for  
18 official departmental purposes, without first deleting the  
19 name, address, and other identifying details of the person to  
20 whom the technical assistance advisement was issued. This  
21 exemption is subject to the Open Government Sunset Review Act  
22 in accordance with s. 119.14.

23 Section 15. Subsections (1) and (6) of section 213.27,  
24 Florida Statutes, are amended to read:

25 213.27 Contracts with debt collection agencies.--

26 (1) The Department of Revenue may, for the purpose of  
27 collecting any delinquent taxes due from a taxpayer, contract  
28 with any debt collection agency or attorney doing business  
29 within or without this state for the collection of such  
30 delinquent taxes including penalties and interest thereon.  
31 The department may also share confidential information

1 pursuant to the contract necessary for the collection of  
 2 delinquent taxes. Contracts will be made pursuant to chapter  
 3 287. The taxpayer must be notified by certified mail by the  
 4 department, its employees, or its authorized representative 30  
 5 days prior to commencing any litigation to recover any  
 6 delinquent taxes. The taxpayer must be notified by certified  
 7 mail by the department 30 days prior to the department  
 8 assigning the collection of any delinquent taxes to the debt  
 9 collection agency.

10 (6) Notwithstanding s. 119.14, confidential  
 11 information shared with debt collection or auditing agencies  
 12 is exempt from chapter 119, and debt collection or auditing  
 13 agencies shall be bound by the same requirements of  
 14 confidentiality as the Department of Revenue. Breach of  
 15 confidentiality is a misdemeanor of the first degree,  
 16 punishable as provided by ss. 775.082 and 775.083. This  
 17 exemption is subject to the Open Government Sunset Review Act  
 18 in accordance with s. 119.14.

19 Section 16. Section 220.242, Florida Statutes, is  
 20 amended to read:

21 220.242 Declaration as return.--Notwithstanding s.  
 22 119.14, all of the provisions of this part and of s. 213.053,  
 23 relating to confidentiality, shall be applicable with respect  
 24 to declarations of estimated tax unless manifestly  
 25 inconsistent therewith. However, the declaration required of  
 26 a preparer other than the taxpayer under s. 220.221(3) shall  
 27 not be required with respect to declarations of estimated tax.  
 28 This exemption is subject to the Open Government Sunset Review  
 29 Act in accordance with s. 119.14.

30 Section 17. This act shall take effect October 1,  
 31 1988.

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SENATE SUMMARY

Continues the exemptions from public record disclosure requirements provided for state and federal tax returns and reports, certain property records, records of audits or investigations by the Department of Revenue or the Florida Department of Law Enforcement, records relating to the tax on the production of oil, gas, and solid minerals, records relating to resort taxes, records of settlements and compromises made pursuant to tax liabilities, records of technical assistance advisements issued by the Department of Revenue, records obtained from the department by a debt collection or auditing agency, and records of estimated taxes. Requires future legislative review of these exemptions. Authorizes the department to provide certain property tax information to property appraisers and tax collectors.

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By the Committee on Finance, Taxation and Claims

This publication was produced at an average cost of 1.5 cents per page for the information of members of the legislature and the public.

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A bill to be entitled  
An act relating to the public record exemption,  
amending ss. 192.105, 193.074, 195.027,  
195.084, 196.101, 199.222, 201.022, 206.27,  
211.125, 211.33, 212.0305, 213.053, 213.21,  
213.22, 213.27, 220.242, F.S.; continuing the  
exemptions from public record disclosure  
requirements provided for state and federal tax  
information, returns, and records, records of  
the amount paid for real property, information  
concerning audits and investigations by the  
Department of Revenue or the Florida Department  
of Law Enforcement, books and records relating  
to the tax on the production of oil, gas, and  
solid minerals, records relating to local  
government resort taxes, records of settlements  
and compromises made by the Department of  
Revenue relating to a taxpayer's liability for  
taxes, interest, or penalties, technical  
assistance advisements issued by the  
department, information shared with debt  
collection or auditing agencies, and certain  
declarations of estimated taxes; requiring  
future legislative review of such exemptions  
pursuant to the Open Government Sunset Review  
Act, authorizing the department to provide  
information to property appraisers and tax  
collectors or their authorized agents;  
authorizing the department to provide  
information relative to the commencement of  
business activities of a taxpayer to a state

1 agency; authorizing the department to provide  
2 information to a municipality which is in  
3 compliance with certain provisions of s.  
4 212.18(3), F.S.; amending s. 201.05(1), F.S.;

5 providing for clarification of language  
6 relating to mutual funds; providing an  
7 effective date.

8  
9 Be It Enacted by the Legislature of the State of Florida:

10  
11 Section 1. Section 192.105, Florida Statutes, is  
12 amended to read:

13 192.105 Unlawful disclosure of federal tax  
14 information; penalty.--

15 (1) Notwithstanding s. 119.14, it is unlawful for any  
16 person to divulge or make known federal tax information  
17 obtained pursuant to 26 U.S.C. s. 6103, except in accordance  
18 with a proper judicial order or as otherwise provided by law  
19 for use in the administration of the tax laws of this state.  
20 This exemption is subject to the Open Government Sunset Review  
21 Act in accordance with s. 119.14.

22 (2) Any person who violates the provisions of this  
23 section is guilty of a misdemeanor of the first degree,  
24 punishable as provided in s. 775.082, s. 775.083, or s.  
25 775.084.

26 Section 2. Section 193.074, Florida Statutes, is  
27 amended to read:

28 193.074 Confidentiality of returns.--Notwithstanding  
29 s. 119.14, all returns of property and returns required by s.  
30 201.022 submitted by the taxpayer pursuant to law shall be  
31 deemed to be confidential in the hands of the property

1 appraiser, the clerk of the circuit court, the department, the  
2 tax collector, and the Auditor General, except upon court  
3 order or order of an administrative body having quasi-judicial  
4 powers in ad valorem tax matters. This exemption is subject  
5 to the Open Government Sunset Review Act in accordance with s.  
6 119.14.

7 Section 3. Subsections (3) and (6) of section 195.027,  
8 Florida Statutes, are amended to read:

9 195.027 Rules and regulations.--

10 (3) The rules and regulations shall provide procedures  
11 whereby the property appraiser, the Department of Revenue, and  
12 the Auditor General shall be able to obtain access, where  
13 necessary, to financial records relating to nonhomestead  
14 property, which records are required to make a determination  
15 of the proper assessment as to the particular property in  
16 question. Access to a taxpayer's records shall be provided  
17 only in those instances in which it is determined that such  
18 records are necessary to determine either the classification  
19 or the value of the taxable nonhomestead property. Access  
20 shall be provided only to those records which pertain to the  
21 property physically located in the taxing county as of January  
22 1 of each year and to the income from such property generated  
23 in the taxing county for the year in which a proper assessment  
24 is made. Notwithstanding s. 119.14, all records produced by  
25 the taxpayer under this subsection shall be deemed to be  
26 confidential in the hands of the property appraiser, the  
27 department, the tax collector, and the Auditor General and  
28 shall not be divulged to any person, firm, or corporation,  
29 except upon court order or order of an administrative body  
30 having quasi-judicial powers in ad valorem tax matters. This  
31

1 exemption is subject to the Open Government Sunset Review Act  
2 in accordance with s. 119.14.

3 (6) The fees and costs of the sale or purchase and  
4 terms of financing shall be presumed to be usual unless the  
5 buyer or seller, or agent thereof, files a form which  
6 discloses the unusual fees, costs, and terms of financing.  
7 Such form shall be filed with the clerk of the circuit court  
8 at the time of recording. The rules and regulations shall  
9 prescribe an information form to be used for this purpose.

10 Either the buyer or the seller, or the agent of either, shall  
11 complete the information form and certify that the form is  
12 accurate to the best of his knowledge and belief.

13 Notwithstanding s. 119.14, the information form shall be  
14 confidential in the hands of all persons after delivery to the  
15 clerk, except that the Department of Revenue and the Auditor  
16 General shall have access to it in the execution of their  
17 official duties. This exemption is subject to the Open  
18 Government Sunset Review Act in accordance with s. 119.14.

19 The information form may be used in any judicial proceeding,  
20 upon a motion to produce duly made by any party to such  
21 proceedings. Failure of the clerk to obtain an information  
22 form with the recording shall not impair the validity of the  
23 recording or the conveyance. The form shall provide for a  
24 notation by the clerk indicating the book and page number of  
25 the conveyance in the official record books of the county.  
26 The clerk shall promptly deliver all information forms  
27 received by him to the property appraiser for his custody and  
28 use.

29 Section 4. Subsection (1) of section 195.084, Florida  
30 Statutes, is amended to read:

31 195.084 Information exchange.--

1           (1) The department shall promulgate rules and  
2 regulations for the exchange of information among the  
3 department, the property appraisers' offices, the tax  
4 collector, and the Auditor General. All records and returns  
5 of the department useful to the property appraiser or the tax  
6 collector shall be made available upon his request, but  
7 subject to the reasonable conditions imposed by the  
8 department. This section shall supersede statutes prohibiting  
9 disclosure only with respect to the property appraiser, the  
10 tax collector, and the Auditor General, but the department may  
11 establish regulations setting reasonable conditions upon the  
12 access to and custody of such information. Notwithstanding s.  
13 119.14, the Auditor General, the tax collectors, and the  
14 property appraisers shall be bound by the same requirements of  
15 confidentiality as the Department of Revenue. This exemption  
16 is subject to the Open Government Sunset Review Act in  
17 accordance with s. 119.14. Breach of confidentiality shall be  
18 a misdemeanor of the first degree punishable as provided by  
19 ss. 775.082 and 775.083.

20           Section 5. Subsection (4) of section 196.101, Florida  
21 Statutes, is amended to read:

22           196.101 Exemption for totally and permanently disabled  
23 persons.--

24           (4)(a) A person entitled to the exemption in  
25 subsection (2) must be a permanent resident of this state.  
26 Submission of an affidavit that the applicant claiming the  
27 exemption under subsection (2) is a permanent resident of this  
28 state is prima facie proof of such residence. However, the  
29 gross income of all persons residing in or upon the homestead  
30 for the prior year shall not exceed \$12,000. For the purposes  
31 of this section, the term "gross income" includes Veterans

1 Administration benefits and any social security benefits paid  
2 to the persons.

3 (b) The department shall require by rule that the  
4 taxpayer annually submit a sworn statement of gross income,  
5 pursuant to paragraph (a). The department shall require that  
6 the filing of such statement be accompanied by copies of  
7 federal income tax returns for the prior year, wage and  
8 earnings statements (W-2 forms), and other documents it deems  
9 necessary, for each member of the household. The taxpayer's  
10 statement shall attest to the accuracy of such copies. The  
11 department shall prescribe and furnish a form to be used for  
12 this purpose, which form shall include spaces for a separate  
13 listing of Veterans Administration benefits and social  
14 security benefits. Notwithstanding s. 119.14, all records  
15 produced by the taxpayer under this paragraph are confidential  
16 in the hands of the property appraiser, the department, the  
17 tax collector, and the Auditor General and shall not be  
18 divulged to any person, firm, or corporation, except upon  
19 court order or order of an administrative body having quasi-  
20 judicial powers in ad valorem tax matters. This exemption is  
21 subject to the Open Government Sunset Review Act in accordance  
22 with s. 119.14.

23 Section 6. Section 199.222, Florida Statutes, is  
24 amended to read:

25 199.222 Confidentiality of returns.--Notwithstanding  
26 s. 119.14, all annual personal property tax returns filed with  
27 the department shall be confidential, as provided in s.  
28 213.053. This exemption is subject to the Open Government  
29 Sunset Review Act in accordance with s. 119.14.

30 Section 7. Subsection (1) of section 201.022, Florida  
31 Statutes, is amended to read:

1           201.022 Consideration for realty; filing of return  
2 condition precedent to recordation; failure to file does not  
3 impair validity.--

4           (1) As a condition precedent to the recordation of any  
5 deed transferring an interest in real property, the grantor or  
6 the grantee or agent for grantee shall execute and file a  
7 return with the clerk of the circuit court. The return shall  
8 state the actual consideration paid for the interest in real  
9 property. Notwithstanding s. 119.14, the return shall not be  
10 recorded, or otherwise become a public record, and shall be  
11 confidential as provided by s. 193.074. The original return  
12 shall be forwarded to the department, and a copy shall be  
13 forwarded to the property appraiser. This exemption is  
14 subject to the Open Government Sunset Review Act in accordance  
15 with s. 119.14.

16           Section 8. Subsection (2) of section 206.27, Florida  
17 Statutes, is amended to read:

18           206.27 Records and files as public records.--

19           (2) Notwithstanding s. 119.14, nothing herein shall be  
20 construed as requiring the department to provide as a public  
21 record any information concerning audits in progress or those  
22 records and files of the department described in this section  
23 which are currently the subject of pending investigation by  
24 the Department of Revenue or the Florida Department of Law  
25 Enforcement. It is specifically provided that the foregoing  
26 information shall be exempt from the provisions of chapter 119  
27 and shall be considered confidential pursuant to s. 213.053.  
28 Any officer, employee, or former officer or employee of the  
29 department who divulges any such information in any manner  
30 except for such official purposes or under s. 213.053 is  
31 guilty of a misdemeanor of the first degree, punishable as

1 provided in s. 775.082, s. 775.083, or s. 775.084. This  
2 exemption is subject to the Open Government Sunset Review Act  
3 in accordance with s. 119.14.

4 Section 9. Subsection (10) of section 211.125, Florida  
5 Statutes, is amended to read:

6 211.125 Administration of law; books and records;  
7 powers of the department; refunds; enforcement provisions;  
8 confidentiality.--

9 (10) Notwithstanding s. 119.14, all returns and  
10 information filed with the department under this part are  
11 confidential, and such returns or information shall be  
12 protected from unauthorized disclosure as provided in s.  
13 213.053. This exemption is subject to the Open Government  
14 Sunset Review Act in accordance with s. 119.14.

15 Section 10. Subsection (5) of section 211.33, Florida  
16 Statutes, is amended to read:

17 211.33 Administration of the tax; returns; delinquency  
18 penalties and interest; departmental inspections of records.--

19 (5) Notwithstanding s. 119.14, the use of information  
20 contained in any return filed by a producer under this part or  
21 in any books, records, or documents of a producer shall be as  
22 provided in s. 213.053. This exemption is subject to the Open  
23 Government Sunset Review Act in accordance with s. 119.14.

24 Section 11. Paragraph (d) of subsection (3) of section  
25 212.0305, Florida Statutes, is amended to read:

26 212.0305 Convention development taxes; intent;  
27 administration; authorization; use of proceeds.--

28 (3) APPLICATION; ADMINISTRATION; PENALTIES.--

29 (d) The department shall keep records showing the  
30 amount of taxes collected, which records shall disclose the  
31 taxes collected from each county in which a local government



1 resort tax is levied. Notwithstanding s. 119.14, these  
2 records shall be open for inspection during the regular office  
3 hours of the department, subject to the provisions of s.  
4 213.053. This exemption is subject to the Open Government  
5 Sunset Review Act in accordance with s. 119.14.

6 Section 12. Subsections (2), (6), (7), and (9) of  
7 section 213.053, Florida Statutes, are amended to read:

8 213.053 Confidentiality and information sharing.--

9 (2) Notwithstanding s. 119.14, except as provided in  
10 subsections (3), (4), (5), (6), (7), (8), and (9), all  
11 information contained in returns, reports, accounts, or  
12 declarations received by the department, including  
13 investigative reports and information and including letters of  
14 technical advice, is confidential except for official  
15 purposes. This exemption is subject to the Open Government  
16 Sunset Review Act in accordance with s. 119.14. Any officer  
17 or employee, or former officer or employee, of the department  
18 who divulges any such information in any manner, except for  
19 such official purposes or in accordance with the provisions of  
20 subsection (3), subsection (4), subsection (5), subsection  
21 (6), subsection (7), subsection (8), or subsection (9), is  
22 guilty of a misdemeanor of the first degree, punishable as  
23 provided in s. 775.082, s. 775.083, or s. 775.084.

24 (6) Any information received by the Department of  
25 Revenue in connection with the administration of taxes,  
26 including, but not limited to, information contained in  
27 returns, reports, accounts, or declarations filed by persons  
28 subject to tax, shall be made available by the department to  
29 the Auditor General or his authorized agent, the Comptroller  
30 or his authorized agent, and the Treasurer or his authorized  
31 agent, or a property appraiser or tax collector or their

1 authorized agents pursuant to s. 195.084(1), in the  
2 performance of their official duties; however, no information  
3 shall be disclosed to the Auditor General or his authorized  
4 agent, the Comptroller or his authorized agent, or the  
5 Treasurer or his authorized agent, or to a property appraiser  
6 or tax collector or their authorized agents if such disclosure  
7 is prohibited by federal law. The Auditor General or his  
8 authorized agent, the Comptroller or his authorized agent, and  
9 the Treasurer or his authorized agent, and the property  
10 appraiser or tax collector and their authorized agents, shall  
11 be subject to the same requirements of confidentiality and the  
12 same penalties for violation of the requirements as the  
13 department.

14 (7) The provisions of this section apply to all  
15 sections of chapter 207, the Florida Special Fuel and Motor  
16 Fuel Use Tax Act of 1981, except for s. 207.025, exchange of  
17 information. However, nothing in this section shall prevent  
18 the department from providing information relative to chapter  
19 211, chapter 376, or chapter 377, or relative to the  
20 commencement of business activities of a taxpayer, to the  
21 proper state agency in the conduct of its official duties or  
22 from providing information relative to chapter 212 to the  
23 Division of Alcoholic Beverages and Tobacco of the Department  
24 of Business Regulation in the conduct of its official duties.  
25 Notwithstanding s. 119.14, such state agencies shall be bound  
26 by the same requirements of confidentiality as the Department  
27 of Revenue. This exemption is subject to the Open Government  
28 Sunset Review Act in accordance with s. 119.14. Breach of  
29 confidentiality is a misdemeanor of the first degree,  
30 punishable as provided by s. 775.082 or s. 775.083.

1 (9)(a) Notwithstanding other provisions of this  
2 section, the department shall, subject to paragraph (c) and to  
3 the safeguards and limitations of paragraphs (b) and (d),  
4 disclose to the governing body of a municipality, a the  
5 county, or a subcounty district levying a local option tax, or  
6 any state tax which is distributed to units of local  
7 government based upon place of collection, which the  
8 department is responsible for administering, names and  
9 addresses only of the taxpayers who reside within the taxing  
10 boundaries of such municipality, county, or subcounty district  
11 when sufficient information is supplied by the municipality,  
12 the county, or subcounty district as the department by rule  
13 may prescribe, provided such governing bodies are following s.  
14 212.18(3) relative to the denial of an occupational license  
15 after the department cancels a dealer's sales tax certificate  
16 of registration.

17 (b) Such information shall be disclosed only if the  
18 department receives an authenticated copy of a resolution  
19 adopted by the governing body requesting it.

20 (c) Notwithstanding s. 119.14, after receipt of such  
21 information, the governing body and its officers and employees  
22 are subject to the same requirements of confidentiality and  
23 the same penalties for violating confidentiality as the  
24 department and its employees. The resolution requesting such  
25 information shall provide assurance that the governing body  
26 and its officers and employees are aware of those requirements  
27 and of the penalties for their violation of such requirements,  
28 and shall describe the measures that will be put into effect  
29 to ensure such confidentiality. The officer of the department  
30 who is authorized to receive, consider, and act upon such  
31 requests shall, if satisfied that the assurances in the

1 resolution are adequate to assure confidentiality, grant the  
2 request. This exemption is subject to the Open Government  
3 Sunset Review Act in accordance with s. 119.14.

4 (d) Nothing in this subsection authorizes disclosure  
5 of any information prohibited by federal law from being  
6 disclosed.

7 Section 13. Subsection (3) of section 213.21, Florida  
8 Statutes, is amended to read:

9 213.21 Informal conferences; compromises.--

10 (3) A taxpayer's liability for any tax or interest  
11 specified in s. 72.011(1), except taxes imposed under chapter  
12 206, may be compromised by the department upon the grounds of  
13 doubt as to liability for or collectibility of such tax or  
14 interest. A taxpayer's liability for penalties under any of  
15 the chapters specified in s. 72.011(1) may be settled or  
16 compromised if it is determined by the department that the  
17 noncompliance is due to reasonable cause and not to willful  
18 negligence, willful neglect, or fraud. The department shall  
19 maintain records of all compromises, and the records shall  
20 state the basis for the compromise. Notwithstanding s.  
21 119.14, the records of compromise shall not be subject to  
22 disclosure pursuant to chapter 119 and shall be considered  
23 confidential information governed by the provisions of s.  
24 213.053. This exemption is subject to the Open Government  
25 Sunset Review Act in accordance with s. 119.14.

26 Section 14. Subsection (2) of section 213.22, Florida  
27 Statutes, is amended to read:

28 213.22 Technical assistance advisements.--

29 (2) Notwithstanding s. 119.14, the department may not  
30 disclose pursuant to chapter 119, or otherwise, a technical  
31 assistance advisement or a request for a technical assistance

1 advisement to any person other than the person who requested  
2 the advisement, or his authorized representative, or for  
3 official departmental purposes, without first deleting the  
4 name, address, and other identifying details of the person to  
5 whom the technical assistance advisement was issued. This  
6 exemption is subject to the Open Government Sunset Review Act  
7 in accordance with s. 119.14.

8 Section 15. Subsections (1) and (6) of section 213.27,  
9 Florida Statutes, are amended to read:

10 213.27 Contracts with debt collection agencies.--

11 (1) The Department of Revenue may, for the purpose of  
12 collecting any delinquent taxes due from a taxpayer, contract  
13 with any debt collection agency or attorney doing business  
14 within or without this state for the collection of such  
15 delinquent taxes including penalties and interest thereon.  
16 The department may also share confidential information  
17 pursuant to the contract necessary for the collection of  
18 delinquent taxes. Contracts will be made pursuant to chapter  
19 287. The taxpayer must be notified by certified mail by the  
20 department, its employees, or its authorized representative 30  
21 days prior to commencing any litigation to recover any  
22 delinquent taxes. The taxpayer must be notified by certified  
23 mail by the department 30 days prior to the department  
24 assigning the collection of any delinquent taxes to the debt  
25 collection agency.

26 (6) Notwithstanding s. 119.14, confidential  
27 information shared with debt collection or auditing agencies  
28 is exempt from chapter 119, and debt collection or auditing  
29 agencies shall be bound by the same requirements of  
30 confidentiality as the Department of Revenue. Breach of  
31 confidentiality is a misdemeanor of the first degree.

1 punishable as provided by ss. 775.082 and 775.083. This  
2 exemption is subject to the Open Government Sunset Review Act  
3 in accordance with s. 119.14.

4 Section 16. Section 220.242, Florida Statutes, is  
5 amended to read:

6 220.242 Declaration as return.--Notwithstanding s.  
7 119.14, all of the provisions of this part and of s. 213.053,  
8 relating to confidentiality, shall be applicable with respect  
9 to declarations of estimated tax unless manifestly  
10 inconsistent therewith. However, the declaration required of  
11 a preparer other than the taxpayer under s. 220.221(3) shall  
12 not be required with respect to declarations of estimated tax.  
13 This exemption is subject to the Open Government Sunset Review  
14 Act in accordance with s. 119.14.

15 Section 17. Subsection (1) of section 201.05, Florida  
16 Statutes, is amended to read:

17 201.05 Tax on stock certificates.--

18 (1) On each original issue, whether organization or  
19 reorganization, of certificates of stock or shares however  
20 designated issued in the state, or of certificates of profits,  
21 or of interest in property or accumulations, by any  
22 corporation or by any joint stock company or other association  
23 as set forth in s. 201.04, on each \$100 of face value, or  
24 fraction thereof, the tax shall be 15 cents; provided that  
25 when a certificate is issued without face value, the tax shall  
26 be 15 cents on each \$100 of actual value or fraction thereof.  
27 The stamps representing the tax imposed by this section shall  
28 be attached to the stock books, and not to the certificates  
29 issued. The provisions of this section do not apply to any  
30 stock or share, issued in this state, of an open-end or  
31 closed-end management company or a unit investment trust

1 ~~registered under of-an-open-end-mutual-fund-issued-in-this~~  
 2 ~~state-and-registered-under~~ the Investment Company Act of 1940,  
 3 ~~15-U.S.C.-§-80a-1-52~~, as amended.

4 Section 18. This act shall take effect October 1,  
 5 1988.

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 12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
 13 COMMITTEE SUBSTITUTE FOR  
 14 Senate Bill 1050

15 Amends s. 213.053(7), F.S., authorizing the Department of  
 16 Revenue to share information relative to the commencement of  
 17 business activities of a taxpayer, with the proper state  
 18 agency in the conduct of its official duties.

19 Amends s. 213.053(9), F.S., authorizing the Department of  
 20 Revenue to disclose to the governing body of a municipality  
 21 levying a local option tax, or any state tax which is  
 22 distributed to a municipality based upon place of collection,  
 23 which the Department is responsible for administering, names  
 24 and addresses only of the taxpayers who reside within the  
 25 taxing boundaries of a municipality. Also, in order for a  
 26 local government to receive such information from the  
 27 Department, they are required to follow the provisions found  
 28 in s. 212.18(3), relative to the denial of an occupational  
 29 license after the Department has canceled a dealer's sales  
 30 tax certificate or registration.

31 Amends s. 201.05(1), F.S., exempting from the documentary  
 stamp tax, stocks or shares, issued in this state, of an  
 open-end or closed-end management company or a unit  
 investment trust registered under the Investment Company Act  
 of 1940, as amended.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Keating <i>JK</i></u>	<u>Beqqs <i>JK</i></u>	1. <u>FTC</u>	<u>Fav/CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:	BILL NO. AND SPONSOR:
Open Government Sunset Reviews: Confidentiality of Tax Information	CS/SB 1050 by Senate FT&C and Senator Deratany

I. SUMMARY:

A. Present Situation:

The Open Government Sunset Review Act, ss. 119.14 and s. 286.0111, F.S., provides for the systematic repeal, over the 10-year period, 1986-1995, of exemptions to the Public Records Act and Public Meetings Law, unless the Legislature acts to revive the exemption prior to its scheduled repeal date. Set for repeal on October 1, 1988, are all the exemptions to the Public Records Act found in Title XIV, Taxation and Finance. The exemptions found in chapters 192 through 220, F.S., protect the confidentiality of both federal tax returns and state tax information.

Section 201.05, F.S., provides for the taxation of original issues of certificates of stock or shares at 15 cents per \$100 of face value. Stocks or shares of an open-end mutual fund issued in this state and registered under the Investment Company Act of 1940, as amended, are exempt from the tax.

B. Effect of Proposed Changes:

The public records exemptions found in chapters 192 through 220, F.S., are all recommended for revival and readoption with the following substantive changes:

Section 195.084, F.S.

Section 195.084, F.S., provides for the exchange of information among the Department of Revenue, the property appraiser's office, and the Auditor General. Language is added to include tax collectors in the list of governmental entities authorized to exchange information with the Department. In order for the tax collector to be effective in assuring that all new businesses are obtaining the required occupational licenses, the tax collector needs to be statutorily permitted to receive a list from the Department of all new sales tax registrants within each county who have registered with the state for collecting sales tax. This authorization for the exchange of information is supported by the Department of Revenue and the Tax Collectors Association.

Section 213.053(6), F.S.

Section 213.053, F.S., provides for confidentiality of tax information and sharing of such information. Subsection (6) of s. 213.053, F.S., authorizes the Department of Revenue to share tax information with the Auditor General, the Comptroller and the Treasurer. Language is added to subsection (6), to include property appraisers and tax collectors in the list of governmental entities authorized to receive information. Property appraisers are authorized to exchange tax information



with the Department in s. 195.084, F.S. Prior to 1980 when 213.053, F.S., was passed, information was shared with property appraisers pursuant to s. 195.084, F.S. However, in 1980 the Attorney General ruled that since s. 213.053, F.S., was a later enactment, information could no longer be shared. This bill would reestablish information sharing with property appraisers and also extend sharing to tax collectors.

Subsection (7) of s. 213.053, F.S., authorizes the Department to share information relative to chapter 211, 376 or 377 with the proper state agency in the conduct of its official duties. Language is added to allow the Department to share information, relative to the commencement of business activities of a taxpayer, with the proper state agency in the conduct of its official duties.

Subsection (9) of s. 213.053, F.S., authorizes the Department of Revenue to disclose to the governing body of a county or subcounty district levying a local option tax, or any state tax which is distributed to units of local governments based upon place of collection, which the Department is responsible for administering, names and addresses only of the taxpayers who reside within the taxing boundaries of such county or subcounty district. Language is added authorizing a municipality to receive from the Department, names and addresses of taxpayers who reside within their taxing boundaries. Also added to subsection (9), is language which requires that in order for the local government to receive such information from the Department, they must be following the provisions of s. 212.18(3), relative to the denial of an occupational license after the Department has canceled a dealer's sales tax certificate or registration.

Section 213.27(6), F.S.

Section 213.27, F.S., permits the Department of Revenue to contract for the collection of delinquent taxes, with any debt collection agency, attorney or auditing agency. Subsection (6) exempts such contracts from the public records law. Language is added to clarify what type of information may be shared by the Department with the debt collection or auditing agency.

The bill amends subsection (1) of s. 201.05, F.S., exempting from the documentary stamp tax, stocks or shares, issued in this state, of an open-end or closed-end management company or a unit investment trust registered under the Investment Company Act of 1940, as amended.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

Reenactment of the confidentiality of tax information statutes, enables the Department of Revenue to continue to properly assess and collect state taxes.

The exemption from the documentary stamp tax of stocks or shares issued in this state by closed-end management companies or unit investment trusts should not have any revenue impact, since it is believed that such companies are not paying the tax under current law.

REVISED: April 27, 1988

BILL NO. CS/SB 1050

DATE: April 25, 1988

Page 3

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III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1050

Amends s. 213.053(7), F.S., authorizing the Department of Revenue to share information relative to the commencement of business activities of a taxpayer, with the proper state agency in the conduct of its official duties.

Amends s. 213.053(9), F.S., authorizing the Department of Revenue to disclose to the governing body of a municipality levying a local option tax, or any state tax which is distributed to a municipality based upon place of collection, which the Department is responsible for administering, names and addresses only of the taxpayers who reside within the taxing boundaries of a municipality. Also, in order for a local government to receive such information from the Department, they are required to follow the provisions found in s. 212.18(3), relative to the denial of an occupational license after the Department has canceled a dealer's sales tax certificate or registration.

Amends s. 201.05(1), F.S., exempting from the documentary stamp tax, stocks or shares, issued in this state, of an open-end or closed-end management company or a unit investment trust registered under the Investment Company Act of 1940, as amended.

Committee on Finance, Taxation and Claims

  
\_\_\_\_\_  
Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)

**Journal**  
**of the**  
**S E N A T E**  
**State of Florida**

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**TWENTIETH REGULAR SESSION**  
**UNDER THE CONSTITUTION AS REVISED IN 1968**  
**APRIL 5 THROUGH JUNE 7, 1988**

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## Yeas—35

Barron	Grant	Kiser	Ros-Lehtinen
Beard	Grizzle	Langley	Scott
Brown	Hair	Lehtinen	Stuart
Childers, D	Hill	Margolis	Thomas
Childers, W D	Hollingsworth	McPherson	Thurman
Dudley	Jenne	Meek	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson
Gordon	Kirkpatrick	Plummer	

## Nays—None

CS for CS for SB's 42 and 49—A bill to be entitled An act relating to negligence, amending s 768.13, F.S.; providing an exemption from civil liability for licensed medical personnel working gratuitously in nonprofit medical facilities, providing an effective date

—was read the second time by title.

Senator Girardeau moved the following amendment:

**Amendment 1**—On page 1, line 18, after the comma insert *while performing screening services*

Further consideration of CS for CS for SB's 42 and 49 was deferred

**SB 1203**—A bill to be entitled An act relating to tax administration, amending s 213.75, F.S.; providing for specifying application of tax payments; amending s 108 of ch 87-6, Laws of Florida, and s 66 of ch 87-101, Laws of Florida; providing for application of certain sections of such laws, providing an effective date

—was read the second time by title

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Deratany

**Amendment 1**—On page 2, between lines 12 and 13, insert

Section 4 Section 215.322, Florida Statutes, is amended to read

215.322 Acceptance of credit cards by state agencies and units of local government —

(1) A state agency, as defined in s 216.011, may accept credit cards in payment for goods and services with the prior approval of the Treasurer

(2) The Treasurer shall adopt rules governing the establishment and acceptance of credit cards by state agencies, including, but not limited to, the following:

(a) Utilization of a standardized contract between the financial institution and the agency which shall be developed by the Treasurer or approval by the Treasurer of a substitute agreement.

(b)1 The types of revenue or collections that may be subject to service fees or surcharges by the financial institution. Taxes, license fees, tuition, and other statutorily prescribed revenues may ~~shall not~~ be subject to a service fee or surcharge

2 The minimum public disclosure requirements to persons who elect to pay taxes, license fees, tuition, and other statutorily prescribed revenues by credit card which are subject to a surcharge pursuant to this section. Any state agency or unit of local government that surcharges a person who pays by credit card shall be subject to the minimum public disclosure requirements adopted by the Treasurer pursuant to this subparagraph

(c) All service fees payable to financial institutions when practicable shall be invoiced and paid by state warrant in accordance with s 215.422

(d) Submission of information to the Treasurer concerning the acceptance of credit cards by all state agencies

(3) The Treasurer is authorized to establish contracts with one or more financial institutions or credit card companies, in a manner consistent with chapter 287, for processing credit card collections for deposit into the State Treasury or another qualified public depository. Any state agency which accepts payment by credit card shall use at least one of the contractors established by the Treasurer unless the

state agency obtains authorization from the Treasurer to use another contractor which is more financially advantageous to such state agency. Such contracts may authorize a unit of local government to use the services upon the same terms and conditions for deposit of credit card transactions into its qualified public depositories

(4) A unit of local government is authorized to accept credit cards in payment of financial obligations which are owing to such unit of local government and to surcharge the person who uses a credit card in payment of taxes, license fees, tuition, or other statutorily prescribed revenues an amount sufficient to pay the service fee charges by the financial institution or credit card company for such services.

(5) Credit card account numbers in the possession of a state agency or unit of local government are confidential and exempt from the provisions of chapter 119. This exemption is subject to the Open Government Sunset Review Act in accordance with s 119.14.

Senator Gordon moved the following amendments to Amendment 1 which were adopted:

**Amendment 1A**—On page 1, line 28, after "institution" insert *vending service company or credit card company*

**Amendment 1B**—On page 3, line 3, after "institution" insert: *vending service company*

Senator Lehtinen moved the following amendments to Amendment 1 which were adopted.

**Amendment 1C**—On page 1, line 30, after the period ( ) insert *Notwithstanding the foregoing, this section shall not be construed to permit surcharges on any other credit card purchase in violation of s 501.0117*

**Amendment 1D**—On page 1, line 28, in front of "Taxes" insert. *Only*

**Amendment 1 as amended** was adopted

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Deratany and failed

**Amendment 2**—On page 2, line 14, after "later" insert: *, but if it becomes a law after July 1, 1988, it shall operate retroactively to July 1, 1988*

Senator Deratany moved the following amendments which were adopted

**Amendment 3**—On page 1, lines 26-31, and on page 2, lines 1-14, strike all of said lines and insert

Section 2 Effective July 1, 1988 and applicable to taxes which remain open to assessment on that date, paragraph (a) of subsection (3) of section 95.091, Florida Statutes, is amended to read

95.091 Limitation on actions to collect taxes.—

(3)(a)1 With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s 72.011

a 4 Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later,

b 2 Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return,

c 2 At any time while the right to a refund or credit of the tax is available to the taxpayer,

d 4 At any time after the taxpayer has ~~fraudulently~~ failed to make any required payment of the tax, has ~~fraudulently~~ failed to file a required return, or has filed a grossly false or fraudulent return, or

e 6 In any case in which there has been a ~~an erroneous~~ refund of tax erroneously made for any reason, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact

2 For the purpose of this paragraph, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day and payments made prior to the last day prescribed by law shall be deemed to have been paid on such last day

Section 3 Paragraph (a) of subsection (9) of section 213.053, Florida Statutes, is amended to read

213.053 Confidentiality and information sharing.—

(9)(a) Notwithstanding other provisions of this section, the department shall, subject to paragraph (c) and to the safeguards and limitations of paragraphs (b) and (d), disclose to the governing body of the county or subcounty district levying a local option tax, or any state tax which is distributed to units of local government based upon place of collection, which the department is responsible for administering, names and addresses only of the taxpayers who reside within or adjacent to the taxing boundaries of such county or subcounty district when sufficient information is supplied by the county or subcounty district as the department by rule may prescribe

Section 4 Section 213.35, Florida Statutes, is created to read

213.35 Books and records.—Each person required by law to perform any act in the administration of any tax enumerated in s 72.011 shall keep suitable books and records relating to that tax, such as invoices, bills of lading and other pertinent records and papers, and shall preserve such books and records until expiration of the time within which the department may make an assessment with respect to that tax pursuant to s 95.091(3)

Section 5 Section 206.12, Florida Statutes, is amended to read

206.12 Retention of records —Each person shall maintain and keep, for a period of 3 years, such record of motor fuel received, used, transferred, sold, and delivered within this state by such person, together with invoices, bills of lading, and other pertinent records and papers, as may be required by the department for the reasonable administration of the motor fuel tax laws of this state, and shall preserve such records as long as required by s 213.35

Section 6. Section 207.008, Florida Statutes, is amended to read

207.008 Retention of records by motor carrier —Each registered motor carrier shall maintain and keep, for a period of 4 years, pertinent records and papers as may be required by the department for the reasonable administration of this chapter, and shall preserve such records as long as required by s 213.35

Section 7 Paragraph (a) of subsection (3) of section 211.125, Florida Statutes, is amended to read.

211.125 Administration of law, books and records, powers of the department, refunds, enforcement provisions, confidentiality —

(3)(a) Each person subject to the provisions of this part shall keep suitable books and records relating to the severance or production of taxable products in this state to enable the department to determine the amount of tax due under this part. Such books and records shall be preserved until the time within which the department may make an assessment with respect thereto has expired, as provided in s 213.35.

Section 8. Subsection (3) of section 211.33, Florida Statutes, is amended to read.

211.33 Administration of the tax, returns; delinquency penalties and interest; departmental inspections of records.—

(3) Every producer shall keep and preserve as long as required by s 213.35 suitable records of production of solid minerals and such other books and documents as may be necessary to ensure compliance

Section 9 Subsection (4) of section 212.04, Florida Statutes, is amended to read

212.04 Admissions tax; rate, procedure, enforcement —

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business

where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of \$5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than the time within which the department may, as permitted by s 95.091(3), make an assessment with respect to any admission evidenced by such records and accounts 3 years, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for that period ~~a period of not less than 3 years~~. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property, and the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of 5 percent per month for a total amount of tax delinquent up to a total of 25 percent of such tax, and at the rate of 50-percent penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department

Section 10 Paragraph (a) of subsection (6) and subsection (13) of section 212.12, Florida Statutes, are amended to read

212.12 Dealer's credit for collecting tax, penalties for noncompliance, powers of Department of Revenue in dealing with delinquents, brackets applicable to taxable transactions, records required —

(6)(a) The department is given the power to prescribe the records to be kept by all persons subject to taxes imposed by this chapter, and it shall be the duty of every person required to make a report and pay any tax under this chapter, every person receiving rentals or license fees, and owners of places of admission, to keep and preserve suitable records of the sales, leases, rentals, license fees, admissions, or purchases, as the case may be, taxable under this chapter, such other books of account as may be necessary to determine the amount of the tax due hereunder, and other information as may be required by the department. It shall be the duty of every such person so charged with such duty, moreover, to keep and preserve as long as required by s 213.35 for a period of 3 years all invoices and other records of goods, wares, and merchandise, records of admissions, leases, license fees and rentals, and all other subjects of taxation under this chapter, and all such books, invoices, and other records shall be open to examination at all reasonable hours to the department or any of its duly authorized agents

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records as long as required by s 213.35 for a period of not less than 3 years, subject to the inspection of the department and its agents, and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s 775.082, s 775.083 or s. 775.084, for the first offense, and for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s 775.082, s 775.083, or s 775.084

Section 11 Subsections (2) and (4) of section 212.13, Florida Statutes, are amended to read

212.13 Records required to be kept, power to inspect, audit procedure.—

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep as long as required by s 213.35 for a period of 3 years a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter, and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s 775.082, s. 775.083, or s 775.084

(4) For the further purpose of enforcement of this chapter, every wholesaler of tangible personal property or services licensed within this state is required to permit the department to examine his books and records at all reasonable hours. He must also maintain such books and records as long as required by s 213.35 for a period of not less than 3 years in order to disclose the sales of all goods or services sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the department may reasonably require, and so as to permit the department to determine the volume of goods or services sold by wholesalers to dealers, as defined under this chapter, and the dates and amounts of sales made. The department may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section

Section 12 Section 214.17, Florida Statutes, is amended to read.

214.17 Access to Books and records —

(1) Each person required by law to administer any nonproperty tax to which this chapter is applicable shall keep suitable books and records relating to that tax and shall preserve such books and records as long as required by s 213.35.

(2) All books, records, and other papers and documents which are required by applicable law to be kept shall be subject to inspection by the department or its duly authorized agents and employees at all times during business hours

Section 13. Except as otherwise provided herein, this act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later, provided that if it becomes a law after July 1, 1988, it shall operate retroactively to said date

Amendment 4—On page 2, between lines 12 and 13, insert:

Section 4. Effective upon becoming a law and operating retroactively to January 1, 1988, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read

220.03 Definitions —

(1) SPECIFIC TERMS—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 1988 1987, except as provided in subsection (3)

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(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 January 1, 1988 1987. However, if subsection (3) is implemented the meaning of any term shall be taken at the time the term is applied under this code

Section 5 Effective upon becoming a law and operating retroactively to January 1, 1988, subsection (4) of section 220.11, Florida Statutes, is amended to read

220.11 Tax imposed.—

(4) In the case of a taxpayer to which s 55 of the Internal Revenue Code is applied for the taxable year, the amount of tax determined under this section shall be the greater of the tax determined under subsection (2) without the application of s 55 of the Internal Revenue Code or the tax determined under subsection (3).

Section 6. Effective upon becoming a law and operating retroactively to January 1, 1988, subsection (1) of section 220.62, Florida Statutes, is amended to read:

220.62 Definitions—For purposes of this part:

(1) The term "bank" means a bank holding company registered under the Bank Holding Company Act of 1956 of the United States, 12 U.S.C. as 1841-1849, as amended, or a bank or trust company incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia), of any state, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency and which is subject by law to supervision and examination by state, territorial, or federal authority having supervision over banking institutions. The term "bank" also includes any banking association, corporation, or other similar organization organized and operated under the laws of any foreign country, which banking association, corporation, or other organization is also operating in this state pursuant to chapter 663, and further includes any corporation organized under chapter 289

(Renumber subsequent sections )

Senator Margolis moved the following amendment which was adopted:

Amendment 5—On page 1, line 11, insert:

Section 1. Section 201.24, Florida Statutes, is amended to read:

201.24 Obligations of municipalities, political subdivisions, and agencies of the state.—There shall be exempt from all taxes imposed by this chapter

(1) Any obligation to pay money issued by a municipality, political subdivision, or agency of the state.

(2) Any assignment, transfer, or other disposition, or any document, which arises out of a lease or lease-purchase agreement entered pursuant to s 235.056

(Renumber subsequent sections.)

Senators Grizzle, Malchon and Kiser offered the following amendment which was moved by Senator Grizzle and adopted:

Amendment 6—On page 2, strike line 13 and insert:

Section 4 Subsection (3) of section 220.183, Florida Statutes, is amended to read

220.183 Community contribution tax credit —

(3) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS, LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than \$200,000 in annual tax credits for all approved community contributions. However, a business firm may, for all approved community contributions that it makes after May 1, 1988, and before July 1, 1988, receive annual tax credits in an amount not to exceed the amount remaining available in that state fiscal year for grants by the department

(c) The total amount of tax credit which may be granted for all programs approved under this section and s. 624.5105 is \$3,000,000 annually.

(d) All proposals for the granting of the tax credit shall require the prior approval of the secretary

(e) If the credit granted pursuant to this section is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(9). However, the maximum total credits that may be allowed for a single contribution may not exceed \$1.2 million.

Section 5 This section and the amendment to subsection (3) of section 220.183, Florida Statutes, made by this act shall take effect upon becoming a law. The rest of this act shall take effect July 1, 1988, or

Senator Langley moved the following amendment which was adopted:

**Amendment 7**—On page 2, between lines 12 and 13, insert

Section 4. Paragraph (a) of subsection (3) of section 212.054, F.S., is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection —

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a) The dealer is located in the county, *delivery is made to a location within the county* and the sale includes tangible personal property, except as otherwise provided herein; provided, that the sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property;

Senators Grizzle, Malchon and Kiser offered the following amendment which was moved by Senator Grizzle and adopted

**Amendment 8**—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 220.183, F.S.; increasing the maximum community contribution tax credit against corporate income taxes that a business firm may receive for approved community contributions made during a specified period,

Senator Margolis moved the following amendment which was adopted

**Amendment 9**—In title, on page 1, line 2, strike "tax administration;" and insert: taxation, amending s. 201.24, F.S., exempting certain documents arising out of the lease or lease-purchase of educational facilities and sites from the excise tax on documents,

Senator Deratany moved the following amendments which were adopted:

**Amendment 10**—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 220.03, F.S.; revising the definition of "Internal Revenue Code" under the Florida Income Tax Code; amending s. 220.11, F.S.; revising provisions relating to determination of tax applicable to certain taxpayers, amending s. 220.62, F.S.; revising the definition of "bank" under said code,

**Amendment 11**—In title, on page 1, strike all of lines 4-8 and insert: application of tax payments; amending s. 95.091, F.S.; revising provisions which specify time periods within which the Department of Revenue may determine and assess taxes, penalties, and interest; amending s. 213.053, F.S.; revising provisions which authorize the department to disclose certain information to certain county or subcounty district governing bodies; creating s. 213.35, F.S.; specifying that persons required by law to perform any act in administration of certain taxes shall keep books and records until the expiration of the time within which the department may make an assessment with respect thereto, amending ss. 206.12, 207.008, 211.125, 211.33, 212.04, 212.12, 212.13, and 214.17, F.S.; providing that records shall be preserved as required by s. 213.35, F.S., with respect to the following taxes: taxes on fuels and other pollutants; tax on operation of commercial motor vehicles, taxes on production of oil and gas and severance of solid minerals, tax on sales, use and other transactions, including admissions and rentals and license fees; and designated nonproperty taxes; providing an effective date.

Senator Langley moved the following amendment which was adopted:

**Amendment 12**—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 212.054, F.S.; providing additional criteria for determining the location of a local option sales transaction,

On motion by Senator Deratany, by two-thirds vote SB 1203 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was

Yeas—35

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Scott
Childers, D	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crenshaw	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jennings	Meek	Weinstock
Frank	Johnson	Myers	Woodson
Girardeau	Kirkpatrick	Peterson	

Nays—None

Vote after roll call:

Yea—Jenne

On motions by Senator Meek, by two-thirds vote HB 1454 was withdrawn from the Committees on Economic, Community and Consumer Affairs, Finance, Taxation and Claims, and Appropriations.

On motions by Senator Meek, by two-thirds vote—

**HB 1454**—A bill to be entitled An act relating to housing, amending s. 212.235, F.S., adding the financing of affordable housing to the list of purposes for which infrastructure funds may be expended; creating part I of chapter 420, F.S.; the "State Housing Incentive Partnership Act of 1988", providing legislative findings, providing policy and purpose; providing definitions, creating the State Housing Trust Fund; amending s. 380.0666, F.S., correcting a reference, amending s. 420.502, F.S., providing additional legislative findings under the Florida Housing Finance Agency Act, amending s. 420.503, F.S.; providing definitions; amending s. 420.504, F.S., revising membership of the Florida Housing Finance Agency, amending s. 420.507, F.S., providing additional powers of the Florida Housing Finance Agency, creating s. 420.5087, F.S.; creating the State Apartment Incentive Loan Program; providing requirements and procedures for loans, creating the State Apartment Incentive Loan Trust Fund; providing for foreclosure upon default, providing for acquisition and sale of property; creating s. 420.5088, F.S., creating the Florida Homeownership Assistance Program; providing requirements for loans, creating the Florida Homeownership Assistance Trust Fund, amending s. 420.511, F.S., providing additional requirements for the annual report of the agency; amending s. 420.604, F.S., deleting a provision that the Florida Affordable Housing Demonstration Program be a 2-year pilot program; providing an additional criterion for inclusion of demonstration areas in the demonstration project, amending s. 420.605, F.S., providing loan preference to community development corporations and community-based organizations; establishing a pilot program for housing cooperatives, creating ss. 420.303-420.33, F.S., the Housing Predevelopment Assistance Act, providing legislative findings and purpose, providing definitions; establishing the Housing Predevelopment Trust Fund, authorizing loans and grants and specifying eligible activities, providing for repayment of loans; providing for security, providing application procedure, providing for rules and annual reports, providing for foreclosure or other action upon default; providing for acquisition and sale of property; providing for disposition of undeveloped land; providing applicability; amending s. 420.608, F.S.; expanding the inventory of publicly owned lands and buildings established for the purpose of identifying lands and buildings suitable for housing, providing duties of the Department of Community Affairs; amending s. 420.609, F.S.; revising membership of the Affordable Housing Study Commission; extending the commission and revising its duties; creating s. 420.4255, F.S.; creating a Neighborhood Housing Services Grant Fund, creating s. 410.504, F.S., providing for responsibilities of the Board of Regents regarding establishment of multidisciplinary centers on elderly living environments, requiring annual reports, creating part IX of chapter 420, F.S., creating the "Maintenance of Housing for the Elderly Act of 1988", providing legislative findings; providing intent; providing definitions, creating the Maintenance of Housing for the Elderly Trust Fund, creating the Maintenance of Housing for the Elderly Program; providing for loans, providing powers and duties of the department, amending s. 420.606, F.S., providing a Training and Technical Assistance Program, establishing the Multidisciplinary Center for Affordable Housing; transferring s. 420.011, F.S., to part II of chapter 420, F.S., and renumbering as s. 420.102, F.S., providing legislative findings, providing purpose, providing definitions, creating the



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June 8, 1988 Special "F"

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procedure, creating s 392 59, F.S., requiring the department to develop forms, creating s 392 60, F.S., providing for rights to appeal an order of hospitalization, placement, or residential isolation and to immediate release from such order, creating s 392.61, F.S., providing for community tuberculosis control programs, creating s 392 62, F.S., providing for hospitalization and placement programs, creating s 392 63, F.S., providing for temporary leave from a hospital, facility, or isolation, creating s 392 64, F.S., providing for treatment, adherence to treatment plans, and penalties, creating s 392 65, F.S., providing for confidentiality of records and information relating to persons who may be infected with tuberculosis, authorizing disclosure of such information under certain circumstances, creating s 392 66, F.S., authorizing the department to adopt rules to implement the act, creating s 392 67, F.S.; specifying unlawful acts and criminal penalties, creating s 392 68, F.S., requiring the board of county commissioners to pay certain fees and court costs, creating s 392 69, F.S., providing for legislative appropriations to the department, requiring the Treasurer to deposit certain moneys received from the department in the hospital interest and sinking hospital maintenance trust funds, repealing ss 392 03-392 36, F.S., relating to tuberculosis hospitals, providing an effective date

—was read the first time by title On motions by Rep Tobin, the rules were waived by two-thirds vote and CS/SB 1068 was read a second time by title and a third time by title On passage, the vote was

Yeas—113

The Chair	Friedman	Kelly	Renke
Abrams	Frishe	King	Rochlin
Arnold	Garcia	Langton	Rudd
Ascherl	Gardner	Lawson	Rush
Bainter	Glickman	Lewis	Sample
Banjanin	Gonzalez-	Liberti	Sanderson
Bankhead	Quevedo	Lippman	Sansom
Bass	Goode	Locke	Saunders
Bell	Gordon	Logan	Shelley
Bloom	Grundle	Lombard	Silver
Bronson	Guber	Long	Simon
Brown	Gustafson	Mackenzie	Simone
Burke	Hanson	Mackey	Smith
Burnsed	Harden	Martin	Souto
Canady	Hargrett	Martinez	Starks
Carpenter	Harris	McEwan	Stone
Casas	Hawkins	Messersmith	Thomas
Clark	Healey	Metcalf	Titone
Clements	Hill	Mitchell	Tobiasen
Cosgrove	Holland	Morse	Tobin
Crotty	Holzendorf	Mortham	Trammell
Dantzler	Ireland	Nergard	Troxler
Davis	Irvine	Ostrau	Wallace
Deutsch	Jamerson	Patchett	Webster
Diaz-Balart	Jennings	Peeples	Wise
Drage	Johnson, B L	Press	Woodruff
Dunbar	Johnson, R C	Reaves	Young
Figg	Jones, C F	Reddick	
Frankel	Jones, D L	Rehm	

Nays—1

Crady

Votes after roll call

Nay to Yea—Crady

So the bill passed and was immediately certified to the Senate

*The Honorable Jon Mills, Speaker*

I am directed to inform the House of Representatives that the Senate has concurred in House Amendment 2 has amended House Amendment 1 and concurred in same as amended and passed, as amended, SB 1075

*Jon Brown, Secretary*

SB 1075—A bill to be entitled An act relating to aquaculture, amending s 253 69, F.S., relating to the survey of submerged land leased for aquacultural activities, amending s 253 71, F.S., relating to the performance requirements for such lease, providing for the issuance of certain shellfish leases, providing an effective date

(House Amendment 1 attached to original bill and shown on page 1054, *House Journal*, May 31 )

House Amendment 2—On page 1, line 8, after the word “leases” insert revising restrictions relating to the restoration of seawalls in aquatic preserves.

Senate Amendment 1 to House Amendment 1—On page 1, lines 3-7, strike all of said lines and insert Section 4 Paragraph (e) of subsection (3) of section 258 42, Florida Statutes, is amended to read

258 42 Maintenance of preserves—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions

(3)

On motion by Rep Mitchell, the House concurred in the Senate amendment to House Amendment 1 The question recurred on the passage of SB 1075 The vote was

Yeas—114

The Chair	Figg	Jones, D L	Rehm
Abrams	Frankel	Kelly	Renke
Arnold	Friedman	King	Rochlin
Ascherl	Frishe	Langton	Rudd
Bainter	Garcia	Lawson	Rush
Banjanin	Gardner	Lewis	Sample
Bankhead	Glickman	Liberti	Sanderson
Bass	Gonzalez-	Lippman	Sansom
Bell	Quevedo	Locke	Saunders
Bloom	Goode	Logan	Shelley
Bronson	Gordon	Lombard	Silver
Brown	Grundle	Long	Simon
Burke	Gustafson	Mackenzie	Simone
Burnsed	Hanson	Mackey	Smith
Canady	Harden	Martin	Souto
Carlton	Hargrett	Martinez	Starks
Carpenter	Harris	McEwan	Stone
Casas	Hawkins	Messersmith	Thomas
Clark	Healey	Metcalf	Titone
Clements	Hill	Mitchell	Tobiasen
Cosgrove	Holland	Morse	Tobin
Crady	Holzendorf	Mortham	Trammell
Crotty	Ireland	Nergard	Troxler
Dantzler	Irvine	Ostrau	Wallace
Davis	Jamerson	Patchett	Webster
Deutsch	Jennings	Peeples	Wise
Diaz-Balart	Johnson, B L	Press	Woodruff
Drage	Johnson, R C	Reaves	Young
Dunbar	Jones, C F	Reddick	

Nays—None

So the bill passed as further amended The action, together with the bill and amendments thereto, was immediately certified to the Senate

*The Honorable Jon Mills, Speaker*

I am directed to inform the House of Representatives that the Senate has passed, as amended SB 1203 and requests the concurrence of the House

*Joe Brown, Secretary*

By Senator Deratany—

SB 1203—A bill to be entitled An act relating to taxation, amending s 201 24 F.S. exempting certain documents arising out of the lease or lease-purchase of educational facilities and sites from excise tax on documents, amending s 125 0104, F.S., authorizing certain counties to

levy an additional 2-percent tourist development tax on transactions involving living quarters or accommodations, amending s 213 75, F.S., providing for specifying application of tax payments, amending s 95 091, F.S., revising provisions which specify time periods within which the Department of Revenue may determine and assess taxes, penalties, and interest, amending s 213 053, F.S., revising provisions which authorize the department to disclose certain information to certain county or subcounty district governing bodies, creating s 213 35, F.S., specifying that persons required by law to perform any act in administration of certain taxes shall keep books and records until the expiration of the time within which the department may make an assessment with respect thereto, amending ss 206 12, 207 008, 211 125, 211 33, 212 04, 212 12, 212 13, and 214 17, F.S., providing that records shall be preserved as required by s 213 35, F.S., with respect to the following taxes: taxes on fuels and other pollutants, tax on operation of commercial motor vehicles, taxes on production of oil and gas and severance of solid minerals, tax on sales, use and other transactions, including admissions and rentals and license fees, and designated nonproperty taxes, amending s 220 03, F.S., revising the definition of "Internal Revenue Code" under the Florida Income Tax Code, amending s 220 11, F.S., revising provisions relating to determination of tax applicable to certain taxpayers, amending s 220 62, F.S., revising the definition of "bank" under said code, amending s 212 054, F.S., providing additional criteria for determining the location of a local option sales transaction, amending ss 192 105, 193 074, 195 027, 195 084, 196 101, 199 222, 201 022, 206 27, 211 125, 211 33, 212 0305, 213 053, 213 21, 213 22, 213 27, 220 242, F.S., continuing the exemptions from public record disclosure requirements provided for state and federal tax information, returns, and records records of the amount paid for real property, information concerning audits and investigations by the Department of Revenue or the Florida Department of Law Enforcement, books and records relating to the tax on the production of oil, gas, and solid minerals, records relating to local government resort taxes, records of settlements and compromises made by the Department of Revenue relating to a taxpayer's liability for taxes, interest, or penalties, technical assistance advisements issued by the department, information shared with debt collection or auditing agencies, and certain declarations of estimated taxes, requiring future legislative review of such exemptions pursuant to the Open Government Sunset Review Act, authorizing the department to provide information to property appraisers and tax collectors or their authorized agents, authorizing the department to provide information relative to the commencement of business activities of a foreign corporation to the Department of State, authorizing the department to provide information to a municipality which is in compliance with certain provisions of s 212 18(3), F.S., amending s 201 05(1), F.S., providing for clarification of language relating to mutual funds, amending s 212 054, F.S., providing additional criteria for imposing a local option surtax, authorizing certain business firms or insurers to receive certain annual tax credits, providing a limitation, amending s 218 65, F.S., revising requirements for qualification of county governments for emergency distributions from the Local Government Half-cent Sales Tax Clearing Trust Fund, providing an effective date.

—was read the first time by title. On motion by Rep Simon, the rules were waived by two-thirds vote and SB 1203 was read a second time by title.

Representative Bell offered the following amendment:

**Amendment 1**—On page 3, between lines 30 and 31, insert Section Subsection (1) of section 212 235, Florida Statutes, as amended by section 40 of chapter 87-548, Laws of Florida, is amended to read:

212 235 State Infrastructure Fund deposits —

(1) Notwithstanding the provisions of ss 212 20(1) and 218 61, in fiscal year 1987-1988 an amount equal to 2 percent, and in each fiscal year thereafter an amount equal to 5 percent, of the proceeds remitted pursuant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein, shall be transferred into the State Infrastructure Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of

Revenue, including any interest and penalties. However, any receipts of the fund, including those received pursuant to ss 201.15(5) and 206 875(3) and interest earned, in excess of \$200 million in fiscal year 1987-1988, and \$500 \$550 million in any fiscal year thereafter, shall revert to the General Revenue Fund (renumber subsequent sections).

Rep Bell moved the adoption of the amendment.

Rep Renke raised a point of order under Rule 11 8 on the basis of germanity, stating that the subject of the amendment, the infrastructure trust fund, did not relate to other matters contained in the bill. He cited Opinions 11 8(al), 11 8(am) and 11 8(an) for the benefit of the Rules Chairman.

Pending a ruling on the point of order, further consideration of Amendment 1 was temporarily deferred.

Representatives Gardner and Crady offered the following amendment:

**Amendment 2**—On page 4, lines 12-20, strike all of said lines.

Rep Gardner moved the adoption of the amendment, which was adopted.

Representatives Gardner and Crady offered the following title amendment:

**Amendment 3**—On page 1, lines 6-10, strike all of said lines and insert: tax on documents, amending s 213 75, F.S.,

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

Representatives Mackey and Trammell offered the following amendment:

**Amendment 4**—On page 3, between lines 15 and 16, insert Section 40 Section 336 027, Florida Statutes, is created to read:

336 027 Local option tax on motor or special fuel for certain counties —

(1) The Legislature finds that small counties in North Florida need revenues for their local transportation needs but that these counties may not have local industry to support local special fuel suppliers. The local special fuel industry is in many cases one of the largest employer in these counties and depends on interstate traffic. When fuel taxes are raised significantly, such clients may purchase that fuel in another state causing a loss for Florida businesses and the State of Florida. It is the legislative intent to provide these counties with the option to levy the local option fuel tax on either motor or special fuel, or both, depending on the county's evaluation of the economic effects of the levy and its transportation revenue needs.

(2) Any county with a population of less than 50,000 as determined pursuant to s 186 901 that borders another state, or is adjacent to such county, may, in addition to other taxes allowed by law, impose as provided in section 336 025 a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent or 6-cent local option gas tax upon every gallon of motor fuel or special fuel sold in such a county and taxed under the provisions of part I or part II of chapter 206. However, no county may levy more than a total of 6-cents pursuant to this section and section 336 025.

(3) Except as provided in this section, the provisions of s 336 025 shall apply.

Section 41 For the year 1988 only, the tax authorized in section 336 027, Florida Statutes, and administered under s 336 025, Florida Statutes, shall be imposed before August 1 to be effective November 1, 1988 and by August 1 the county shall notify the Department of Revenue of the rate of tax levied, and provide the department with a certified copy of the interlocal agreement established under s 336 025(3)(a)1 Florida Statutes, or the distribution formula pursuant to s 336 025(4) Florida Statutes, if applicable (renumber subsequent section).

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

Yeas--39

The Chair	Frankel	Lawson	Rush
Ascherl	Goode	Logan	Sansom
Bankhead	Harris	Mackey	Saunders
Bass	Hill	Martin	Silver
Bronson	Holland	Metcalf	Simone
Canady	Ireland	Mitchell	Thomas
Carlton	Johnson, B L	Ostrau	Tobiassen
Carpenter	Johnson, R C	Reaves	Trammell
Dantzler	Jones, C F	Rehm	Upchurch
Diaz-Balart	King	Rudd	

Nays--68

Abrams	Garcia	Lewis	Sanderson
Bainter	Gardner	Lippman	Shelley
Banjamin	Glickman	Locke	Simon
Bell	Gonzalez-	Lombard	Smith
Bloom	Quevedo	Long	Souto
Burke	Gordon	Mackenzie	Starks
Burnsed	Grindle	Martinez	Stone
Casas	Gustafson	McEwan	Titone
Clark	Hanson	Messersmith	Tobin
Crady	Hargrett	Morse	Troxler
Crotty	Hawkins	Mortham	Wallace
Davis	Healey	Nergard	Webster
Deutsch	Holzendorf	Patchett	Wise
Drage	Jamerson	Press	Woodruff
Dunbar	Jennings	Reddick	Young
Figg	Jones, D L	Renke	
Friedman	Kelly	Rochlin	
Frishe	Langton	Sample	

Representative Tobiassen offered the following amendment

**Amendment 5**—On page 35, between lines 15 and 16, insert Section 40 Effective July 1, 1988, and applicable to audit periods which remain open for final assessment subsection (4) of section 206 425, Florida Statutes, is amended to read

206 425 Tax-exempt purchasers, refiner or importer to obtain affidavits or resale certificates, relief from audit or assessment, refunds authorized —

(4)(a) In order to seek relief from an audit or assessment completed on or after June 24, 1984, a person may through the informal protest procedure established under s 213 21 and the rules of the department, provide the department with evidence of the exempt status of a sale or transfer of motor fuel. The department shall accept resale certificates or affidavits properly executed when submitted during the protest period, but such certificates or affidavits may not be considered in proceedings instituted under chapter 120 or in actions instituted in circuit court under chapter 72, unless such certificates or affidavits have been submitted and considered by the department under the procedure established in s 213 21

(b) If a person or licensee can establish to the satisfaction of the department that the tax assessed has been remitted to the state, or that no tax is due because the special or alternative fuel was sold for a use other than for use in a motor vehicle, that person or licensee may seek relief from the department pursuant to s 213.21

Section 41 Section 206 97, Florida Statutes, is amended to read

206 97 Applicability of specified sections of part I —The provisions of ss 206 026, 206 027, 206 028, 206 04, 206 055 206 07, 206 075, 206 08 206 09, 206 095, 206 10, 206 11, 206 12, 206 13, 206 14, 206 15, 206 16, 206 17, 206 175, 206 18 206 19, 206 20, 206 204 206 205, 206 21, 206.215, 206 22, 206.23, 206 24, 206 25, 206 27, 206 28, 206.41(3), 206 425, 206 44, 206 49, 206 56, 206 59 206 61, and 206 62 of part I of this chapter shall, as far as lawful or practicable, be applicable to the tax herein levied and imposed and to the collection thereof as if fully set out in this part. However

(1) "Refiner, importer, or wholesaler" means "dealer"

(2) "Motor fuel" means "special fuel"

(3) No provision of any such section shall apply if it conflicts with any provision of this part (renumber subsequent sections)

Rep Tobiassen moved the adoption of the amendment, which failed of adoption

Representatives Silver, Souto, Morse and Casas offered the following amendment

**Amendment 6**—On page 35, between lines 15 and 16 insert Section 40 Paragraph (b) of subsection (4) of section 212 0305, Florida Statutes, is amended to read

212 0305 Convention development taxes, intent, administration, authorization, use of proceeds —

(4) AUTHORIZATION TO LEVY, USE OF PROCEEDS, OTHER REQUIREMENTS —

(b) Charter county levy for convention development.—

1 Each county, as defined in s 125 011(1), may impose, pursuant to an ordinance enacted by the governing body of the county, a levy on the exercise within its boundaries of the taxable privilege of leasing or letting transient rental accommodations described in subsection (3) at the rate of 3 percent of the total consideration charged therefor. The proceeds of this levy shall be known as the charter county convention development tax.

2 All charter county convention development moneys, including any interest accrued thereon, received by a county imposing the levy shall be used as follows

a Two-thirds of the proceeds shall be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county

b One-third of the proceeds shall be used to construct a new multipurpose convention/coliseum/exhibition center or the maximum components thereof as funds permit in the most populous municipality in the county

c After the completion of any project under sub-subparagraph a or sub-subparagraph b, the tax revenues and interest accrued may be used to acquire, construct, extend, enlarge, remodel, repair, improve, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, or auditoriums

d For the purposes of completion of any project pursuant to this paragraph, tax revenues and interest accrued may be used

(I) As collateral, pledged, or hypothecated for projects authorized by this paragraph including bonds issued in connection therewith, or

(II) As a pledge or capital contribution in conjunction with a partnership joint venture, or other business arrangement between a municipality and one or more business entities for projects authorized by this paragraph. *To the extent provided herein, notwithstanding the provisions of this part to the contrary, those municipalities or authorities whose funds are derived from sub-subparagraph b may make application to the department for the refund of any Florida sales or use tax paid by a contractor on the cost price of tangible personal property used in the fulfillment of any written contract with a municipality or authority if the property becomes an integral part of the project undertaken pursuant to this paragraph and at the completion of the contract the project becomes public property. The basis of the refund shall be the ratio of the cost price of incorporated property on which Florida sales and use tax has been paid to the total contract price. Such ratio shall be determined at the completion of the contract. This ratio shall be applied to the total contract price to establish the cost price of incorporated materials subject to refund. The cost price of incorporated materials subject to refund shall be multiplied by the applicable state sales and use tax rate to determine the amount of tax subject to refund. A pro-rata adjustment shall be made when any portion of the tax obligation was paid to another state or when any portion of the project was paid from sources other than the proceeds derived from the tax imposed by this paragraph. The refund claim shall not include tax paid by the contractor on expendable tools, supplies and equipment not adding to or becoming a*

component part of the project In order to receive the refund herein provided for, the municipality or authority shall file a written request for said refund with the department within six months of the completion of the contract Each contractor must furnish the municipality or authority which qualifies for the refund with a certified statement stating the percent of the incorporated materials on which Florida sales and use tax due has been paid The certification statement must accompany each refund application submitted to the department Each contractor shall keep at his principle place of business a complete record of each purchase for which a refund under this paragraph is claimed If any taxes are refunded erroneously, the department shall recover from the payee the amount of erroneous refund plus a penalty of 25 percent The department shall deduct an amount equal to 9.888 percent of each refund granted by the provisions of this paragraph from the amount deposited in the Local Government Half-Cent Clearing Trust Fund pursuant to s 218.61 for the county in which the project is located and shall transfer that amount to the General Revenue Fund In no case shall any municipality or authority collect a refund in excess of \$300,000 in any fiscal year (renumber subsequent section)

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

Yeas—30

Abrams	Dunbar	King	Reaves
Bass	Friedman	Liberti	Saunders
Bloom	Garcia	Lippman	Silver
Burke	Gonzalez-	Locke	Souto
Carpenter	Quevedo	Logan	Starks
Casas	Gordon	Mackenzie	Tobin
Deutsch	Holzendorf	Metcalf	Woodruff
Diaz-Balart	Kelly	Morse	

Nays—72

Ascherl	Grindle	Lewis	Rudd
Bainter	Hanson	Lombard	Rush
Banjamin	Harden	Long	Sample
Bankhead	Hargrett	Martin	Sansom
Bronson	Harris	McEwan	Simon
Burnsed	Hawkins	Meffert	Simone
Canady	Healey	Messersmith	Smith
Clark	Hill	Mitchell	Stone
Clements	Holland	Mortham	Thomas
Crady	Ireland	Nergard	Titone
Crotty	Irvine	Ostrau	Tobiassen
Dantzler	Jamerson	Patchett	Trammell
Drage	Jennings	Peeples	Troxler
Figg	Johnson, B. L.	Press	Upchurch
Frankel	Jones, C. F.	Reddick	Wallace
Gardner	Jones, D. L.	Rehm	Webster
Glickman	Langton	Renke	Wise
Goode	Lawson	Rochlin	Young

Representatives Ascherl and Goode offered the following amendment

**Amendment 7**—On page 17, lines 3-18, delete all of said lines and renumber subsequent sections

Rep Ascherl moved the adoption of the amendment

Representative Simon offered the following substitute amendment.

**Substitute Amendment 7**—On page 17, line 11, after the word "county" insert or to a location within a county also imposing the surtax

Rep Simon moved the adoption of the substitute amendment, which was adopted

Without objection, further consideration of SB 1203 was temporarily deferred.

Subsequently, returning to the pending point of order, Rep Gardner suggested that SB 1203 was "very broadly drawn" and pointed out that

the title reads "An Act relating to taxation" He further cited a series of Chapter numbers in the title, demonstrating the broadness of the bill and its many provisions Stating that both the amendment and the bill dealt with distribution of tax revenue and that the amendment did not unnecessarily expand the bill, he suggested the point was not well taken

Rep. Renke responded that the broadness of the bill should not open it up to every section of the tax code, referring to precedents 11 8 (al), 11 8 (am) and 11 8 (an) to support his position He pointed out that the amendment dealt with the state infrastructure fund, which was not addressed in the bill or any of the amendments adopted to the bill

Rep Gardner went on to explain that the precedents cited involved narrowly drawn tax issues that were broadened with a different subject He submitted that the amendment "goes to the same chapter that's in the bill, it certainly does not broaden the basic purpose of the bill, and it deals with the basic issue of tax distribution"

Based on the conclusion of the Rules Chairman, that the amendment went to the same Chapter, dealt with the same topic and did not expand the bill, and emphasizing the manner in which the title of the bill was drawn, the Speaker ruled that the point of order by Rep Renke was not well taken

The question recurred on the adoption of Amendment 1, which was adopted The vote was

Yeas—69

The Chair	Davis	Jones, C. F.	Reaves
Abrams	Figg	Kelly	Reddick
Arnold	Frankel	Langton	Rochlin
Ascherl	Friedman	Lawson	Rudd
Bass	Glickman	Liberti	Rush
Bell	Gonzalez-	Lippman	Saunders
Bloom	Quevedo	Locke	Silver
Bronson	Goode	Logan	Simon
Brown	Gordon	Long	Smith
Burke	Gustafson	Mackenzie	Titone
Burnsed	Hargrett	Mackey	Tobin
Carlton	Harris	Martin	Trammell
Carpenter	Healey	Meffert	Upchurch
Clark	Hodges	Metcalf	Wallace
Clements	Holzendorf	Mitchell	Wetherell
Cosgrove	Jamerson	Ostrau	Young
Crady	Johnson, B. L.	Peeples	
Dantzler	Johnson, R. C.	Press	

Nays—46

Bainter	Hanson	McEwan	Simone
Banjamin	Hardin	Messersmith	Souto
Bankhead	Hawkins	Morse	Starks
Casas	Hill	Mortham	Stone
Crotty	Holland	Nergard	Thomas
Diaz-Balart	Ireland	Patchett	Tobiassen
Drage	Irvine	Rehm	Troxler
Dunbar	Jennings	Renke	Webster
Frishe	Jones, D. L.	Sample	Wise
Garcia	King	Sanderson	Woodruff
Gardner	Lewis	Sansom	
Grindle	Lombard	Shelley	

Representative Bell offered the following title amendment

**Amendment 8**—On page 1, between lines 2 and 3, insert: 212.235, F.S., revising the maximum amount of the State Infrastructure Fund, amending s

Rep Bell moved the adoption of the amendment, which was adopted

On motion by Rep Simon, the rules were waived by two-thirds vote and SB 1203, as amended, was read the third time by title On passage, the vote was

Yeas—80

The Chair	Davis	Johnson, R C	Preas
Abrams	Deutsch	Jones, C F	Reaves
Arnold	Drage	Jones, D L	Reddick
Ascherl	Dunbar	Kelly	Rehm
Bankhead	Figg	Langton	Rochlin
Bass	Frankel	Lawson	Rudd
Bell	Friedman	Liberti	Rush
Bloom	Gardner	Lippman	Saunders
Bronson	Glickman	Locke	Shelley
Brown	Goode	Logan	Silver
Burnsed	Gordon	Long	Simon
Canady	Grindle	Mackenzie	Smith
Carlton	Gustafson	Mackey	Titone
Carpenter	Hargrett	Martin	Tobin
Casas	Harris	Meffert	Trammell
Clark	Healey	Metcalf	Upchurch
Clements	Hodges	Mitchell	Wallace
Cosgrove	Holzendorf	Morse	Wetherell
Crady	Jamerson	Ostrau	Woodruff
Dantzler	Johnson, B L	Peeples	Young

Nays—36

Bainter	Hawkins	Messersmith	Starks
Banjanin	Hill	Mortham	Stone
Crotty	Holland	Nergard	Thomas
Diaz-Balart	Ireland	Patchett	Tobiasen
Frishe	Irvine	Renke	Troxler
Garcia	Jennings	Sample	Webster
Gonzalez-	King	Sanderson	Wise
Quevedo	Lewis	Sansom	
Hanson	Lombard	Simone	
Harden	McEwan	Souto	

Votes after roll call

Yeas to Nays—Clements, Bankhead  
Nays to Yeas—Frishe, Mortham, Sample

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

*The Honorable Jon Mills, Speaker*

I am directed to inform the House of Representatives that the Senate has passed CS HB 836, with amendment and requests the concurrence of the House

*Joe Brown, Secretary*

**CS/HB 836**—A bill to be entitled An act relating to the State Group Insurance Program, amending s 110 123, F S, providing definitions, providing legislative intent, eliminating authorization for competitive bidding to contract with health maintenance organizations, authorizing the Department of Administration to request competitive bids from and negotiate contracts with health maintenance organizations to service members of the state group insurance program, establishing a minimum benefit package and criteria to be used in negotiating health maintenance organization contracts, requiring submission of certain data elements by health maintenance organizations contracting with the state, deleting a requirement that additional costs of membership in a health maintenance organization be borne by the officer or employee who is a member, providing for confidentiality, providing an effective date

**Senate Amendment 1**—On page 1, line 22, strike everything after the enacting clause and insert Section 1 Subsections (2) and (3) paragraph (b) of subsection (4), and subsection (9) of section 110 123 Florida Statutes, are amended to read

110 123 State group insurance program —

(2) DEFINITIONS—As used in this section, unless the context otherwise requires the term

(a) "Department" means the Department of Administration

(b) "Enrollee" means all state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees enrolled in an insurance plan offered by the state group insurance program

(c)(a) "Full-time state employees" includes all full-time employees of all branches or agencies of state government holding salaried positions and paid by state warrant or from agency funds, and employees paid from regular salary appropriations for 8 months' employment, including university personnel on academic contracts, but in no case shall "state employee" or "salaried position" include persons paid from other-personal-services (OPS) funds

(d)(a) "Health maintenance organization" or "HMO" means an entity certified under part II of chapter 641

(e)(a) "Part-time state employee" means any employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, and who is employed for less than the normal full-time work week established by the department or, if on academic contract or seasonal or other type of employment which is less than year-round, is employed for less than 8 months during any 12-month period, but in no case shall "part-time" employee include a person paid from other-personal-services (OPS) funds

(f)(a) "Retired state officer or employee" or "retiree" means any state officer or state employee who retires under a state retirement system or is placed on disability retirement, and who was insured under the state group insurance program at the time of retirement, and who will continue to receive a monthly state warrant after retirement

(g)(a) "State agency" or "agency" means any branch, department, or agency of state government

(h)(a) "State group health insurance plan plans" means the state self-insured the health insurance plan plans offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section

(i)(a) "State group insurance program" or "programs" means the package of insurance plans offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section, including the state group health insurance plan, health maintenance organization plans and other plans required or authorized by this section



(j)(a) "State officer" means any constitutional state officer, any elected state officer paid by state warrant, or any appointed state officer who is commissioned by the Governor and who is paid by state warrant

(k)(a) "Surviving spouse" means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan or a health maintenance organization plan established pursuant to this section at the time of the death of the deceased officer, employee or retiree "Surviving spouse" also means any widow or widower who is receiving or eligible to receive a monthly state warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979 For the purposes of this section, any such widow or widower shall cease to be a surviving spouse upon his or her remarriage

(3) STATE GROUP INSURANCE PROGRAM —

(a) It is the intent of the Legislature to offer a comprehensive package of health insurance benefits for state employees which are provided in a cost-efficient and prudent manner and to allow state employees the option to choose benefit plans which best suit their individual needs Therefore, There is established the state group insurance program is established which may include the state group health insurance plan, health maintenance organization plans a group life insurance plans plan, and a group accidental death and dismemberment plans plan, and on and after July 1, 1981, a group disability insurance plans plan Furthermore the Department of Administration is additionally au-

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Boyle 	Beqqs 	1. <u>FTC</u>	<u>Fav/CS</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Motor Fuel Taxes

BILL NO. AND SPONSOR:

CS/SB 370 by  
Senate Finance, Tax & Claims  
and Senator Deratany

I. SUMMARY:

A. Present Situation:

Motor fuel and special fuel are taxed by the state under chapter 206, Florida Statutes, and part II of chapter 212, Florida Statutes, and by local governments under chapter 336, Florida Statutes.

The 2 cent per gallon constitutional gas tax, the 1 cent per gallon county gas tax, and the 1 cent per gallon municipal gas tax are imposed under part I of chapter 206, Florida Statutes, on sales of motor fuel.

A 4 cent per gallon excise tax on special fuel is imposed under part II of chapter 206, Florida Statutes.

An excise tax of at least 5.7 cents per gallon is imposed on motor fuel and special fuel under part II of chapter 212, Florida Statutes.

Under section 336.021, Florida Statutes, a local option gas tax of 1 cent per gallon may be imposed by referendum on motor fuel and special fuel sold in a county, under section 336.025, Florida Statutes, a local option gas tax of up to 6 cents per gallon may be imposed on motor and special fuel sold in a county, and under section 336.026, Florida Statutes, a local option gas tax of up to 4 cents per gallon may be imposed on motor fuel and special fuel sold in regional ground transportation areas. Any local option gas tax is imposed at the same rate on motor fuel and on special fuel.

Chapter 206, Florida Statutes, is the principal location in the statutes of provisions for administering, collecting, and enforcing motor fuel and special fuel taxes. Part II of Chapter 212, Florida Statutes, incorporates by reference relevant administration, collection, and enforcement provision of chapter 206 and provides special provisions for refunding and distributing the fuel tax imposed in chapter 212. The taxes authorized to be imposed under chapter 336 are also partially administered, collected, and enforced by way of chapter 206 and partially by way of duplicating in chapter 336 some of the provisions of chapter 206 relating to collection, the dealer collection allowance, and Department of Revenue powers and authority. Distribution of the local option gas taxes is also provided in chapter 336.

Currently, retail dealers who own more than one station in counties which levy a local option gas tax must file a consolidated tax return for all stations in the county.

Licensed importers and jobbers must pay motor and special fuel taxes when they purchase fuel. If they then export the fuel, they may apply to the Department of Revenue for a refund of taxes paid on the exported fuel.

**B. Effect of Proposed Changes:**

The committee substitute consolidates in chapter 206, F.S., the motor fuel and special fuel provisions of part II of chapter 212, F.S., and the local option gas tax levy provisions of ss. 336.021, 336.025, and 336.026, F.S., and reorganizes parts I and II of consolidated chapter 206, F.S., to facilitate compliance, administration, and enforcement.

Under the committee substitute, retail dealers owning more than one station in counties levying a local option gas tax may file a return for each location or a consolidated return.

Licensed importers and jobbers who export a sufficient volume of fuel to generate at least \$1000 per month in refunds may be authorized by the Department of Revenue to self accrue and remit taxes only on fuel they sell in Florida.

The committee substitute separately authorizes the levy of local option taxes on motor fuel and on special fuel, allowing a county to impose a local option tax on motor fuel at one rate and on special fuel at a different rate.

**II. ECONOMIC IMPACT AND FISCAL NOTE:**

**A. Public:**

Retail fuel dealers in counties which levy taxes on motor fuel and special fuel at different rates will have the additional administrative burden of keeping track of the separate levies.

**B. Government:**

**Local:** Local governments may closely tailor their motor fuel and special fuel taxes to revenue needs by imposing fuel taxes at different rates.

**State:** Imposition of different motor fuel and special fuel tax rates by different counties will increase the cost to the Department of Revenue in administering the collection, distribution, and enforcement of local option fuel taxes.

**III. COMMENTS:**

None.

**IV. AMENDMENTS:**

None.



STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 370


The Committee substitute allows retail dealers who own more than one station to file a return by location or to file a consolidated return. SB 370 required such dealers to file a consolidated return.

The Committee substitute allows licensed importers or jobbers who export fuel out of state to self accrue and remit motor and special fuel taxes. Currently they must pay the taxes on all their purchases and then apply for a refund of taxes on fuel exported. To self accrue, they must export each month at least a volume of fuel which would generate a refund of \$1000.

The Committee substitute clarifies which special fuel tax exemptions apply to the 4 cent per gallon state excise tax, the 5.7 cents per gallon state excise tax, and the local option taxes.

The Committee substitute separately specifies the state and local option taxes on special fuel. Under SB 370 special fuel was taxed by applying motor fuel tax provisions to special fuel by reference.

Committee on Finance, Taxation and Claims

  
\_\_\_\_\_  
Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)