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.

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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.

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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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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.

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(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 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

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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.

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

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

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

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

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

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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):

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

If in any year from 1977 to 1981, inclusive, the value of net new construction and additions placed on the tax roll for that year was less than 2 percent of the taxable value for school purposes on the roll for that year, exclusive of such net value; or

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

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

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

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

(5) The moneys appropriated for emergency distribution shall be divided equally per capita among

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

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

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

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

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

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

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

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

218.66 Emergency distribution; municipalities.--

(1) Each municipal 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 municipality where the moneys estimated to be distributed to the municipal government pursuant to s. 218.62 for the year will be less than the current per capita limitation, based on the population of that municipality.

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

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

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

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
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.--

(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 materials, labor, or
service costs, or transportation charges, notwithstanding the
provisions-of-sy-212-92-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
performance of contracts for the construction or improvement of real property shall pay a tax only upon the person's cost price of items used in the manufacture of such buildings.

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

 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.
A bill to be entitled
An act relating to taxation; amending s.
212.06, F.S.; providing a method for
calculating the use tax on asphalt manufactured
for one's own use; amending s. 212.054, F.S.;
providing additional criteria for determining
the location of a sales transaction; providing
an effective date.

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

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

(c) Notwithstanding the provisions of paragraph (b),
the use tax on asphalt manufactured for one's own use shall be
calculated with respect to such paragraph only upon the cost
of commercial materials which become a component part or which
are an ingredient of the finished asphalt and for the
transportation of such components and ingredients and of the
finished asphalt. In addition, an indexed tax of 30 cents per
ton of such manufactured asphalt shall be due at the time and
in the manner of taxes due pursuant to paragraph (b).
Beginning July 1, 1989, the indexed tax shall be adjusted each
July 1 to an amount equal to the product of 30 cents
multiplied by a fraction, the numerator of which is the annual
average of the "materials and components for construction"

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

Section 2. Paragraph (a) of subsection (3) of section
212.054, Florida Statutes, as amended by sections 10 and 11 of
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
surax 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;

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

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

The provisions relating to the manufacturers' use tax are
narrowed to only apply to asphalt manufacturers. Only
transportation and "commercial" materials for asphalt
manufacturers would be subject to the use tax. In addition,
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.

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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

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provisions of s. 206.607, F.S., to the
statewide local government tax on special fuel
levied under s. 206.87, F.S.; creating s.
336.027, F.S.; providing that a county may
impose a local option public transit gas tax by
specified procedures; specifying the amount of
the tax; providing for the collection,
administration, and distribution of the tax;
providing for depositing the proceeds of such
tax into the Local Option Public Transit Gas
Tax Trust Fund; providing that bonds may be
issued pursuant to the State Bond Act pledging
the revenues from the tax; providing that
eligible governmental entities may use the
proceeds of the tax for public transit
projects; prohibiting the Department of
Transportation from reducing its program
allocations in those counties or municipalities
which have contributed revenues from the tax
for state projects; amending s. 212.235, F.S.;
specifying matching grants to local governments
from the State Infrastructure Trust Fund to
encourage participation in the Local Government
Cooperative Assistance Program regarding local
improvements to the State Highway System;
amending s. 335.20, F.S.; modifying provisions
of the Local Government Cooperative Assistance
Program; providing that projects must be
identified in the locally adopted capital
improvements element; increasing the Department
of Transportation's initial contribution,

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expressed as a percentage of the cost of a
project; providing for reimbursement by the
department of the remaining local contribution;
providing an appropriation from the State
Infrastructure Fund, including certain money
appropriated to the Department of
Transportation for the purpose of carrying out
the Local Government Cooperative Assistance
Program; creating part II of chapter 205, F.S.;
creating the "Gap Tax Act"; providing for
legislative intent, rate, taxable
consideration, and definitions; providing for
late payments and for penalties, distribution
of proceeds, and expenditure of funds;
requiring the Division of Statutory Revision
and Indexing of the Joint Legislative
Management Committee to redesignate certain
sections of the Florida Statutes pertaining to
selective excise taxes; creating part IV of
chapter 205, F.S.; creating the "Local Option
Interim Proprietary and General Services Fee
Act"; providing for legislative intent,
authorization for levy and administration of
the tax, and expenditure of tax proceeds;
providing that the tax applies to governmental
leaseholds; amending s. 218.21, F.S.; providing
for recalculating certain local governments'
guaranteed entitlement under municipal revenue
sharing; amending ss. 199.292, 210.20, F.S.;
providing for the disposition of intangible
personal property taxes and the distribution of

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cigarette taxes; amending ss. 205.033, 205.043, F.S.; authorizing counties and municipalities to adjust occupational license tax rates and classifications to achieve a more equitable distribution of the tax burden, subject to specified terms and conditions; creating s. 320.0802, F.S.; authorizing a nonrefundable fee on certain motor vehicle registration transactions; specifying the amount of the fee; providing for exemptions, for deposit of the fees into the State Infrastructure Fund, and for use of the proceeds; creating s. 163.3203, F.S.; creating the "Florida Impact Fee Authorization Act"; providing definitions; providing the authority to impose impact fees; providing fee requirements; providing for methodology and ordinance disclosure; providing for the time of assessment and collection of impact fees; providing for compliance; amending s. 163.3202, F.S.; clarifying the application of the concurrency doctrine as specified by law; repealing ss. 336.021, 336.025, F.S., relating to the levy of a local option gas tax; providing for severability; providing an effective date.

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

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

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

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

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

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

2. and-approved-by-a-majority-of-the-electors-of-the county-voting-in-a-referendum-on-the-surtax---if The governing bodies of the municipalities representing a majority of the county's municipal population may adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, in which case the levy of the surtax...
shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

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

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

...FOR the ....-cent sales tax
...AGAINST the ....-cent sales tax

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

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

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

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

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

(e)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that the proceeds and any interest accrued thereto may be used for planning purposes in the development and implementation of the Local Government Comprehensive Planning and Land Development Regulation Act, pursuant to part II of chapter 163. Counties and municipalities, as defined in ss. 125.011, may, in addition, use the proceeds to retire or service indebtedness incurred.
for bonds issued prior to July 1, 1987 for infrastructure purposes.

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

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

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

(h) Such surtax may not be enacted--No-referendum-proposing-the-levying-of-such-surtax shall be held after November 30, 1992.

(i) Notwithstanding s. 212.054(5), the surtax must take effect on the first day of a month, as fixed by the ordinance adopted-pursuant-to-paragraph-ff, and may not take

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

Section 2. 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:

(a) Its population is less than 55,000.
(b) In any year from 1977 to 1981, inclusive, the
value of net new construction and additions placed on the tax
roll for that year was less than 2 percent of the taxable
value for school purposes on the roll for that year, exclusive
of such net value; or

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

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

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

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

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

(6) There is hereby annually appropriated from the General Revenue Fund to the Local Government Half-cent Sales Tax Clearing Trust Fund $4.2 million to be used for emergency distributions pursuant to this section and to be expended during the local government fiscal year. If any excess exists pursuant to subsection (5) at the end of the local government fiscal year after all qualified county governments have reached the current per capita limitation $20 limitation, it shall revert to the General Revenue Fund.
(7)††(a) Any county eligible for an emergency distribution pursuant to this section the inmate population of which in any year is greater than 7 percent of the total population of the county is eligible for a supplemental distribution for that year from funds expressly appropriated therefor. The sum of such supplemental distribution plus all other moneys distributed pursuant to this part may not exceed the current $920 per capita limitation, based on the total population of the county. Any balance of moneys appropriated for such purposes remaining at the end of the local government fiscal year shall revert to the state General Revenue Fund.

If moneys appropriated for such purposes are insufficient to meet the current $920 per capita limitation for the total population of eligible counties, such moneys shall be prorated among eligible counties. The distributions authorized pursuant to this subsection shall be made monthly during the local government fiscal year in combination with other moneys distributed pursuant to this part.

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

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

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

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

206.607 Local government tax on motor fuel.--

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

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of motor fuel. For purposes of this subsection, the term "first sale" does not include exchanges of 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 is 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. Revenues from the taxes imposed by this section become state funds at the moment collected by any person. Each refiner, importer, jobber, retail dealer, or wholesaler, is an agent for the state in collecting such taxes, whether or not he is the ultimate seller.

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

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

(a) Public transportation operations and maintenance.

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

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

(d) Bridge maintenance and operation.
(e) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads.

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

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

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

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

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

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

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

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

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

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

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

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

2. If no interlocal agreement is adopted, the proceeds of the tax shall be distributed among the county government
and municipalities based on the transportation expenditures of
each for the immediately preceding 5 fiscal years, as a
proportion of the total of such expenditures for the county
and all municipalities within the county.

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

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

2. Determined by the local act incorporating the
municipality.

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

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

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

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

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

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

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

(5)
(b) For the purpose of this section, "taxable gallons attributable to each county" shall be calculated as provided in s. 206.607(4)(a) a-consumption-factor-for-each-county divided-by-the-sum-of-such-consumption-factors-for-all counties-and-multipled-by-the-total-gallons-statewide-upon which-a-tax-was-paid-pursuant-to-s.-336.025-or-s.-336.025-the consumption-factor-shall-be-the-gallons-upon-which-the county's-tax-was-paid-under-either-or-both-of-said-sections; for-each-other-county-the-consumption-factor-shall-be calculated-as-the-taxable-gallons-yielding-the-tax-amount certified-pursuant-to-this-section-for-fiscal-year-1984-1985 for-the-county-multipled-by-the-quotient-of-the-statewide total-taxes-collected-pursuant-to-s.-336.025-for-the-current year-divided-by-the-statewide-total-taxes-certified-pursuant to-this-section-for-fiscal-year-1984-1985.

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

206.87 Levy of tax.--

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

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

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

206.875 Allocation of tax.—

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

(2) It is the intent of the Legislature that this section be construed to provide for the distribution of the appropriate portion of the special fuels tax imposed by this part, in the same manner as provided by ss. 206.41, 206.45, 206.60, 206.605, and 206.625.
(3) Notwithstanding the provisions of subsections (1) and (2), the department shall pay over to the State Treasurer all funds received and collected by it under the provisions of s. 206.87(1)(b) to be credited to the account of the Local Government Gas Tax Trust Fund established pursuant to s. 206.607. Such funds shall be distributed according to s. 206.607.

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

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

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

(b) The tax shall be imposed before July 1 to be effective September 1 of any year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (3) or subsection (4).

(c) Moneys collected pursuant to this section shall be used only for public transportation expenditures by counties, municipalities, transit authorities, or other eligible governmental entities. For purposes of this section, "public transportation" is fixed-route transit service or service provided by coordinated community transportation providers designated under chapter 427.
(d) Any tax imposed pursuant to this section may be extended on a majority vote of the governing body of the county. The method of distribution must be redetermined, for the period of extension or for the additional tax, pursuant to subsection (3) or subsection (4), if the tax is extended or the tax rate changed.

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

(2)(a) The tax shall be collected and remitted by any person engaged in selling at retail motor fuel or using or selling at retail special fuel within a county in which the tax is authorized and shall be distributed monthly by the Department of Revenue to the county where collected. The tax remitted to the Department of Revenue pursuant to this section shall be transferred to the Local Option Public Transit Gas Trust Fund, which fund is created for distribution to the county and eligible municipal governments within the county in which the tax was collected and which fund is subject to the service charge imposed in chapter 215. The Department of Revenue shall prescribe and publish all forms upon which reports must be made to it and other forms and records it deems necessary for proper administration and collection of the tax and shall adopt such rules as are necessary to enforce this section. Chapter 206, including, but not limited to,
those sections relating to timely filing of reports and tax
collected, suits for collection of unpaid taxes, department
warrants for collection of unpaid taxes, penalties, interest,
retention of records, inspection of records, liens on
property, foreclosure, and enforcement and collection also
apply to the tax authorized in this section.

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

(3) The tax shall be imposed using either of the
following procedures:

CODING: Words stricken are deletions; words underlined are additions.
(a) The tax may be levied by an ordinance adopted by a majority vote of the governing body of a county or upon approval by referendum. Such ordinance shall be adopted in accordance with the requirements imposed under one of the following circumstances, whichever is applicable:

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

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

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

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

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

1. Equal to the newly eligible governmental entity's public transit expenditure in the previous year in proportion to the public transit expenditures of all previously eligible parties in that county, whose shares shall be decreased proportionally; or
2. Determined by interlocal agreement between the eligible parties.

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

(5)(a) By July 1 of each year, the county shall notify the Department of Revenue of the tax levied and of its decision to rescind the tax, if applicable, and provide the department with a certified copy of the interlocal agreement established under subparagraph (3)(a)1., including the
distribution proportions established by such agreement or pursuant to subsection (4), if applicable. An ordinance or resolution to rescind the tax may not take effect sooner than 60 days after the county notifies the Department of Revenue of such passage of such ordinance or resolution.

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

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

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

Section 8. 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

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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 $550
million thereafter, shall revert to the General Revenue Fund.
(2) Subject to an appropriation each year by the
Legislature, moneys in the fund shall only be used for the
purposes of:
(a) Acquiring the right-of-way for and constructing
state highways and bridges;
(b) Constructing public education capital facilities;
(c) Financing state projects for beach restoration or
renourishment or lake, river, or other water body restoration,
including the restoration of bays and estuaries;
(d) Constructing state correctional facilities;
(e) Dollar-for-dollar matching grants to local
government to enable local participation in the local
government cooperative assistance program by allowing local
governments to accumulate a total amount which shall be
contributed as the local portion or match in the local
government cooperative assistance program, if the local
governments meet the eligibility requirements in s. 335.20.
Local governments may use any source of money, including
proceeds of gas tax money or proceeds of the bonds pledged by

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the local gas tax money for the initial match; assist-
(f) Constructing other infrastructure projects; or
(g) Issuing revenue bonds to finance state capital
outlay projects authorized by this section. Such bonds shall
be payable solely from legislative appropriations from the
State Infrastructure Fund and shall not be a debt of the
state, and the state shall not be liable thereon. Neither the
taxing power, the credit, nor the revenues of the state shall
be pledged to pay any obligation issued pursuant to this
subsection.
Section 9. Subsections (6), (9), and (12) of section
335.20, are amended to read:
335.20 Short title; local government cooperative
assistance program.--
(6) Each district shall conduct an initial screening
of all applications within the district to determine
eligibility. Criteria to be considered in such screening
shall include, but shall not be limited to, determination
that:
(a) The application is sufficient and consistent with
such rules promulgated pursuant to this section.
(b) Such project:
1. Is located on the State Highway System; or
2. Can be shown to substantially alleviate the need
for construction or improvements to the State Highway System
provided that such alleviation meets minimum requirements as
shall be established by rule by the department.
(c) Such project is consistent with the state
transportation plan; the comprehensive transportation plan of
the metropolitan planning organization, where applicable; and
any appropriate local government comprehensive plan.

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

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

(12) The department shall initially provide 50% of
percent of the cost of any project funded pursuant to this
section, provided that the applying county has adopted; the
county within which the applying municipality is located has
adopted, or the county or counties wherein the applying
expressway or transportation authority has jurisdiction have
adopted at least 4 cents of the local option gas taxes on
motor fuel and special fuel as provided in s. 336.025. Local
governments may use only the accumulated amount obtained
pursuant to s. 212.235(2)(e), as well as proceeds of the local
government motor fuel tax and the tax on special fuel option
gas tax or the proceeds of the bonds pledged by the local
option gas tax for matching purposes. The department shall
enter into an interlocal agreement with the appropriate local
government which shall state the time when the department
shall rebate to the local government their portion of the
match. Any portion of the department's 50-percent match or
50-percent rebate may be funded out of the State
Infrastructure Fund, pursuant to s. 212.235.

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

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

205.200 Title; legislative intent.--
(1) This part may be cited as the "Gap Tax Act."
(2) The Legislature hereby recognizes that real estate
turnover attributable to growth contributes to the cost of
providing governmental services. The Legislature further
recognizes that property owners receive a direct benefit from
the sale of property in an economy which is subject to rapid
growth. It is, therefore, the legislative intent to impose a
tax on the privileges associated with growth.

205.201 Levy of tax; administration.--
(1) There is hereby levied an excise tax at the rate
of 50 cents per $100 taxable consideration paid for the
purchase of lands, tenements, or other realty, or any interest
therein. The tax does not apply to consideration paid for the
first sale of residential property subsequent to its first

CODING: Words stricken are deletions; words underlined are additions.
(1) Improvement, if the most recent assessment, as of the date of such sale, applied to the property as unimproved.

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

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

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

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

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

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

(5) If consideration subject to the tax imposed by this part is for realty which has been subdivided or otherwise apportioned since it was assessed for the current local government fiscal year, the amount deducted pursuant to subsection (3) shall be a proportion of the assessed value of
the undivided realty, calculated by multiplying such assessed value by the ratio of the acreage of the realty for which the consideration is paid divided by the acreage of the undivided realty, or, if the basis of the subdivision is other than surface land area, by such other ratio as the department may prescribe by rule.

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

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

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

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

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

Section 12. The Division of Statutory Revision and Indexing of the Joint Legislative Management Committee is hereby directed to designate sections 205.013 through 205.1965, Florida Statutes, as part I of chapter 205.
Section 13. Part IV of chapter 205, Florida Statutes, consisting of sections 205.3012, 205.3015 and 205.302, Florida Statutes, is created to read:

205.3012 Title; legislative intent.--
(1) This part may be cited as the "Local Option Interim Proprietary and General Services Fee Act."
(2) The Legislature hereby finds that the cost of providing certain local services exceeds the fees charged for said services and that those costs are borne in a large part through ad valorem taxation. These services which a municipality or county provides include, but are not limited to, police protection, fire protection, public works, administrative services, and capital projects. The Legislature further recognizes that, from the time a new building or structure is completed and occupied until the improvements are included on the tax roll as of the ensuing January 1st, a municipality or county is obligated to provide these services, as well as providing other direct services for which compensation for no part of the cost of the services is received. The purpose of the Local Option Interim Proprietary and General Services Fee, therefore, is to defray the cost to a municipality or county of providing services to newly improved property prior to the imposition of ad valorem taxes on such property. The fee is not in any manner, directly or indirectly, intended as an ad valorem tax, nor is the amount of the fee established by this part related in any way to the valuation of the property receiving such services.

205.3015 Authorization for levy; administration.--
(1) Each county and municipality may levy a Local Option Interim Proprietary and General Services Fee which shall apply to those properties for which a certificate of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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shall be transferred to the Revenue Sharing Trust Fund for Municipalities General-Revenue-Fund-of-the-State.

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

210.20 Employees and assistants; distribution of funds.—

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

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

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

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

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205.033 Conditions for levy; counties.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

205.043 Conditions for levy; municipalities.--
(1) The following conditions are hereby imposed on the authority of a municipal governing body to levy an occupational license tax:

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

(b) No occupational license tax levied hereunder shall be at a rate greater than that in effect in such municipality for the year beginning October 1, 1971; however, beginning October 1, 1980, the municipal governing body may increase occupational license taxes authorized by chapter 205. The amount of such increase above the license tax rate levied on October 1, 1971, for license taxes levied at a flat rate may be up to 100 percent for occupational license taxes which are
$100 or less; 50 percent for occupational license taxes which are between $101 and $300; and 25 percent for occupational license taxes which are more than $300. Beginning October 1, 1982, such increase shall not exceed 25 percent for license taxes levied at graduated or per unit rates. Such authority to increase occupational license taxes shall not apply to licenses granted to any utility franchised by the municipality for which a franchise fee is paid.

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

1. As used in this paragraph:
   a. "Adjusting ordinance" means the municipal ordinance which adjusts the classifications and rates in accordance with this paragraph.
   b. "Base date" means a date at least 60 days prior to the effective date of the adjusting ordinance.
   c. "Base classifications" means the classifications of occupational licenseholders in effect in the municipality on the base date.
   d. "Base rates" means the rates for each base classification in effect in the municipality on the base date.
   e. "Base licenseholders" means the holders of occupational licenses in the municipality on the base date.
   f. "Base total revenue" means the total figure calculated by adding together each of the products obtained by
multiplying the number of base licenseholders in each base
classification times the base rate for the classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Any registration renewal transaction;

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

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

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

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

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

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

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

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

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

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

163.3203 Impact fees.--

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

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

CODING: Words stricken are deletions; words underlined are additions.
(a) A "capital improvement component, element, or program" is that component of a comprehensive plan required by s. 163.3177(3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) "Reasonable benefit" is a benefit received from
the provision of a public facility capital improvement which
is greater than that afforded the general public in the
jurisdiction imposing impact fees. Incidental benefit to
other developments shall not negate a "reasonable benefit" to a new development.

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

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

(3) AUTHORITY TO IMPOSE IMPACT FEES.--

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

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

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

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

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

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

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

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

   a. The need for public facilities capital improvements required to serve new development, based on a capital improvement component, element, or program which shows deficiencies in capital facilities serving existing development, and the means, other than impact fees, by which any existing deficiencies will be eliminated within a
reasonable period of time, and which shows additional demands anticipated to be placed on specified capital facilities by new development.

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

c. The cost of existing public facilities capital improvements.

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

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

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

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

(5) COLLECTION AND EXPENDITURE OF IMPACT FEES.--The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the
fees. In order to satisfy this test, the ordinance must specifically consider the following requirements:

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

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

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

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

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

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

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

(6) REFUND OF IMPACT FEES.--

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

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

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

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

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

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

(9) COMPLIANCE.--

(a) By the date that its comprehensive plan is found
by the Department of Community Affairs to be in compliance, a
local government must conform all its impact fee ordinances
existing on the effective date of this section to the
provisions of this section. Prior to such conformation, the
failure of an impact fee adopted prior to the effective date
of this section to meet the requirements of a valid impact fee
set forth in this section does not constitute grounds for
challenging its validity.
(b) Local governments that require impact fees must incorporate such fee requirements into their broader system of development and land-use regulations in such a manner that new developments, either collectively or individually, are not required to ultimately pay or otherwise ultimately contribute more than a proportionate share of public facilities capital improvement costs.

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

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

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

163.3202 Land development regulations.--

CODING: Words stricken are deletions; words underlined are additions.
(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall as a minimum:

(a) Regulate the subdivision of land;

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

(c) Provide for protection of potable water wellfields;

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

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

(f) Regulate signage;

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

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

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

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

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

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

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

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

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

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

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

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

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

Creates the "Local Option Interim Proprietary and General Services Fee Act." Provides for legislative intent, authorization for the levy and administration of the tax, and expenditure of tax proceeds. Provides that the tax 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.

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

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

Clarifies the application of the concurrency doctrine as specified by law. Repeals ss. 336.021 and 336.025, F.S., relating to the levy of a local option gas tax.

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

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

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

206.101 State gas taxes on motor fuel.--

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

(a) An excise tax of 2 cents per gallon, which is the tax levied by s. 16, Art. IX of the Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 Constitution, as amended, which is therein referred to as the
"second gas tax," and which is designated as the 
"constitutional gas tax";
(b) An additional tax of 1 cent per gallon, which is 
designated the "county gas tax";
(c) An additional tax of 1 cent per gallon, which is 
designated the "municipal gas tax"; and
(d) An additional tax equal to 5 percent of the total 
retail price per gallon, rounded to the nearest tenth of a 
cent, but not less than 5.7 cents per gallon, which tax is a 
tax on the privilege of selling motor fuel. Before July 1 of 
each year, the department shall determine the appropriate tax 
rate applicable to the retail price per gallon of motor fuel 
as follows:
1. The department shall determine the appropriate 
total motor fuel and special fuel price, including federal, 
state, and local excise taxes on such fuel, for the 
forthcoming 12-month period beginning July 1, by adjusting the 
initially established price by the percentage change in the 
average monthly gasoline price component of the Consumer Price 
Index issued by the United States Department of Labor for the 
most recent 12-month period ending March 31, compared to the 
average for the 12-month period ending March 31, 1984.
2. The initially established price is $1.148 per 
gallon.
3. The department shall notify each refiner, importer, 
jobber, or wholesaler before July 1 of each year, as to any 
change in the tax rate, as determined by the Consumer Price 
Index.
(2) Revenues from the taxes imposed by this section 
become state funds at the moment collected by any person.
Each refiner, importer, jobber, retail dealer, or wholesaler,
shall act as an agent for the state in collecting such taxes
whether or not he is the ultimate seller.

(3) For purposes of this section, 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.

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

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

(2) In addition to other taxes allowed by law, there
may be imposed as provided in s. 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 sold in a county and taxed under
the provisions of s. 206.101(1)(a), (b), or (c).

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

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

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

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

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

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

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

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

206.125 Tax; must be stated separately; invoice to show tax paid.--

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

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

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

206.151 Application for license; provisional license; refiners, importers, jobbers, and wholesalers.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license tax.

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

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

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

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he shall also file with the application a certified copy of the certificate or license issued by the Department of State showing that such corporation is authorized to transact business in the state.
(d) A statement that such person's business is not located in the state.

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license tax.

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

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

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

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

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

(5) Any importer who establishes a business location in this state must, prior to beginning business in the state,
apply for and be issued a jobber's or a wholesaler's license.
An importer's license becomes invalid on the date business operations begin from a location within this state.

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

(7)(a) A person, partnership, or private corporation which is beginning a new business and which applies for a license as a refiner, importer, jobber, or wholesaler shall be issued a provisional license. Once the department's background investigation is completed and the department has determined that the applicant is of good moral character and has not been convicted of any offense specified in s. 206.164, a permanent license shall be issued.

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

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

206.152 206-026 Application for license; jobbers-and carriers.--

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

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

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

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

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

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

(3) The application shall require a $30 license tax.

Each license shall be renewed annually through application, including an annual $30 license tax.

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

206.156 206.404 License tax upon retail dealers; dealer transfer fee; monthly reports; penalty.—

Every retail dealer shall pay a license tax of $5 per annum to the state. No license shall be transferred
without an application having been filed with the department and payment of a fee of $5.

The Department of Revenue shall, on or before the 20th day of each calendar month, each retailer, dealer, shall file on forms prescribed by the department, report to the department all purchases or other acquisition and sales or other disposition of motor fuel during the preceding calendar month and remit the taxes pursuant to sssrr-336.027-336.0257-336.026.

If any person required to file under this subsection fails to make a complete report, the department may impose, in addition to any other penalty or interest due a penalty in the amount of $30.

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

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

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

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

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

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

206.164 206.026 Certain persons prohibited from holding a refiner, importer, jobber, or wholesaler license; suspension and revocation.--
(1) No corporation, except a publicly held corporation regularly traded on a national securities exchange and not over the counter, general or limited partnership, sole proprietorship, business trust, joint venture or unincorporated association, or other business entity shall hold a refiner, importer, jobber, or wholesaler license in this state if any one of the persons or entities specified in paragraph (a) has been determined by the department not to be of good moral character or has been convicted of any offense specified in paragraph (b):

(a) 1. The licenseholder.
   2. The sole proprietor of the licenseholder.
   3. A corporate officer or director of the licenseholder.
   4. A general or limited partner of the licenseholder.
   5. A trustee of the licenseholder.
   6. A member of an unincorporated association licenseholder.
   7. A joint venturer of the licenseholder.
   8. The owner of any equity interest in the licenseholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary.
   9. An owner of any interest in the license or licenseholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the licenseholder, who by virtue thereof is able to control the business of the licenseholder.

(b) 1. A felony in this state.
   2. Any felony in any other state which would be a felony if committed in this state under the laws of Florida.
   3. Any felony under the laws of the United States.

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

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

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

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

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

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

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

206.166 Licenses not assignable.—

(1) No license granted under the provisions of this chapter shall be transferred or assigned except upon application to, and written consent and approval of the transferee by, the department pursuant to the provisions of s. 206.164.

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

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Whenever a license is held by a corporation or business entity other than an individual, no transfer of the stock or other evidence of ownership or equity in the licenseholder shall be made, absent the prior approval of the transferee by the department pursuant to the provisions of s. 206.164.

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

206.168 Costs of investigation; department to charge applicants.--

(1) The department is authorized to charge any anticipated costs incurred by the department in determining the eligibility of any person or entity specified in s. 206.164(a) to hold a license against such person or entity.

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

206.171 Licensing of refiners, importers, jobbers, and wholesalers.--

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

(2) The license so issued by the department shall not be assignable except pursuant to s. 206.166, shall be valid only for the person in whose name it has been issued,

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

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

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

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

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

206.174 Bond required of licensed refiner, importer, jobber, or wholesaler.--

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

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this part, shall file with the department a bond in a penal
sum of not more than $100,000, such sum to be approximately 3
times the average monthly gas-tax-and-sales tax imposed
pursuant to s. 206.101 on motor fuel paid or due during the
preceding 12 calendar months under the laws of this state.
The bond shall be in such form as may be approved by the
department, executed by a surety company duly licensed to do
business under the laws of the state as surety thereon, and
conditioned upon the prompt filing of true reports and the
payment to the department of any and all gas taxes and-sales
taxes on motor fuel collected-pursuant-to-chapter-222 which
are now or which hereafter may be levied or imposed by the
state, together with any and all penalties and interest
thereon, and generally upon faithful compliance with the
provisions of the gas tax and-sales-tax laws of the state.
The licensee shall be the principal obligor, and the state
shall be the obligee. An assigned time deposit or irrevocable
letter of credit may be accepted in lieu of a surety bond.

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

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

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

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

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

206.176 206.065 Purchases by licensed wholesalers; authority to self-accrue and remit tax.--

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(1) A licensed wholesaler may, after obtaining written consent of the executive director of the department, self-accrue and remit the tax imposed by this part. Thereafter, the wholesaler may purchase motor fuel from importers or refiners and pay the tax due on such purchases directly to the department. The tax shall be due and remitted as provided in s. 206.202 ss-206.43.

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

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

(b) Has been registered and filed timely reports and made timely payments of the tax due for a period of 12 months in accordance with the provisions of s. 206.202 ss-206.43;

(c) Complies with the requirements of s. 206.174 ss-206.05; however, the department may increase the amount of the bond or other security to equal the total amount of tax remitted for the previous 3-month period if the wholesaler repeatedly remitted such tax late;

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

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

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

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

(1) A licensed importer or jobber may, after obtaining written consent of the executive director of the department,
self-accrue and remit the tax imposed by this part. Thereafter, the importer or jobber may purchase motor fuel from refiners or importers and pay any tax due on such purchases directly to the department. The tax shall be due and remitted as provided in s. 206.202.

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

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

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

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

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

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

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

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

(b) Fails to respond to renewal requests,

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

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

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

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

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

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

206.202 Refiner, importer, jobber, and wholesaler to report to department monthly; deduction.—The taxes levied and assessed as provided in this part shall be paid to the department monthly in the following manner:

(1) Taxes are due on the first day of the succeeding month and shall be paid on or before the 20th day of each month. The refiner, importer, jobber, or wholesaler shall mail to the department verified reports on forms prescribed by the department of the number of gallons of such products sold by him during the preceding month and shall at the same time pay to the department the amount of tax computed to be due. However, if the 20th day falls on a Saturday, a Sunday, or a federal or state legal holiday, returns shall be accepted if postmarked on the next succeeding workday. The refiner, importer, jobber, or wholesaler shall deduct from the amount of tax shown by the report to be payable an amount equivalent to 6 percent of the tax on motor fuels imposed by s.

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

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

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

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

(b) All sales to the ultimate consumer and the county or counties to which the gallons of motor fuel were delivered.
(c) All sales to retail dealers and service stations and the county or counties to which the gallons of motor fuel were delivered.

The taxes herein levied and assessed shall be in addition to any and all other taxes authorized and imposed, assessed or levied on motor fuel under any laws of this state.

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

206.206 Reports from carriers transporting motor fuel or similar products.--

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

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

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

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

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

If any such person or company required to file under this section fails to make a complete report, the
department shall impose, in addition to any other penalty or
interest due, a penalty in the amount of $100.

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

206.225 All statements or reports required by part II or part
III of this chapter and the gas tax laws of this state to be
made to the department monthly shall be filed each month,
regardless of whether or not a gas tax is due under the
provisions of the laws of Florida.

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

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

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

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

206.245 206.485 Tracking system reporting
requirements.--The information required for tracking movements
of petroleum products pursuant to ss. 206.206, 206.213, and
206.235 ss.-206.087-206.097-206.0957-and-206.48 shall be
submitted in the manner prescribed by the executive director
of the department by rule. The rule shall include, but not be
limited to, the data elements, the format of the data
elements, and the method and medium of transmission to the
department.

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

206.253 206.62 Certain sales to United States tax
exempt; rules and regulations.--

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

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

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

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

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

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

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

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subject to the tax levied under this part or part III of chapter 212.

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

206.255 Aviation gasoline exempt from excise tax.--

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

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

(3) All sales of aviation motor fuel must be in compliance with s. 206.275 to qualify for the exemption.

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

206.263 Sale of motor fuel for export; exemptions Constitutional gas tax imposed.--

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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 handing the same in this state; this tax which is the tax as levied by § 16, Art. III, of the Constitution of 1885 as amended and continued by § 9 of Art. XII of the 1968 Constitution as amended and which is therein 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 transfers 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.

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

(1) The sale of motor fuel for export from this state by a wholesaler, refiner, importer, or jobber 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 shall also be exempt, but only if the purchaser of the motor fuel is licensed as a refiner or importer.

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

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

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

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Motor fuel in the fuel tanks in any motor vehicle entering this state used to propel such motor vehicle shall be exempt from the taxes imposed by this part. "Fuel tanks" shall mean the reservoir or receptacle attached to the motor vehicle by the manufacturer as the container for fuel used to propel the vehicle.

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

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

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

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

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

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

(4) 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 removal
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.

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

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

206.285 Refunds.--

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

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

(b) Refunds to retail dealers for shrinkage of motor fuel.--Every retail dealer licensed under s. 206.156 is entitled to a refund of 1.4 percent of the tax imposed by s. 206.101(1)(d) this-part on motor fuel purchased by such retail dealer to cover losses due to evaporation and shrinkage of motor fuel. However, any retail dealer who sells motor fuel within a county which imposes a tax under s.
206.102 shall as a credit against any tax due on his local option gas tax return the amount to which he is entitled as a refund under this paragraph. Nothing in this paragraph shall be construed to allow this credit to be subtracted from the moneys deposited in the Local Option Gas Tax Trust Fund or the Voted Gas Tax Trust Fund.

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

(d) Return of taxes to school districts and nonpublic schools.--

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

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

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

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

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

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

2.a. For the purposes of this paragraph, "agricultural
and aquacultural purposes" means motor fuel or-special-fuel
used in any tractor, vehicle, or other farm equipment which is
used exclusively on a farm or for processing farm products on
the farm, and no part of which fuel is used in any vehicle or
equipment driven or operated upon the public highways of this
state. This restriction does not apply to the movement of a
farm vehicle or farm equipment between farms. The
transporting of bees by water and the operating of equipment
used in the apiary of a beekeeper shall be also deemed an
agricultural purpose.
b. For the purposes of this paragraph, "commercial fishing and aquacultural purposes" means motor fuel or special fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from salt or fresh waters under the jurisdiction of the state for resale to the public, and no part of which fuel is used in any vehicle or equipment driven or operated upon the highways of this state; but the term may in no way be construed to include fuel used for sport or pleasure fishing.

(ty)---Refunds-to-refiners---importers---and-wholesalers-on
fuel-used-in-blending-gasohol---Any-refiner---importer---or
wholesaler-who-has-paid-the-tax-imposed-by-this-part-on
purchases-of-motor-fuel-which-is-blended-with-ethyl-alcohol-to
produce-gasohol-shall-be-entitled-to-a-refund-of-4-cents-per
gallon-of-such-tax-until-July-1, 1985---and-then-shall-be
entitled-to-a-refund-of-2-cents-per-gallon-of-such-tax-through
June-30, 1987---Such-person-may-choose-to-adjust-any
overpayment-authorized-in-this-paragraph-on-the-monthly-motor
fuel-tax-report.---This-paragraph-operates-retroactively-to
April-1, 1983---and-appplies-to-motor-fuels-blended-with-ethyl
alcohol-on-or-after-April-1, 1983

(ty)---Refunds-to-wholesale-blenders-for-fuel-used-in
blending-gasohol---Any-wholesale-binder-who-is-not-licensed
as-a-refiner---importer---or-wholesaler-who-purchases-motor-fuel
for-blending-with-ethyl-alcohol-to-produce-gasohol-shall-be
entitled-to-apply-for-a-refund-of-4-cents-per-gallon-of-such
tax-until-July-1, 1985---and-then-shall-be-entitled-to-apply
for-a-refund-of-2-cents-per-gallon-of-such-tax-through-June
30, 1987---This-paragraph-operates-retroactively-to-April-1, 1983
(2)(a) To procure a permit, a person must file with the department an application, on forms furnished by the department, stating that he is entitled to a refund according to the provisions of subsection (1) and that he intends to file an application for refund for a calendar quarter during the current calendar year, and must furnish the department such other information as the department requests.

(b) No person, municipality, county, school district, or nonpublic school may in any event be allowed a refund unless he has filed the application provided for in paragraph (a) with the department. A permit shall be effective for the year issued by the department and shall be continuous from year to year so long as the permit holder files refund claims from year to year. In the event the permit holder fails to file a claim for any year, he must apply for a new permit.

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

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

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

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

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

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

(d) Notwithstanding-provisions-of-this-subsection-to the contrary, the department may have authority to designate certain retail service stations as agents of refiners, importers, wholesalers, jobbers, or dealers when no refiners, importers, wholesalers, jobbers, or dealers are available.

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

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by school buses operated for the district by private contractors shall be based on an estimate of taxes paid. The estimate shall be determined quarterly by dividing the total miles traveled by such vehicles for school purposes by their average miles per gallon, as determined by the department, and multiplying the result by the applicable tax rate per gallon.

It is the responsibility of the school district to provide information relevant to this determination.

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

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

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

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

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

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

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

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

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

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

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

(9) No person shall:
(a) Knowingly make a false or fraudulent statement in an application for a refund permit or in an application for a refund of any taxes under this section;
(b) Fraudulently obtain a refund of such taxes;
(c) Knowingly aid or assist in making any such false or fraudulent statement or claim; or
(d) Buy motor fuel or special fuel to be used for any purpose other than as provided in this section.

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

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

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

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

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

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

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

206.303 Penalties.--

(2) Any person:

(a) Who willfully refuses or neglects to make any statement, report, or return required by the provisions of this law;
(b) Who knowingly makes, or assists any other person in making, a false statement in a return or report or in connection with an application for refund of any tax;

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

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

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

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

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

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

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

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

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

206.325 Resale and exemption certificates; offenses; penalties.--Any person who:

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

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

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

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

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

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

206.329 206.56 Failure to account for tax collected; embezzlement.—If any person, refiner, importer, jobber, or wholesaler collects from another, upon an invoice rendered, the tax in this part contemplated, and fails to report and pay the same to the department as provided, with intent to temporarily or permanently deprive the state of a right or benefit to such moneys or appropriate such moneys to his own use or that of another not entitled to such moneys, he shall be deemed to be guilty of embezzlement of funds, the property
of the state, and upon conviction shall be punished as if
convicted of larceny of a like sum.

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

206.355 Inspection of records; audits;
hearings; forms; rules and regulations.--

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

The department or any authorized deputy,
employee, or agent is authorized to audit and examine the
records, books, papers, and equipment of refiners, importers,
wholesalers, jobbers, retail dealers, terminals, or common
carriers to verify the truth and accuracy of any statement or
report and ascertain whether or not the tax imposed by this
law has been paid. No prior written notification is necessary
when the department believes the tax imposed under this
chapter and part II of chapter 222 to be in jeopardy. The
department may correct by credit or refund any overpayment of
tax, penalty, or interest revealed by an audit and shall make
assessment of any deficiency in tax, penalty, or interest
determined to be due.

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

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

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

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

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

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

(1) Whenever a person ceases to engage in business as
a refiner, importer, jobber, retail dealer, or wholesaler
within the state by reason of the discontinuance, sale, or
transfer of the business, such person shall notify the
department in writing at least 10 days prior to the time the
discontinuance, sale, or transfer takes effect. Such notice
shall give the date of discontinuance and, in the event of a
sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee. All gas taxes, penalties, and interest not due and payable under the provisions of the laws of this state shall, notwithstanding such provisions, become due and payable concurrently with such discontinuance, sale, or transfer; and any such person shall, concurrently with such discontinuance, sale, or transfer, make a report, pay all such taxes, interest, and penalties, and surrender to the department the license certificate theretofore issued to said person by the department.

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

206.365 Estimate of amount of gas taxes due and unpaid.--

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

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

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

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

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

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

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

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

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

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

206.433 206.19 Claim of state under gas tax laws; settlement or compromise for less than full amount due not authorized.--The department shall have no right, power, or authority to settle or compromise any claim of the state accruing under the gas tax laws of this state for a sum less
than the full amount due, in conformity with part-xer-part-xf of this chapter.

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

206.435 § 206.435 Trial of issues interposed by defense; sale, etc.—

(1) Should any person appear at the hearing provided for in s. 206.465 and claim the things seized and interpose any defense to the affidavit mentioned in said section, the circuit judge shall determine whether the evidence adduced proves beyond a reasonable doubt that such things are forfeited and make his written order accordingly.

If he shall determine in the affirmative, such things shall be sold by the sheriff in the same manner and upon the same terms and conditions as provided in s. 206.465, but if he shall determine in the negative respecting all or any of such things, the part not forfeited shall be returned to the person legally entitled thereto.

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

206.443 § 206.443 Costs and expenses of proceedings.—

(1) For the performance of the duties required of the sheriff by the provisions of ss. 206.435 and 206.465 he shall receive the same fees provided by law for the arrest and return of persons charged with crime, including the same mileage and the actual cost of transporting such things, and all such fees and compensations shall be paid out of the proceeds of the sale.

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

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

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

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

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

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

(2) The department and its deputies, agents, and employees also may seize property as set out in ss. 206.435, 206.443, and 206.465 ss. 206.705, 206.727, and 206,727, and upon said seizure being made shall surrender without delay such seized property to the sheriff of the county where said property was seized for further procedure as set out in said sections.

(3) When the department deems advisable, it may direct the warrant provided for in s. 206.408 206.727 to one of the said department's deputies, agents, and employees who shall then execute said warrant and proceed thereon in the same manner provided for sheriffs in such cases.

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

206.503 206-27 Records and files as public records.—

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

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INCLUDE ALL NEW LICENSES ISSUED AND ALL LICENSES CANCELED DURING THE PAST 12 MONTHS, AND MAIL A COPY THEREOF TO EACH LICENSEE. SUCH LIST SHALL BE USED TO VERIFY LICENSE NUMBERS OF PURCHASERS ISSUING EXEMPTION CERTIFICATES OR AFFIDAVITS.

SECTION 40. SECTION 206.59, FLORIDA STATUTES, IS RENUMBERED AS SECTION 206.525, FLORIDA STATUTES, AND AMENDED TO READ:

206.525 206.59 Department to make rules; powers.--

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

(2) The department is further given power to investigate, or cause to be investigated under its authority, all cases involving dealing in motor fuel by persons receiving, handling, or storing the same and to determine from such investigation whether or not any section in this chapter or part-ff-of-chapter-2ii2 relating to the gas tax is being evaded or illegally avoided. The determination of the department in any case shall be prima facie valid and authentic in all courts in this state and in all actions involving the validating of taxes on persons subject to the provisions of part-ff-or-part-ff-of this chapter or-part-ff-of chapter-2ii2.

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

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

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

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

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

206.553 Disposition of license tax funds. All
moneys derived from the license tax pursuant to ss. 206.151,
206.152, 206.154, and 206.156 shall be paid into the State Treasury to the
credit of the General Revenue Fund.

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

206.555 Payment of tax into State Treasury. All
moneys derived from the gas taxes imposed by s.

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

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

(2) The county gas tax collected pursuant to s. 206.101(1)(b), as such may be amended by the 1999 legislature, shall be distributed as therein provided in s. 206.573.

(3) The municipal gas tax collected pursuant to s. 206.101(1)(c), shall be distributed as therein provided in s. 206.575.

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

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

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

206.565 Distribution of constitutional gas tax pursuant to State Constitution.--

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

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

(b) For the purpose of this section, "taxable gallons attributable to each county" shall be calculated as a consumption factor for each county divided by the sum of such consumption factors for all counties, and multiplied by the total gallons statewide upon which a tax was paid pursuant to s. 206.101(1)(a) or s. 206.102(1). For each county which, during the previous fiscal year, had imposed a tax pursuant to s. 206.102(2) for a full 12 months or s. 206.102(3), the consumption factor shall be the gallons upon which the county's tax was paid under either or both of said sections. For each other county, the consumption factor shall be calculated as the taxable gallons yielding the tax amount certified pursuant to this section for fiscal year 1984-1985 for the county, multiplied by the quotient of the statewide total taxes collected pursuant to s. 206.101(1)(a) or s. 206.104 for the current year divided by the statewide total taxes certified pursuant to this section for fiscal year 1984-1985.

(9) The State Board of Administration shall, in each fiscal year, distribute the 80-percent surplus gas tax allocated to each county to the debt service requirements of each bond issue pledging the 80-percent surplus accruing to
that county under the provisions of s. 16, Art. IX of the
State Constitution of 1885, as amended. The remaining 80-
percent surplus gas tax funds will be advanced monthly, to the
extent practicable, to the boards of county commissioners for
use in the county.

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

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

206.573 206.60 Distribution of county tax on motor
fuel.--

**C**--in-addition-to-all-other-taxes-required-by-law-a
tax-of-1-cent-per-gallon-is-imposed-upon-the-first-sale-or
first-removal-from-storage, after-importation-into-this-state,
of-motor-fuel.--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

CODING: Words struck are deletions; words underlined are additions.
The proceeds of the tax imposed under s. 206.101(1)(b) are hereby appropriated for public transportation purposes in the manner following:

(a) The department, after deducting its expenses of collection, which shall include the administrative costs incurred by the department in the collection, administration, and distribution back to the counties of the taxes levied pursuant to s. 206.101(1)(b) this section, and after transferring to the General Revenue Fund the service charge provided for by s. 215.20, shall monthly divide the proceeds of such tax in the same manner as the constitutional gas tax pursuant to s. 206.565 s-206.41 and the formula contained in s. 9(c)(4), Art. XII of the revised State Constitution of 1968.

(b) The Department of Revenue shall, from month to month, distribute the amount allocated to each of the several counties under paragraph (a) to the board of county commissioners of the county, who shall use such funds solely for the acquisition of rights-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, and bridges therein; or the reduction of bonded indebtedness of such county or of special road and bridge districts within such county, incurred for road and bridge or other transportation purposes. In the event the powers and duties relating to transportation facilities, roads, and bridges usually exercised and performed by boards of county commissioners are exercised and performed by some other or separate county board, such board shall receive the proceeds, exercise the powers, and perform the
duties designated in this section to be done by the boards of
county commissioners.

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

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

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

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The gasoline inspection laws of the state shall be and are declared to be applicable to the enforcement of this section.

The license tax herein levied in s. 206.101(1)(b) shall be in addition to all other license taxes levied under the laws of the state and in addition to the dealer's license tax for each place of business levied under the provisions of the laws of the state.

It is hereby expressly recognized and declared by the Legislature that all public roads and bridges being constructed or built or which will be hereafter constructed or built, including the acquisition of rights-of-way as incident thereto, either by the Department of Transportation or the several counties of the state, were, are, and will be constructed and built as general public projects and undertakings and that the cost of the construction and building thereof, including the acquisition of rights-of-way as incident thereto, was, is, and will be legitimate, proper state expense incurred for a general public and state purpose. And it is expressly recognized and declared that the construction, reconstruction, maintenance, and acquisition of rights-of-way of all secondary roads are essential to the welfare of the state and that such roads when constructed, reconstructed, or maintained, or such rights-of-way when acquired, are and will be for a general public and state purpose. And the Legislature has found and hereby declares that for the proper and efficient construction and maintenance of public highways designated state roads, it is in the best interest of the state to further integrate the activities of the Department of Transportation and the several boards of county commissioners as provided in subsection (1) in

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

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

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

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

tit—in-addition-to-all-other-taxes-required-by-law—a
tax-of-1-cent-per-gallon-is-imposed-upon-the-first-sale-or
first-removal-from-storage—after-importation-into-this-state
of-motor-fuel—for-purposes-of-this-subsection—the-term
"first-sale"—does-not-include-exchanges-or-transfers-for-
gation-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.

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

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

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

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

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

206.585 212.69 Distribution of the tax on the privilege of selling motor fuel proceeds.--

CODING: Words stricken are deletions; words underlined are additions.
1. Notwithstanding other provisions of law to the contrary, moneys collected pursuant to s. 206.101(1)(d) this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.555 et seq. Such moneys, exclusive of the service charge imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 206.285 et seq, shall be distributed monthly to the State Transportation Trust Fund, except that $3.8 million per year shall be transferred to the Department of Natural Resources in equal monthly amounts; $1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs.

2. Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(4) and (5), unless otherwise provided in the General Appropriations Act.

3. All funds transferred in this section to the Department of Natural Resources shall be used for eradication of, control of, and research in water hyacinths and noxious aquatic vegetation.

Section 47. Section 206.703, Florida Statutes, is created to read:

206.703 Taxes on special fuel.--

1. The following taxes are levied upon every gallon of special fuel used or sold in this state for use, except alternative fuels which are subject to the fee imposed by s. 206.775:

(a) An excise tax of 4 cents per gallon; and
(b) An additional tax equal to 5 percent of the total retail price per gallon, rounded to the nearest tenth of a cent, but not less than 5.7 cents per gallon, which tax is a tax on the privilege of selling special fuel. Before July 1 of each year, the department shall determine the appropriate tax rate applicable to the retail price per gallon of special fuel as provided in s. 206.101(1)(d).

(2) The following taxes may be levied upon each gallon of special fuel used or sold for use and taxed under subsection (1), except alternative fuels which are subject to the fee imposed by s. 206.775.

(a) Any county in the state, at the discretion of its governing body and subject to a referendum, may impose, pursuant to s. 336.021, in addition to all other taxes required or allowed by law, a 1-cent voted tax upon every gallon of special fuel used or sold in such county for use for the purpose of paying the costs and expenses of establishing, operating, and maintaining a transportation system and related facilities and the cost of acquisition, construction, reconstruction, and maintenance of roads and streets. The referendum may limit the number of years the tax will remain in effect.

(b) In addition to other taxes allowed by law, there may be imposed as provided in s. 336.025, a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option tax upon every gallon of special fuel used or sold in a county for use.

(c) In addition to other taxes allowed by law, including the local option tax on motor fuel as provided in paragraph (b), there may be imposed, as provided in s. 336.026, a 1-cent, 2-cent, 3-cent, or 4-cent local option tax upon every gallon of special fuel used or sold in a regional...
ground transportation area as defined in s. 163.803(4) for
use.

d) Each refiner, importer, wholesaler, jobber, or
retail dealer who is engaged in using or selling at retail or
at the consumer level, special fuel within a county or a
regional ground transportation area in which any tax
authorized in this subsection is imposed shall collect and
remit the tax to the department. On or before the 20th day of
each calendar month, each such person shall, on forms
prescribed by the department, report to the department all
purchases or other acquisitions and sales or other
dispositions of special fuel occurring during the preceding
calendar month and remit the taxes pursuant to this
subsection. Any such person who owns a chain of retail
stations shall file and remit taxes pursuant to this
subsection on a consolidated tax return, by county, prescribed
by the department.

(e) Any refiner, importer, wholesaler, jobber, or
retail dealer who collects any tax authorized under paragraph
(a) or paragraph (b) shall deduct from the amount of tax shown
by the report to be payable an amount equivalent to 3 percent
of the tax on special fuels imposed by this section, which
deduction is hereby allowed on account of services and
costs in complying with the provisions of the law. If the
amount of taxes due and remitted to the department for the
reporting period exceeds $1,000, the 3-percent allowance shall
be reduced to 1 percent for all amounts in excess of $1,000.
However, this allowance shall not be deductible unless payment
of the tax is made on or before the 20th day of the month as
required. The United States Post Office date stamped on the
envelope in which the report is submitted shall be considered
as the date the report is received by the department.

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

2. The department shall deposit any tax collected
pursuant to paragraph (b) or paragraph (c) into the Local
Option Gas Tax Trust Fund, which fund is created for
distribution to the county and eligible municipalities within
the county in which the tax imposed under paragraph (b) was
collected and for distribution to the Metropolitan
Transportation Authority in the regional ground transportation
area in which the tax imposed under paragraph (c) was
collected. The Local Option Gas Tax Trust Fund is subject to
the service charge imposed in chapter 215.

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

(3) Unless expressly provided to the contrary in this
part, every sale shall be deemed to be for use in this state.
This levy of tax shall be paid upon the first sale or transfer
of title within this state by a dealer, except as expressly
provided in this part, who shall act as agent for the state in

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the collection of such tax whether he is the ultimate seller or not.

(4)(a) A dealer may purchase special fuel without the tax imposed by this section being paid upon the first sale or transfer of title in the state, and he shall pay the tax on all special fuel used or sold by him and shall act as agent for the state in the collection and payment thereof.

(b) All special fuel sold, transferred, or delivered by a licensed dealer of special fuel to any person who does not hold a valid dealer's license is taxable, except as provided by s. 206.755(1).

(c) The department has the authority to assess and collect any tax, penalty, and interest against any person or dealer who purchases, receives, or disposes of special fuel in violation of the provisions of this part.

Section 48. Section 206.89, Florida Statutes, is renumbered as section 206.713, Florida Statutes, and amended to read:

206.713 206.89 Licenses; necessity; prerequisites; issuance; nonassignability.--

(1) No person shall act as a dealer unless he holds a valid dealer's license issued by the department. However, a service station shall not be required nor be eligible to be licensed as a dealer. A person who has no facilities for placing special fuel into the supply system of a motor vehicle and who sells into containers of 5 gallons or less shall not be required to be licensed as a dealer.

(2) To procure a dealer's license, a person shall file with the department an application in such form as the department may prescribe, with a bond. No license shall be

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issued upon any application unless accompanied by such bond, except as provided in s. 206.715(1).

(3) When an application for a dealer's license is filed by a person whose license has been canceled for cause by the department or when the department is of the opinion that such application is not filed in good faith or is filed by some person as a subterfuge for the real person in interest whose license has theretofore been canceled, the department shall have authority, if the evidence warrants, to refuse to issue to that person a license.

(4) At the time of filing an application for a license, a filing fee of $5 shall be paid to the department for deposit into the General Revenue Fund.

(5) All requirements of this section having been complied with, the department shall issue to the applicant a license and such license shall remain in effect until canceled as provided in this part.

(6) Such license shall not be assignable and shall be valid only for the dealer in whose name issued. It shall be displayed conspicuously by the dealer in the principal place of business for which it was issued.

(7) Every person as defined in this part, including, but not limited to, a state agency, federal agency, municipality, county, or special district, which operates or acts under the provisions of s. 206.702(10) is required to obtain a license as a dealer of special fuel and report monthly to the department, or pay tax on all fuel purchases.

Section 49. Section 206.90, Florida Statutes, is renumbered as section 206.715, Florida Statutes, and subsection (1) of said section is amended to read:

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206.715 Bond required of licensed dealers.--

(1) Every dealer, except a municipality, county, state agency, federal agency, school board, or special district which is licensed as a dealer under this part, shall file with the department a bond or bonds in the penal sum of not more than $100,000. The sum of such bond shall be approximately 3 times the average monthly special fuels tax imposed under s. 206.703(1) and sales-tax-on-special-fuels paid or due by such dealer during the preceding 12 calendar months under this part, with a surety approved by the department, upon which the dealer shall be the principal obligor and the state shall be the obligee, conditioned upon the faithful compliance with the provisions of this part and of part II of chapter 212. If the sum of 3 times a dealer's average monthly tax is less than $50, no bond shall be required.

Section 50. Section 206.91, Florida Statutes, is renumbered as section 206.745, Florida Statutes, and amended to read:

206.745 Tax reports; computation and payment of tax.--

(1) For the purpose of determining the amount of tax imposed by s. 206.703, each dealer shall, not later than the 20th day of each calendar month, mail to the department, on forms prescribed by the department, monthly reports which shall show such information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of each type of special fuel, including, but not limited to, diesel and heating fuel, kerosene, butane gas, propane gas, and all other forms of liquefied petroleum gases, for the preceding calendar month as may be required by the department. However, if the 20th day falls on a Saturday, a Sunday, or a...
federal or state legal holiday, returns shall be accepted if
postmarked on the next succeeding workday. The reports shall
contain or be verified by a written declaration that such
report is made under the penalties of perjury. The dealer
shall deduct from the amount of tax shown by the report to be
payable an amount equivalent to 6 percent of the tax on
special fuels imposed by s. 206.703(1)(a) this-part not
exceeding 500,000 taxable gallons, and less an amount
equivalent to 3 percent of the tax on special fuels imposed by
s. 206.703(1)(a) this-part in excess of 500,000 taxable
gallons but not exceeding 1,000,000 taxable gallons, which
deduction is hereby allowed to the dealer on account of
services and expenses in complying with the provisions of this
part. This allowance shall not be deductible unless payment
of the tax is made on or before the 20th day of the month as
herein required. Nothing in this subsection shall be
construed to authorize a deduction from the constitutional gas
tax.

(2) At the time of filing the monthly report, each
dealer shall pay to the department the full amount of special
fuels tax for the preceding calendar month at the rate
provided for in s. 206.703 ss-206.707, less the amount
allowable to the dealer on account of services and expenses as
provided in subsection (1).

Section 51. Section 206.87, Florida Statutes, as
amended by section 45 of chapter 87-548, Laws of Florida, is
renumbered as section 206.755, Florida Statutes, and amended
to read:

206.755 Exemptions levy-of-tax.--

Imposed-upon-every-gallon-of-special-fuel-used-or-sold-in-this

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state-for-use, except alternative fuels which are subject to the tax imposed by s. 206.703(1)(a), unless expressly provided to the contrary in this party; every sale shall be deemed to be for use in this state. This levy of tax shall be paid upon the first sale or transfer of title within this state by a dealer, except as expressly provided in this party who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

A dealer may purchase special fuel without the tax imposed by this section being paid upon the first sale or transfer of title in the state, and he shall pay the tax on all special fuel used or sold by him and shall act as agent for the state in the collection and payment thereof.

All special fuel sold, transferred, or delivered by a licensed dealer of special fuel to any person who does not hold a valid dealer's license is taxable except as provided by subsection (3). The department has the authority to assess and collect any tax, penalty, and interest against any person or dealer who purchases, receives, or disposes of special fuel in violation of the provisions of this party.

The following consumption or sales are not subject to any the tax herein imposed under s. 206.703(1)(a), the consumption or sales described in paragraph (d), paragraph (e), paragraph (f), or paragraph (g) are not subject to any tax imposed under s. 206.703(1)(b), and the consumption or sales described in paragraph (a), paragraph (b), paragraph (c), paragraph (d), paragraph (e), or paragraph (g) are not subject to any tax imposed under s. 206.703(2), upon the issuance of a valid resale certificate or an exemption certificate.

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(a) Sales by a dealer when the special fuel is delivered by him into the purchaser's storage facilities, which are located at the purchaser's premises, place of business, or job site, and when the special fuel is to be used for:

  1. Cooking or home heating;
  2. Industrial, commercial, agricultural, or marine purposes, if the purchaser is not a dual user and furnishes the dealer with an exemption certificate which states that no portion of the special fuel purchased is to be used in a motor vehicle; or
  3. Consumption for nonhighway purposes, if the purchaser is not a dual user.

(b) Sales at the dealer's place of business of not more than 1,000 gallons by a dealer to a person who is not a licensed dealer, if the special fuel is placed by the dealer into a receptacle not connected to the fuel supply system of a motor vehicle and the special fuel is solely for consumption other than use.

(c) Sales of 5 gallons or less by a person not a dealer who has no facilities for placing special fuel in the fuel supply system of a motor vehicle.

(d) Exports of special fuel by a dealer from the state when exempted by any provision of the constitutions of the United States or the State of Florida. The sale for export from the state of special fuel which is not exempted from the taxes imposed by this part by either the constitution of the United States or of the state shall also be exempt, but only if both the seller and the exporter of the special fuel are duly licensed as dealers of special fuel under the terms of this part.

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transfers-or-deliveries-of-special-fuel-into-the
fuel-supply-tank-of-a-motor-vehicle-operated-by-a-common
carrier-when-the-fuel-is-used-on-highways-in-another-state,
provided-the-common-carrier-is-a-duly-licensed-dealer-who-is
under-the-jurisdiction-of-the-Florida-Public-Service
Commission-and-files-timetables-of-schedules-showing
operations-on-regular-routes-in-interstate-commerce-with-the
Florida-Public-Service-Commission-and-maintains-a-complete
record-of-miles-operated-and-provided-the-tax-on-the-special
fuel-deducted-for-use-in-another-state-is-paid-to-the-taxing
authorities-of-that-state.—However—when-the-dealer-maintains
adequate-records-of-vehicle-consumption-of-fuel-as-related-to
miles-traveled-and-such-records-show-more-mileage-per-gallon
than-standards-determined-by-the-department-for-mileage-per
gallon, the miles shown by such records may be used for
computing the exemption on a mileage basis.

Sales or use by a dealer of special fuel
consumed by a power takeoff or engine exhaust for the purpose
of unloading bulk cargo by pumping or turning a concrete mixer
drum used in the manufacturing process, or for the purpose of
compacting solid waste, which is mounted on a motor vehicle
and which has no separate fuel tank or power unit.

Transfers or deliveries of special fuel into
the fuel supply tank of a motor vehicle regularly engaged in
interstate travel when such fuel is used on the highways of
another state, provided:

The transfer or delivery occurs within this state
and is executed by a duly licensed dealer who is regularly
engaged in interstate travel;

A similar tax is paid in another state; and
The tax is paid to this state on all special fuel brought into the state and used in this state.

Any licensed dealer claiming such exemption must have evidence of the payments of such tax and must keep records showing the number of trips out of the state, the number of trips into the state, the number of gallons of special fuel carried out of state in fuel tanks, and the number of gallons brought into the state in fuel tanks for use in this state. However, when the dealer maintains adequate records of vehicle consumption of fuel as related to miles traveled and such records show more mileage per gallon than standards determined by the department for mileage per gallon, the miles shown by such records may be used for computing the exemption on a mileage basis.

Sales to the United States Government or its departments or agencies when:

1. Delivered in bulk lots of not less than 500 gallons in each delivery to be used in motor vehicles owned and operated by the United States Government departments and agencies; or

2. Purchased for heating or for off-road purposes.

All special fuel sold, transferred, or delivered by a licensed dealer of special fuel to any person who does not hold a valid dealer's license is taxable, except as provided by subsection (1).

Any dealer who neglects, fails, or refuses to collect the tax upon any sale which is subject to the tax imposed by this part is liable for the payment of all tax, penalties, and interest.

A sale must be in strict compliance with the rules of the department, and any dealer making a sale for fuel shall file a report with the department containing the names and addresses of the persons to whom the fuel was sold, the price paid, and the amount of the tax paid.
resale which is not in strict compliance with such rules shall 
himself be liable for and pay the tax.

(5)† Any person who has purchased at retail, used, 
consumed, distributed, or stored for use, resale, or 
consumption in this state fuel and cannot substantiate that 
the tax levied by this part has been paid to his vendor is 
directly liable to the state for any tax, interest, and 
penalty due on any such fuel.

(6)† Any person or dealer who:

(a) Issues or assists in issuing a fraudulent resale 
or exemption certificate to obtain nontaxed special fuel from 
a licensed dealer; or

(b) Has issued a resale or exemption certificate and 
whose exempt status has become nonexempt and who neglects, 
fails, or refuses to inform the licensed dealer to whom the 
certificate was issued of such change in status

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

(7) The tax levied pursuant to s. 206.703(1)(b) does 
not apply to special fuels when purchased or consumed for 
stationary purposes. However, special fuels purchased or 
consumed for stationary purposes are taxable under chapter 
212, unless specifically exempt.

Section 52. Section 206.877, Florida Statutes, is 
renumbered as section 206.775, Florida Statutes, and

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subsections (1), (5), and (8) of said section are amended to read:

206.775 Motor vehicles fueled by liquefied petroleum gas or compressed natural gas; payment of annual decal fees in lieu of tax.—

(1) The tax imposed by s. 206.703 does not apply to motor vehicles licensed in this state pursuant to chapter 320 which are powered by alternative fuels and for which valid decals have been acquired as provided in this section.

(a) The owners or operators of such vehicles shall, in lieu of the excise tax imposed by this part, pay an annual decal fee on each such motor vehicle in accordance with the following rate schedule:

<table>
<thead>
<tr>
<th>Class</th>
<th>Vehicle License Category</th>
<th>State Fee</th>
<th>chapter-336</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>Vehicles licensed pursuant to s. 320.08(1), (2), (3)(a)</td>
<td>$44</td>
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<td></td>
<td></td>
<td>(C), (e), (6)(a), and (9)(c)</td>
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<tr>
<td></td>
<td>B</td>
<td>Vehicles licensed pursuant to s. 320.08 (5)(b)-(e), (6)(b), (9)(c)2., and (14)</td>
<td>$60</td>
</tr>
</tbody>
</table>

CODING: Words stricken are deletions; words underlined are additions.
Vehicles licensed pursuant to s. 320.08(4).

(b) A person fueling vehicles from his own facilities shall, in addition to the state alternative fuel fee imposed by this section, pay a local alternative fuel fee in lieu of each cent of excise tax levied by a county pursuant to s. 206.102(1), s. 206.102(2), s. 206.703(2)(a) or s. 206.703(2)(b) ssT-336T9i¼-end-336T9iS. This local fee shall be $11 for each cent of local excise tax on class "A" vehicles, $15 for each cent of local excise tax on class "B" vehicles, and $21 for each cent of local excise tax on class "C" vehicles. Those persons who do not operate their own fueling facilities shall indicate and pay the appropriate local fee for the particular county where the vehicles are predominantly used.

(5) Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, any person who is liable for fueling a vehicle which does not have the proper decal affixed is subject to the provisions of this section and the provisions of s. 206.365 ssT-206+94.

(8) The excise tax provided by s. 206.703(1)(a) or s. 206.703(2) ssT-206+97 applies to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles which do not have the proper decals pursuant to this section.

Section 53. Section 206.875, Florida Statutes, as amended by section 45 of chapter 87-548, Laws of Florida, is renumbered as section 206.785, Florida Statutes, and amended to read:

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206.785 206:875 Allocation of tax.--

All moneys derived from the taxes imposed by this part shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, which fund is created and from which the following transfers shall be made: After withholding $10,000 from the proceeds of the tax imposed under s. 206.703(1)(a), 4-cents-of-such-tax, to be used as a revolving cash balance, all other moneys shall be transferred in the same manner and for the same purpose as provided by law for allocation of the taxes levied in part I, including transfer to the General Revenue Fund of the service charge provided for in s. 215.20.

Section 54. Section 206.879, Florida Statutes, is renumbered as section 206.786, Florida Statutes, and amended to read:

206.786 206:879 State and local alternative fuel user fee clearing trust funds; distribution.--

(1) Notwithstanding the provisions of s. 206.785, the revenues from the state alternative fuel fees imposed by s. 206.775 shall be deposited into the State Alternative Fuel User Fee Clearing Trust Fund, which is hereby created. After deducting the service charge provided in s. 215.20, the proceeds in this trust fund shall be distributed as follows: 50 percent of the proceeds shall be transferred to the State Board of Administration for distribution according to the provisions of s. 16, Art. IX of

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the State Constitution of 1885, as amended, 25 percent shall be transferred to the Revenue Sharing Trust Fund for Municipalities; and the remaining 25 percent shall be distributed using the formula contained in s. 206.573(1).

(2) Notwithstanding the provisions of s. 206.785, the revenues from the local alternative fuel fees imposed in lieu of s. 206.102 or s. 206.703(2) shall be deposited into the Local Alternative Fuel User Fee Clearing Trust Fund, which is hereby created. After deducting the service charge provided in s. 215.20, the proceeds in this trust fund shall be returned monthly to the appropriate county or authority.

Section 55. Section 206.97, Florida Statutes, is renumbered as section 206.799, Florida Statutes, and amended to read:

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, jobber, 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.
(4) The refund provisions of s. 206.285(1)(b) do not
apply to special fuels.

Section 56. Subsection (8) of section 206.01, Florida
Statutes, is amended to read:
206.01 Definitions.--As used in part I of this
chapter:

(8) "Jobber" means any person who holds a valid jobber
of motor fuel license and who does not qualify for a license
as a refiner, importer, or wholesaler under this chapter. A
jobber's license grants the privilege of storing and
transporting tax-paid fuel in this state and making sales to
persons other than the ultimate consumer, as well as the
ultimate consumer:

Section 57. Subsection (3) of section 206.9915,
Florida Statutes, is amended to read:
206.9915 Legislative intent and general provisions.--
(3) The provisions of ss. 206.01, 206.161, 206.164,
206.165, 206.166, 206.168, 206.206, 206.213, 206.225, 206.235,
206.275, 206.285(14), 206.303, 206.305, 206.325, 206.327,
206.329, 206.353, 206.355, 206.363, 206.365, 206.403, 206.408,
206.413, 206.416, 206.423, 206.424, 206.433, 206.435, 206.443,
206.445, 206.453, 206.455, 206.463, 206.465, 206.503, 206.505,
206.525, 206.702, 206.026r-206.027r-206.028r-206.055r-206.067

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Section 58. Section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—An excise tax of 5.7 cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, 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. Fuel taxed pursuant to this part shall not be subject to the taxes imposed by s. 206.102 ss. 336.0217-336.0257 and 336.026.

Section 59. Section 206.9845, Florida Statutes, is amended to read:

206.9845 Distribution of proceeds.—Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.555 ss. 206.45. Such moneys, exclusive of the service charge imposed by s. 215.20 and exclusive of refunds granted pursuant to s. 206.9855, shall be distributed monthly to the State Transportation Trust Fund.

Section 60. Subsection (1) of section 206.9931, Florida Statutes, as amended by chapters 87-6, 87-99, and 87-101, Laws of Florida, is amended to read:

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206.9931 Administrative provisions.--

(1) Any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed pursuant to other parts of this chapter is hereby required to register and become licensed for the purposes of this part. Such person shall register as either a producer or importer of pollutants and shall be subject to all applicable registration and licensing provisions of this chapter, as if fully set out in this part and made expressly applicable to the taxes imposed herein, including, but not limited to, ss. 206.151, 206.152, 206.154, 206.162, 206.171, 206.172, and 206.174.

For the purposes of this section, registrations required exclusively for this part shall be made within 90 days of July 1, 1986, for existing businesses, or prior to the first production or importation of pollutants for businesses created after July 1, 1986. The fee for registration shall be $30. Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 61. Subsection (2) of section 206.9941, Florida Statutes, is amended to read:

206.9941 Exemptions.--

(2) Petroleum products exported from the first storage facility at which they are held in this state by the licensed refiner, importer, jobber, wholesaler, producer, or dealer who first imported said products are exempt from the tax imposed under s. 206.9935(3).

Section 62. Subsection (1) of section 206.9942, Florida Statutes, is amended to read:

CODING: Words struck are deletions; words underlined are additions.
206.9942 Refunds and credits.--

(1) Any licensed refiner, importer, producer, jobber, wholesaler, or dealer who has purchased petroleum products, who has paid the tax pursuant to s. 206.9935(3) to his supplier, and who subsequently exports said products from the state may deduct the amount of tax paid thereon pursuant to s. 206.9935(3) from the amount owed to the state and remitted pursuant to s. 206.9931(2) or may apply for a refund of the amount of tax paid thereon pursuant to s. 206.9935(3).

Administrative procedures governing such refunds shall be those specified in s. 206.285 ss-227-67, except for the provisions requiring refund permits.

Section 63. Section 207.003, Florida Statutes, is amended to read:

207.003 Privilege tax levied.--A tax for the privilege of operating any commercial motor vehicle upon the public highways of this state shall be levied upon every motor carrier at a rate which includes the rate provided in s. 206.101 or s. 206.703(1), chapter 206-and-the-sales-tax-imposed by-part-II-of-chapter-212 on each gallon of special fuel or motor fuel used for the propulsion of a commercial motor vehicle by such motor carrier within the state.

Section 64. Section 207.026, Florida Statutes, as amended by section 13 of chapter 87-198, Laws of Florida, is amended to read:

207.026 Allocation of tax.--All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, from which the following transfers shall be made: After withholding $50,000 from the proceeds therefrom, to be used as a revolving cash balance, and the

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amount of funds necessary for the administration and
enforcement of this tax, all other moneys shall be transferred
in the same manner and for the same purpose as provided in ss.
206.565, 206.573, 206.575, and 206.585 ss.-206.41r-206.45r
206.68r-206.605r-and-212.69.

Section 65. Paragraph (g) of subsection (l) of section
212.05, Florida Statutes, as amended by chapter 87-548, Laws
of Florida, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared
to be the legislative intent that every person is exercising a
taxable privilege who engages in the business of selling
tangible personal property at retail in this state, including
the business of making mail order sales, or who rents or
furnishes any of the things or services taxable under this
section, or who stores for use or consumption in this state
any item or article of tangible personal property as defined
herein and who leases or rents such property within the state.

(a) For the exercise of such privilege, a tax is
levied on each taxable transaction or incident, which tax is
due and payable as follows:

(g) At-the-rate-of-5-percent-of-the-price,-as
determined-pursuant-to-part-ff-of-this-chapter,-of-each-gallon
of-motor-fuel-or-special-fuel-taxable-pursuant-to-that-part,
except-that Motor fuel and special fuel expressly taxable
under this part shall be taxed as provided in paragraphs (a)
and (b).

Section 66. Paragraph (a) of subsection (4) and
paragraph (e) of subsection (5) of section 212.08, Florida
Statutes, as amended by chapter 87-548, Laws of Florida, are
amended to read:

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212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.--

(a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in s. 206.703(1)(b) par--ff. Motor fuels and special fuels are taxable as provided in s. 206.703(1)(b) par--ff, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier, such

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ratio to be determined at the close of the fiscal year of the
carrier. This ratio shall be applied each month to the total
Florida purchases made in this state of gasoline and other
fuels to establish that portion of the total used and consumed
in intrastate movement and subject to tax under this part.
Fuels used exclusively in intrastate commerce do not qualify
for the proration of tax.

3. The transmission or wheeling of electricity.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(e) Gas used for certain agricultural purposes.--

Butane gas, propane gas, and all other forms of liquefied
petroleum gases are exempt from the tax imposed by this
chapter if used in any tractor, vehicle, or other farm
equipment which is used exclusively on a farm or for
processing farm products on the farm and no part of which gas
is used in any vehicle or equipment driven or operated on the
public highways of this state. This restriction does not
apply to the movement of farm vehicles or farm equipment
between farms. The transporting of bees by water and the
operating of equipment used in the apiary of a beekeeper is
also deemed an exempt use. This exemption shall inure to the
taxpayer only through refund of previously paid taxes.

Refunds under this paragraph shall be authorized and
administered as provided in s. 206.285 and 212.69.

Section 67. Section 336.021, Florida Statutes, is
amended to read:

336.021 County transportation system; levy of voted
gas tax on motor fuel or and special fuel.--

(1) Any county in the state which imposes a tax
pursuant to s. 206.102(1) or s. 206.703(2)(a) shall use the
revenues from such tax in the discretion of its governing
body-and-subject-to-a-referendum may impose in addition to
all other taxes required or allowed by law a 1-cent voted-gas
tax upon every gallon of motor fuel and special fuel sold in
such county and taxed under the provisions of part I or part
II of chapter 206, for the purpose of paying the costs and
expenses of establishing, operating, and maintaining a
transportation system and related facilities and the cost of
acquisition, construction, reconstruction, and maintenance of
roads and streets. The governing body of the county may
provide that the referendum be worded to limit the number of
years such tax will remain in effect. The governing body of
the county may, by joint agreement with one or more of the
municipalities located therein, provide for these
transportation purposes and the distribution of the proceeds
of this tax within both the unincorporated and incorporated
areas of the county. The tax shall be collected and remitted
by any person engaged in selling at retail motor fuel or using
or selling at retail special fuel within a county in which the
tax is authorized and shall be distributed monthly by the
department to the county where collected. The provisions for
refund provided in ss. 206.625 and 206.64 shall not be
applicable to such tax levied by any county. Any person
licensed under part I or part II of chapter 206 who uses motor
fuel or special fuel or who engages in selling motor fuel or
special fuel at retail shall deduct from the amount of tax
shown by the report to be payable an amount equivalent to 3
percent of the tax on motor or special fuel imposed by this
section which deduction is hereby allowed on account of
services and expenses in complying with the provisions of the
law if the amount of taxes due and remitted to the
department for the reporting period exceeds $1,000, the 3-

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

(2) The-additional-tax-collected-by-the-department
pursuant-to-subsection-(1) shall-be-transferred-to-the-Voted
Gas-Tax-Trust-Fund, which-fund-is-created-for-distribution-to
the-county-in-which-the-tax-was-collected.--The-department-has
the-authority-to-prescribe-and-publish-all-forms-upon-which
reports-shall-be-made-to-it-and-other-forms-and-records-deemed
to-be-necessary-for-proper-administration-and-collection-of
the-tax-levied-by-any-county-and-shall-promulgate-such-rules
as-may-be-necessary-for-the-enforcement-of-this-section.--Which
rules-shall-have-the-full-force-and-effect-of-law.--The
sections-of-Chapter-2667-including-but-not-limited-to-those
sections-relating-to-timely-filing-of-reports-and-tax
collected-suits-for-collection-of-unpaid-taxes, the-department
warrants-for-collection-of-unpaid-taxes, penalties-interest,
retention-of-records, inspection-of-records, liens-on
property, foreclosure, and-enforcement-and-collection-also
apply-to-the-tax-authorized-in-this-section.

(2) It is expressly recognized and declared by the
Legislature that the establishment, operation, and maintenance
of a transportation system and related facilities and the
acquisition, construction, reconstruction, and maintenance of
roads and streets fulfill a public purpose and that payment of
the costs and expenses therefor may be made from county
general funds, special taxing district funds, or such other

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funds as may be authorized by special or general law.

Counties are authorized to expend the funds received under this section in conjunction with the state or federal government in joint projects.

(3) Within 10 days after the ordinance levying the tax is approved, the county shall provide the department with a certified copy of the ordinance and

(4) A certified copy of the ordinance proposing to levying the tax allowed by this section shall be furnished by the county to the department within 10 days of approval of such ordinance. Furthermore, the county levying such tax shall notify the department within 10 days after the passage of the referendum of such passage and of the time period during which the tax will be levied. The failure to furnish the certified copy will not invalidate the passage of the ordinance.

(4)5 The tax shall not take effect until at least 60 days after the county notifies the department of passage of the referendum. No decision to rescind the tax shall take effect until at least 60 days after the county notifies the department of such decision.

Section 68. Section 336.025, Florida Statutes, is amended to read:

336.025 County transportation system; levy of local option gas tax on motor fuel or and special fuel.—

(1) In addition to other taxes allowed by law there may be imposed as provided in this section a 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option gas tax upon every gallon of motor fuel and special fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.
(a) Any tax imposed under s. 206.102(2) or s. 206.703(2)(b) shall be imposed before July 1 to be effective September 1 of any year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (2)(a) or subsection (3)(a). Upon expiration, the tax may be reimposed provided that a redetermination of the method of distribution is made as provided in this section.

(b) County and municipal governments shall utilize moneys received pursuant to this section only for transportation expenditures.

(c) Any tax imposed pursuant to s. 206.102(2) or s. 206.703(2)(b) this section may be extended on a majority vote of the governing body of the county. A redetermination of the method of distribution shall be established pursuant to subsection (2)(a) or subsection (3)(a), if, after July 1, 1986, the tax is extended or the tax rate changed, for the period of extension or for the additional tax.

(d) Local governments may use the services of the Division of Bond Finance of the Department of General Services pursuant to the State Bond Act to issue any bonds through the provisions of this section and may pledge the revenues from the local option gas tax to secure the payment of the bonds. In no case may a jurisdiction issue bonds pursuant to this section more frequently than once per year. Counties and municipalities may join together for the issuance of bonds issued pursuant to this section.

The tax shall be collected and remitted by any person engaged in selling at retail motor fuel or using or selling at retail special fuel within a county in which the tax is authorized and shall be distributed monthly by the

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Department of Revenue to the county where collected, the tax remitted to the Department of Revenue pursuant to this section shall be transferred to the local option gas tax trust fund which fund is created for distribution to the county and eligible municipalities within the county in which the tax was collected and which fund is subject to the service charge imposed in chapter 225, the Department of Revenue has the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax and shall promulgate such rules as may be necessary for the enforcement of this section. The sections of chapter 206, including but not limited to those sections relating to timely filing of reports and tax collected suits for collection of unpaid taxes, department warrants for collection of unpaid taxes penalties, interest, retention of records, inspection of records, items on property, foreclosure and enforcement and collection also apply to the tax authorized in this section:

The provisions for refund provided in sections 206, 625 are not applicable to such tax levied by any county. Any person licensed under parts I or part II of chapter 206 who uses motor fuel or special fuel or who engages in selling motor fuel or special fuel at retail shall deduct from the amount of tax shown by the report to be payable an amount equivalent to 3 percent of the tax on motor or special fuels imposed by this section which deduction is hereby allowed on account of services and expenses in complying with the provisions of the law if the amount of taxes due and remitted to the Department of Revenue for the reporting period exceeds $70,000, the 3 percent allowance shall be reduced to 1
percent-for-all-amounts-in-excess-of-$1,000.--However,-this
allowance-shall-not-be-deductible-unless-payment-of-the-tax-is
made-on-or-before-the-20th-day-of-the-month-as-required.--The
United-States-post-office-date-stamped-on-the-envelope-in
which-the-report-is-submitted-shall-be-considered-as-the-date
the-report-is-received-by-the-Department-of-Revenue.--The
provisions-for-refund-in-§-212:67+-(a)+and-(e)+apply-to-such
tax,-and-the-refund-shall-be-administered-in-accordance-with
the-provisions-of-§-212:67.---However-the-amount-refunded
shall-be-deducted-from-moneys-in-the-local-Option-Gas-Tax
Trust-Fund-otherwise-distributed-to-the-county-area-in-which
the-tax-is-levied.

(2)+ The tax shall be imposed using either of the
following procedures:

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

1. The county may, prior to June 1, establish by
interlocal agreement with one or more of the municipalities
located therein, representing a majority of the population of
the incorporated area within the county, a distribution
formula for dividing the entire proceeds of the local option
gas tax among the county government and all eligible
municipalities within the county. If no interlocal agreement
exists, a new interlocal agreement may be established prior to
August 1, 1986, or June 1 of any year thereafter pursuant to
this subparagraph. However, any interlocal agreement agreed
to under this subparagraph after the initial imposition of the
tax, extension of the tax, or change in the tax rate
authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

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

(b) If no interlocal agreement or resolution is adopted pursuant to subparagraph (a)1. or subparagraph (a)2., municipalities representing more than 50 percent of the county population may, prior to June 20, adopt uniform resolutions approving the local option tax, establishing the duration of the levy and the rate authorized in s. 206.102(2) or s. 206.703(2)(b), and setting the date for a countywide referendum on whether to impose the tax. A referendum shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs thereof. The tax shall be imposed and collected countywide on September 1 following 30 days after voter approval.

(3)(a) If the tax is imposed under the circumstances of subparagraph (2)(a)2. or subparagraph (2)(b), the proceeds of the tax shall be distributed among the county government and eligible municipalities based on the transportation expenditures of each for the immediately

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preceding 5 fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. After the initial imposition of a tax being distributed pursuant to the provisions of this paragraph, the proportions shall be recalculated every 10 years based on the transportation expenditures of the immediately preceding 5 years. However, such recalculation shall under no circumstances materially or adversely affect the rights of holders of bonds outstanding on July 1, 1986, which are backed by taxes authorized in s. 206.102(2) or s. 206.703(2)(b) this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the recalculation.

(b) Any newly incorporated municipality which is eligible for participation in the distribution of moneys under parts II and VI of chapter 218 and which is located in a county levying the tax imposed pursuant to s. 206.102(2) or s. 206.703(2)(b) this section is entitled to receive a share of the tax revenues. Distribution of such revenues to a newly incorporated municipality shall begin in the first full fiscal year following incorporation. The distribution to a newly incorporated municipality shall be:

1. Equal to the county's per lane mile expenditure in the previous year times the lane miles within the jurisdiction or responsibility of the municipality, in which case the county's share shall be reduced proportionately; or
2. Determined by the local act incorporating the municipality.
Such distribution shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized in s. 206.102(2) or s. 206.703(2)(b) this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the redistribution.

(4) (a) By July 1 of each year, the county shall notify the Department of Revenue of the rate of tax levied, of its decision to rescind the tax, if applicable, and provide the department with a certified copy of the interlocal agreement established under subparagraph (2)(a)1., with distribution proportions established by such agreement or pursuant to subsection (3), if applicable. No decision to rescind the tax shall take effect until at least 60 days after the county notifies the Department of Revenue of such decision.

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

(5) Only those municipalities and counties eligible for participation in the distribution of moneys under parts II and VI of chapter 218 are eligible to receive moneys under

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this section. Any funds otherwise undistributed because of
ineligibility shall be distributed to eligible governments
within the county in proportion to other moneys distributed
pursuant to this section.

(6) For the purposes of this section, the term
"transportation expenditures" means expenditures by the local
government from local or state shared revenue sources,
excluding expenditures of bond proceeds, for the following
programs:

(a) Public transportation operations and maintenance.
(b) Roadway and right-of-way maintenance and
equipment.
(c) Roadway and right-of-way drainage.
(d) Streetlighting.
(e) Traffic signs, traffic engineering, signalization,
and pavement markings.
(f) Bridge maintenance and operation.
(g) Debt service and current expenditures for
transportation capital projects in the foregoing program
areas, including construction or reconstruction of roads.

Section 69. Section 336.026, Florida Statutes, is
amended to read:

336.026 Metropolitan transportation system; levy of
local option gas tax on motor fuel and special fuel.--

(1) In addition to other taxes allowed by law,
including the 6-cent local option gas tax on motor fuel and
special fuel as provided in ss. 336.025, there may be imposed
as provided herein a 1-cent, 2-cent, 3-cent, or 4-cent local
option gas tax upon every gallon of motor fuel and special
fuel sold in a regional ground transportation area as defined

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Any tax imposed under s. 206.102(3) or s. 206.703(2)(c) shall take effect effective 60 days after the first day of the month following the referendum ratifying the regional ground transportation plan pursuant to s. 163.805. The tax shall only be collected in those counties in a regional ground transportation area, as defined in s. 163.803(4), which have ratified the regional ground transportation plan adopted by the metropolitan transportation authority pursuant to s. 163.805.

Metropolitan transportation authorities shall utilize moneys received pursuant to this section only as authorized in the Metropolitan Transportation Authority Act.

The tax shall be collected and remitted by any person engaged in selling at retail motor fuel or using or selling at retail special fuel within a regional ground transportation area in which the tax is authorized and shall be distributed monthly by the department to the authority in the regional ground transportation area where collected.

The tax remitted to the Department of Revenue pursuant to this section shall be transferred to the Local Option Gas Tax Trust Fund which fund is created for distribution to the Metropolitan Transportation Authority in the regional ground transportation area in which the tax was collected and which fund is subject to the service charge imposed in chapter 215.

The department has the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax and shall promulgate such rules as may be necessary for the enforcement of this section.

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Sections of chapter 2067, including but not limited to, those sections relating to timely filing of reports and tax collected, suits for collection of unpaid taxes, department warrants for collection of unpaid taxes, penalties, interest, retention of records, inspection of records, inspection of property, foreclosure and enforcement and collection also apply to the tax authorized in this section.

(b) The provisions for refund provided in ss. 206.625 and 206.64 are not applicable to such tax levied by any authority. The provisions for refund in ss. 206.675 and 206.68 apply to such tax and the refund shall be administered in accordance with the provisions of ss. 206.67 and 206.68. However, the amount refunded shall be deducted from moneys in the local Option Gas-Tax Trust Fund otherwise distributed to the authority in the regional ground transportation area in which the tax is levied.

(2) At least 60 days prior to the effective date of any tax under this section, the authority shall provide the Department of Revenue with the amount of the tax levied and imposed under this section pursuant to the regional ground transportation plan approved in the referendum required by s. 163.805. No decision to rescind the tax may take effect until at least 60 days after the authority notifies the Department of Revenue of such decision.


Coding: Words stricken are deletions; words underlined are additions.
Section 71. Section 7.52, Florida Statutes, is amended to read:

7.52 Pinellas County.—The boundary lines of Pinellas County are as follows: Beginning at a point where the line dividing townships twenty-six and twenty-seven south if projected in a westerly direction intersects with the western boundary of the jurisdictional waters of the State of Florida in the Gulf of Mexico; thence east on said line to the northeast corner of section one in township twenty-seven south, range sixteen east; thence south to the shore of old Tampa Bay; thence in a southerly direction through the middle waters of old Tampa Bay and Tampa Bay, to a point in Tampa Bay due east of the north shore of Mullet Key, thence due west to a point due north of a point 100 yards due east from the easternmost point of Mullet Key; thence in a line 100 yards from the shoreline around the southern portion of Mullet Key to a point 100 yards west of the northernmost shore of Mullet Key; thence west to a point where such line intersects the western boundary of the jurisdictional waters of the State of Florida in the Gulf of Mexico and northward, including the waters of said gulf within the jurisdiction of the State of Florida, to point of beginning; provided however that nothing herein contained shall now or at any time hereafter in any manner whatsoever repeal, amend, change or disturb in any manner whatsoever the apportionment, allotment, allocation, basis of computation, or other formula wherein and whereby the participation in the gas tax by both counties hereto under and by virtue of s. 206.565 ss.7-206.41 and—206.47 or any law hereafter enacted, is changed so that Hillsborough County

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would receive a lesser amount and Pinellas County would receive a greater amount of such gas funds or tax by reason of the change of the boundary line herein authorized.

Section 72. Paragraph (a) of subsection (11) of section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or amendment thereto.--

(11) ADMINISTRATION COMMISSION.--

(a) If the Administration Commission, upon a hearing pursuant to subsection (9) or subsection (10), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government shall not be eligible for grants administered under the following programs:

1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049.

2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.

3. Revenue sharing pursuant to ss. 206.573, ss. 206.60, 210.20, and 218.61 and part I of chapter 212, to the extent not pledged to pay back bonds.

Section 73. Subsection (3) of section 207.023, Florida Statutes, as amended by chapter 87-198, Laws of Florida, is amended to read:

CODING: Words stricken are deletions; words underlined are additions.
207.023 Authority to inspect vehicles, make arrests, seize property, and execute warrants.--

(3) Commercial motor vehicles owned or operated by any motor carrier who refuses to comply with this chapter may be seized by authorized agents or employees of the Department of Highway Safety and Motor Vehicles, the Department of Agriculture and Consumer Services, or the Department of Transportation; or authorized agents and employees of any of these departments also may seize property as set out in ss. 206.435, 206.443, and 206.465. Upon such seizure, the property shall be surrendered without delay to the sheriff of the county where the property was seized for further proceedings.

Section 74. Section 207.026, Florida Statutes, as amended by sections 46 and 47 of chapter 87-548, Laws of Florida, is amended to read:

207.026 Allocation of tax.--All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, from which the following transfers shall be made: After withholding $50,000 from the proceeds therefrom, to be used as a revolving cash balance, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in ss. 206.555, 206.565, 206.573, 206.575, 206.585, and 206.785 ss.-206-417-206-457-206-607-206-685-212-69.

Section 75. 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.--

CODING: Words struck are deletions; words underlined are additions.
(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(4) and interest earned, in excess of $288 million in fiscal year 1987-1988 and $550 million thereafter, shall revert to the General Revenue Fund.

Section 76. Subsections (1), (2), (3), (4), (5), and (14) of section 215.22, Florida Statutes, are amended to read:

215.22 Certain moneys and certain trust funds enumerated.--The following described moneys and income of a revenue nature deposited in the following described trust funds, by whatever name designated, shall be those from which the deductions authorized by s. 215.20 shall be made:

(1) The Gas Tax Collection Trust Fund created in s. 206.555.

(2) All income derived from outdoor advertising and overweight violations which is deposited in the State Transportation Trust Fund created in s. 206.563.

(3) All taxes levied on motor fuels other than gasoline levied pursuant to the provisions of s. 206.755.

(4) The State Alternative Fuel User Fee Clearing Trust Fund established pursuant to s. 206.786.

CODING: Words stricken are deletions; words underlined are additions.
(5) The Local Alternative Fuel User Fee Clearing Trust Fund established pursuant to s. 206.786(2) f-206.879+2+

(14) The Local Option Gas Tax Trust Fund created pursuant to s. 206.102 f-336.025.

The enumeration of the above moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust fund should be exempt herefrom, as it is the purpose of this law to exempt all trust funds from its force and effect when, by the operation of this law, federal matching funds or contributions to any trust fund would be lost to the state.

Section 77. Paragraph (b) of subsection (6) of section 218.21, Florida Statutes, is amended to read.

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

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

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then existing s. 210.20(2)(a), tax on cigarettes; s. 323.16(3), road tax; and s. 206.575 f-206.605, tax on motor fuel; except that any government exercising municipal powers pursuant to s. 6(f), Art. VIII of the State Constitution shall not receive less funds from any such revenue sharing trust fund.

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fund than the aggregate amount it received from the state in the preceding state fiscal year under the provisions of this part, plus a 7 percent increase in such amount.

Section 78. Section 336.024, Florida Statutes, is amended to read:

336.024 Distribution of constitutional gas tax.-- Effective July 1, 1983, the State Board of Administration shall assume the responsibility for distribution of the counties' 80-percent share of the constitutional gas tax in the same manner as the 20-percent share is currently distributed pursuant to s. 206.565 ss-206.147; however, the State Board of Administration shall assure that county funds are made available to the department to be held in escrow for any construction underway on behalf of the county pursuant to resolution of the county governing body.

Section 79. Paragraph (c) of subsection (11) of section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-376.319.--When used in ss. 376.30-376.319, unless the context clearly requires otherwise, the term:

(11) "Petroleum storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product as defined herein, and which:

(c) Is located in a storage facility licensed with the Department of Revenue under s. 206.154 ss-206.022 or s. 206.9930, excluding offsite pipelines;

Section 80. Section 849.092, Florida Statutes, is amended to read:

CODING: Words struck are deletions; words underlined are additions.
849.092 Retail merchandising business; certain activities permitted.--The provisions of s. 849.09 shall not be construed to prohibit or prevent persons who are licensed to conduct business under s. 206.156, from giving away prizes to persons selected by lot, if such prizes are made on the following conditions:

(1) Such gifts are conducted as advertising and promotional undertakings, in good faith, solely for the purpose of advertising the goods, wares, merchandise and business of such licensee; and

(2) The principal business of such licensee is the business permitted to be licensed under s. 206.156, and

(3) No person to be eligible to receive such gift shall ever be required to:

(a) Pay any tangible consideration to such licensee in the form of money or other property or thing of value, or

(b) Purchase any goods, wares, merchandise or anything of value from such licensee.

(4) The person selected to receive any such gift or prize offered by any such licensee in connection with any such advertising or promotion is notified of his selection at his last known address. Newspapers, magazines, television and radio stations may, without violating any law, publish and broadcast advertising matter describing such advertising and promotional undertakings of such licensees which may contain instructions pursuant to which persons desiring to become eligible for such gifts or prizes may make their name and address known to such licensee.

(5) All brochures, advertisements, promotional material, and entry blanks promoting such undertakings shall

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contain a clause stating that residents of Florida are
entitled to participate in such undertakings and are eligible
to win gifts or prizes.

Section 81. Sections 206.06, 206.25, 206.41, 206.435,
206.49, 206.625, 206.63, 206.64, 206.93, 206.94, 206.945,
212.60, 212.62, 212.6201, 212.63, 212.635, 212.64, 212.65,
212.655, and 212.66, Florida Statutes, and section 212.61,
Florida Statutes, as amended by section 34 of chapter 87-548,
Laws of Florida, are hereby repealed.

Section 82. This act shall take effect July 1, 1988,
or upon becoming a law, whichever occurs later.

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 6 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.
By the Committee on Finance, Taxation and Claims

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,

CODING: Words **stricken** are deletions; words *underlined* are additions.
Be It Enacted by the Legislature of the State of Florida:

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

206.101 State gas taxes on motor fuel.--

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

(a) An excise tax of 2 cents per gallon, which is the tax levied by s. 16, Art. IX of the Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 Constitution, as amended, which is therein referred to as the "second gas tax," and which is designated as the "constitutional gas tax";

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

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

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

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

2. The initially established price is $1.148 per gallon.

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

(2) Revenues from the taxes imposed by this section become state funds at the moment collected by any person. Each refiner, importer, jobber, retail dealer, or wholesaler, shall act as an agent for the state in collecting such taxes whether or not he is the ultimate seller.

(3) For purposes of this section, 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.

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

206.102 Local option taxes on motor fuel.--
(1) Any county in the state, at the discretion of its
governing body and subject to a referendum, may impose,
pursuant to s. 336.021, in addition to all other taxes
required or allowed by law, a 1-cent voted gas tax upon every
gallon of motor fuel sold in such county and taxed under the
provisions of s. 206.101(1)(a), (b), or (c) for the purpose of
paying the costs and expenses of establishing, operating, and
maintaining a transportation system and related facilities and
the cost of acquisition, construction, reconstruction, and
maintenance of roads and streets. The referendum may limit
the number of years the tax will remain in effect.
(2) In addition to other taxes allowed by law, there
may be imposed as provided in s. 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 sold in a county and taxed under
the provisions of s. 206.101(1)(a), (b), or (c).
(3) In addition to other taxes allowed by law,
including the local option gas tax on motor fuel as provided
in subsection (2), there may be imposed, as provided in s.
314-460C-88

336.026, a 1-cent, 2-cent, 3-cent, or 4-cent local option gas
tax upon every gallon of motor fuel sold in a regional ground
transportation area as defined in s. 163.803(4) and taxed
pursuant to s. 206.101(1)(a), (b), or (c).

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

(5) Any refiner, importer, wholesaler, jobber, or
retail dealer who collects any tax authorized under subsection
(1) or subsection (2) shall deduct from the amount of tax
shown by the report to be payable an amount equivalent to 3
percent of the tax on motor fuels imposed by this section,
which deduction is hereby allowed on account of services and
expenses in complying with the provisions of the law. If the
amount of taxes due and remitted to the department for the
reporting period exceeds $1,000, the 3-percent allowance shall
be reduced to 1 percent for all amounts in excess of $1,000.
However, this allowance shall not be deductible unless payment
of the tax is made on or before the 20th day of the month as
required. The United States post office date stamped on the

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envelope in which the report is submitted shall be considered as the date the report is received by the department.

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

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

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
(2) Any person engaged in selling motor fuel shall add the amount of the gas tax levied under s. 206.101 or s. 206.102 to the price of the motor fuel sold by him and shall state the tax separately from the price of the motor fuel on all invoices. However, this section shall not apply to retail sales by a retail service station.

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

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

206.151 Application for license; provisional license, refiners, importers, jobbers, and wholesalers.--

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

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

(b) Imports and withdraws for use within this state by himself or others any motor fuel from the tank car, truck, or other original container or package in which such motor fuel was imported into this state.

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

CODING: Words stricken are deletions; words underlined are additions.
(d) Imports into this state from any other state or foreign country, or receives by any means into this state, any motor fuel which is intended to be used for consumption in this state and keeps such fuel in storage in this state for a period of 24 hours or more after it loses its interstate or foreign commerce character as a shipment in interstate or foreign commerce.

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

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

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

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

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

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he shall also file with the application a certified copy of the certificate or license issued by the Department of State showing that such corporation is authorized to transact business in the state.
(d) The location or locations of the refinery owned by such person, and the volume of each refined petroleum product produced at such refinery.

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license tax.

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

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

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

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

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

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license tax.
To procure a wholesaler or jobber of motor fuel license, a person shall file with the department an application under oath and in such form as the department may prescribe, setting forth:

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

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

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

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

Any importer who establishes a business location in this state must, prior to beginning business in the state, apply for and be issued a jobber's or a wholesaler's license. An importer's license becomes invalid on the date business operations begin from a location within this state.

Upon the filing of an application for a license and concurrently therewith, a bond of the character stipulated and in the amount provided for shall be filed with the
department. No license shall be issued upon any application unless accompanied by such a bond, except as provided in s. 206.174(1).

(7)(a) A person, partnership, or private corporation which is beginning a new business and which applies for a license as a refiner, importer, jobber, or wholesaler shall be issued a provisional license. Once the department's background investigation is completed and the department has determined that the applicant is of good moral character and has not been convicted of any offense specified in s. 206.164, a permanent license shall be issued.

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

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

206.152 Application for license; jobbers-and-carriers.--

(1) It is unlawful for any person to engage in business as a jobber-or-carrier of motor fuel within this state unless he is the holder of an unrevoked license issued by the department to engage in such business.

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

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

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

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

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

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

206.156 License tax upon retail dealers; dealer transfer fee; monthly reports; penalty.--

(1) Every retail dealer shall pay a license tax of $5 per annum to the state. No license shall be transferred without an application having been filed with the department and payment of a fee of $5.

(2) On or before the 16th day of each calendar month, each retail dealer shall file on forms prescribed by the department, reports to the department of all purchases or other acquisition and sales or other disposition of motor fuel during the preceding calendar month and remit the taxes pursuant to §336.021, 336.025, and 336.026.

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bt--\textbf{a}ny-person-required-to-file-under-this
subsection-fails-to-make-a-complete-report-the-department-may
impose-in-addition-to-any-other-penalty-or-interest-duer-a
penalty-in-the-amount-of-\$310.

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

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

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

(c) Fails to pay the gas tax as required by part I or
part II of this chapter or-the-sales-tax-required-under-part
\textbf{3} of chapter-212 and the laws of the state;

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

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

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

(1) No corporation, except a publicly held corporation
regularly traded on a national securities exchange and not
over the counter, general or limited partnership, sole
proprietorship, business trust, joint venture or
unincorporated association, or other business entity shall
hold a refiner, importer, jobber, or wholesaler license in
this state if any one of the persons or entities specified in
paragraph (a) has been determined by the department not to be

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of good moral character or has been convicted of any offense specified in paragraph (b):

(a) 1. The licenseholder.
2. The sole proprietor of the licenseholder.
3. A corporate officer or director of the licenseholder.
4. A general or limited partner of the licenseholder.
5. A trustee of the licenseholder.
6. A member of an unincorporated association
7. A joint venturer of the licenseholder.
8. The owner of any equity interest in the licenseholder, whether as a common shareholder, general or limited partner, voting trustee, or trust beneficiary.
9. An owner of any interest in the licenseholder, including any immediate family member of the owner, or holder of any debt, mortgage, contract, or concession from the licenseholder, who by virtue thereof is able to control the business of the licenseholder.

(b) 1. A felony in this state.
2. Any felony in any other state which would be a felony if committed in this state under the laws of Florida.
3. Any felony under the laws of the United States.

(2)(a) If the applicant for a license as specified under subsection (1) or a licenseholder as specified in paragraph (1)(a) has received a full pardon or a restoration of civil rights with respect to the conviction specified in paragraph (1)(b), then the conviction shall not constitute an absolute bar to the issuance or renewal of a license or ground for the revocation or suspension of a license.
(b) A corporation which has been convicted of a felony shall be entitled to apply for and receive a restoration of its civil rights in the same manner and on the same grounds as an individual.

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

(4) The circuit courts shall have jurisdiction to decide a petition brought by a holder of a license who shows that his or its license is in jeopardy of suspension or revocation under subsection (3) and that such licenseholder is unable to agree upon the terms of divestiture of interest with the person specified in subparagraphs (1)(a)3.-9. who has been convicted of an offense specified in paragraph (1)(b). The court shall determine the reasonable value of the interest of the convicted person and order a divestiture upon such terms and conditions as it finds just. In determining the value of

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the interest of the convicted person, the court may consider,
among other matters, the value of the assets of the
licenseholder, its good will and value as a going concern,
recent and expected future earnings, and other criteria usual
and customary in the sale of like enterprises.

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

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

206.166 Licenses not assignable.--
(1) No license granted under the provisions of this
chapter shall be transferred or assigned except upon
application to, and written consent and approval of the
transferee by, the department pursuant to the provisions of s.
206.164 .

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

(3) Whenever a license is held by a corporation or
business entity other than an individual, no transfer of the
stock or other evidence of ownership or equity in the
licenseholder shall be made, absent the prior approval of the
transferee by the department pursuant to the provisions of s.
206.164 .
Section 10. Section 206.028, Florida Statutes, is renumbered as section 206.168, Florida Statutes, and subsection (1) of said section is amended to read:

\[206.168\text{ Costs of investigation; department to charge applicants.--}\]

(1) The department is authorized to charge any anticipated costs incurred by the department in determining the eligibility of any person or entity specified in s. 206.164(1)(a) to hold a license against such person or entity.

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

\[206.171\text{ Licensing of refiners, importers, jobbers, and wholesalers.--}\]

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

(2) The license so issued by the department shall not be assignable except pursuant to s. 206.166, shall be valid only for the person in whose name it has been issued, and shall be displayed conspicuously in the principal place of business in the state.

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

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

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

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

206.174 206.05 Bond required of licensed refiner, importer, jobber, or wholesaler.—

(1) Each refiner, importer, jobber, or wholesaler, except a municipality, county, school board, state agency, federal agency, or special district which is licensed under this part, shall file with the department a bond in a penal sum of not more than $100,000, such sum to be approximately 3 times the average monthly gas-tax-and-sales tax imposed pursuant to s. 206.101 on motor fuel paid or due during the preceding 12 calendar months under the laws of this state.

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The bond shall be in such form as may be approved by the department, executed by a surety company duly licensed to do business under the laws of the state as surety thereon, and conditioned upon the prompt filing of true reports and the payment to the department of any and all gas taxes and sales taxes on motor fuel collected pursuant to chapter 242 which are now or which hereafter may be levied or imposed by the state, together with any and all penalties and interest thereon, and generally upon faithful compliance with the provisions of the gas tax and sales-tax laws of the state.

The licensee shall be the principal obligor, and the state shall be the obligee. An assigned time deposit or irrevocable letter of credit may be accepted in lieu of a surety bond.

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

(3) In the event that the department decides that the amount of the existing bond is insufficient to ensure payment to the state of the amount of the tax and any penalties and interest for which the person is or may at any time become liable, then that person shall forthwith, upon the written demand of the department, file additional bond in the same manner and form with like security thereon as hereinbefore provided, and the department shall forthwith cancel the

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license of anyone failing to file an additional bond as herein provided.

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

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

206.176 206.065 Purchases by licensed wholesalers; authority to self-accrue and remit tax.--

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

3 (2) A wholesaler may self-accrue and remit the tax
4 under subsection (1) only if he:
5
6 (a) Made average monthly sales of not less than
7 150,000 gallons for the preceding 12-month period prior to
8 applying for the authority;
9
10 (b) Has been registered and filed timely reports and
11 made timely payments of the tax due for a period of 12 months
12 in accordance with the provisions of s. 206.202 et seq;
13
14 (c) Complies with the requirements of s. 206.174;
15
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
20 (e) Submits proper forms to the department as the
21 department may require.

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

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the department of the number of gallons of such products sold
by him during the preceding month and shall at the same time
pay to the department the amount of tax computed to be due.
However, if the 20th day falls on a Saturday, a Sunday, or a
federal or state legal holiday, returns shall be accepted if
postmarked on the next succeeding workday. The refiner,
importer, jobber, or wholesaler shall deduct from the amount
of tax shown by the report to be payable an amount equivalent
to 6 percent of the tax on motor fuels imposed by s.
206.101(l)(b) and (c) this-part not exceeding 500,000 taxable
gallons, and less an amount equivalent to 3 percent of the tax
on motor fuels imposed by s. 206.101(l)(b) and (c) this-part
in excess of 500,000 gallons but not exceeding 1 million
taxable gallons, which deduction is hereby allowed to the
refiner, importer, jobber, or wholesaler on account of
services and expenses in complying with the provisions of the
law. However, this allowance shall not be deductible unless
payment of the tax is made on or before the 20th day of the
month as herein required. The United States post-office date
stamped on the envelope in which the report is submitted shall
be considered as the date the report is received by the
department. Nothing in this subsection shall be construed to
authorize a deduction from the constitutional gas tax.

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

(3) All refiners, importers, jobbers, and wholesalers
shall report monthly.

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

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

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

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

Section 16. Section 206.09, Florida Statutes, is
renumbered as section 206.206, Florida Statutes, and
subsections (1) and (4) of said section are amended to read:

206.206 Reports from carriers transporting
motor fuel or similar products.—

(1) Every railroad company, pipeline company, water
transportation company, and common carrier transporting motor
fuel, casinghead gasoline, natural gasoline, naphtha, or
distillate, either in interstate or intrastate or foreign
commerce, to points within Florida, and every person
transporting motor fuel, casinghead gasoline, natural
gasoline, naphtha, or distillate, by whatever manner, to a
point in Florida from any point outside of said state, who is
not required by the provisions of part I, part II, or part III
of this chapter to be licensed under s. 206.151 or 206.02 or

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by the laws of Florida to make reports shall file a statement setting forth:

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

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

(c) The name and address of the owner or the names and addresses of the partners, if such person is a partnership, or the principal officers, if such person is a corporation or association.

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

Section 17. Section 206.10, Florida Statutes, is renumbered as section 206.225, Florida Statutes, and amended to read:

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

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

206.235 Reports required of refiners, importers, jobbers, and wholesalers.--Each refiner, importer, jobber, or wholesaler of motor fuels shall, when making his report to the Department of Revenue of the amount of such

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products sold or removed from storage in this state upon which
the tax provided is due and payable by him to the department,
at the same time report to the department each and every sale
made by such person of any quantity of motor fuel which shall
not have been at the time of such sale divested of its
interstate or foreign character, which report shall show the
name and business location of the person to whom the same is
sold in this state. Every refiner, importer, jobber, or
wholesaler shall, at the time other reports are required to be
made to the department, report to the department each and
every purchase of such products not theretofore divested of
their interstate or foreign character made by such person upon
which the tax is shown by the invoice thereof to have been
assumed for report and payment by the refiner, importer,
jobber, or wholesaler selling to him.

Section 19. Section 206.485, Florida Statutes, is
renumbered as section 206.245, Florida Statutes, and amended
to read:

206.245 Tracking system reporting
requirements.—The information required for tracking movements
of petroleum products pursuant to ss. 206.206, 206.213, and
206.235 shall be submitted in the manner prescribed by the executive director
of the department by rule. The rule shall include, but not be
limited to, the data elements, the format of the data
elements, and the method and medium of transmission to the
department.

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

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

(1) All motor fuel sold to the United States or its departments or agencies is exempt from any tax imposed by s. 206.101 or s. 206.102. Every refiner, importer, or Jobber or wholesaler of motor fuels shall be exempt from the payment of all excise taxes upon untaxed motor fuels sold by such licensee in the state to the United States or its departments or agencies when the motor fuel is sold and delivered by the refiner, importer, or Jobber in bulk lots of not less than 500 gallons in each delivery to and for the exclusive use by the United States or its departments or agencies.

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

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

(4) Wholesalers, refiners, importers, or Jobbers may, instead of filing a refund request, take credit for taxes paid.
(5) Refiners, importers, wholesalers, and jobbers are not exempt from the tax levied under this part or-part-II-of chapter-212 on motor fuel sold or delivered to post exchanges located on United States military reservations.

(6) All purchases of motor fuel by the United States or its departments or agencies when sold through or by post exchanges located on United States military reservations are subject to the tax levied under this part or-part-II-of chapter-212.

Section 21. Section 206.42, Florida Statutes, is renumbered as section 206.255, Florida Statutes, and amended to read:

206.255 206.42 Aviation gasoline exempt from excise tax.--

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

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

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(3) All sales of aviation motor fuel must be in compliance with s. 206.275 to qualify for the exemption.

Section 22. Section 206.41, Florida Statutes, is renumbered as section 206.263, Florida Statutes, and amended to read:

206.263 Sale of motor fuel for export; exemptions Constitutional-gas-tax-imposed.--

After export or 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; the tax which is the tax as levied by Art. X, § 9 of the Constitution of 1885, as amended, and continued by Art. X, § 9(c), Art. XII of the 1968 Constitution, as amended and which is here 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-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

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The sale of motor fuel for export from this state by a wholesaler, refiner, importer, or jobber 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 shall also be exempt but only if the purchaser of the motor fuel is duly licensed as a refiner or importer.

A wholesaler, refiner, importer, or jobber may be entitled to a refund of taxes paid on gallons of motor fuel exported by filling a refund request monthly. A refiner, importer, or wholesaler may instead of refund take credit for taxes paid on gallons exported on his monthly returns.

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Adequate shipping documentation shall include bills of lading and delivery tickets provided by the seller or by a common carrier hauling the fuel or by complete shipping logs provided by the purchaser along with receiving records from the location outside of the state.

Violation of any provision of this section may subject the licensee to both revocation of license and liability for taxes on all fuel claimed as exported from the state.

Motor fuel in the fuel tanks in any motor vehicle entering this state used to propel such motor vehicle shall be exempt from the taxes imposed by this part. "Fuel tanks" shall mean the reservoir or receptacle attached to the motor vehicle by the manufacturer as the container for fuel used to propel the vehicle.

Section 23. Section 206.425, Florida Statutes, is renumbered as section 206.275, Florida Statutes, and amended to read:

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

(1) Each refiner, jobber, wholesaler, or importer shall request signed affidavits or resale certificates of all persons who purchase or obtain motor fuel from such refiner, jobber, wholesaler, or importer and who are not required to pay the tax imposed by s. 206.101 or s. 206.102(1) or (2) this part at the time of such purchase. The affidavits or resale certificates shall show the license number issued by the department to purchasers who are authorized to buy motor fuel tax exempt and to act as agents of the state in collecting and

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remitting the tax. Such affidavits or resale certificates should be executed by the refiner, jobber, wholesaler, or importer before or at the time of the first sale or removal from storage.

(2) A refiner, wholesaler, jobber, or importer may, in lieu of obtaining an affidavit, include on the sale invoice or other document evidencing title passage the license number of the purchaser as well as the refiner's, wholesaler's, jobber's, or importer's license number at the time of the sale to exempt a specific transaction.

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

(4) 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 removal 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.

(5) A request for review shall be made in writing to the executive director of the department. If it is found that any person applying for relief under this chapter has paid the tax and is entitled to a refund, the Comptroller may issue the refund to that person.
Section 24. Section 212.67, Florida Statutes, is
renumbered as section 206.285, Florida Statutes, sections
206.626 and 206.13, Florida Statutes, are transferred to said
section as subsections (13) and (14), respectively, and said
section is amended to read:

206.285 212.67 Refunds.--

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

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

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(b) Refunds to retail dealers for shrinkage of motor fuel.--Every retail dealer licensed under s. 206.156 is entitled to a refund of 1.4 percent of the tax imposed by s. 206.101(1)(d) on motor fuel purchased by such retail dealer to cover losses due to evaporation and shrinkage of motor fuel. However, any retail dealer who sells motor fuel within a county which imposes a tax under s. 206.102 shall may take as a credit against any tax due on his local option gas tax return the amount to which he is entitled as a refund under this paragraph. Nothing in this paragraph shall be construed to allow this credit to be subtracted from the moneys deposited in the Local Option Gas Tax Trust Fund or the Voted Gas Tax Trust Fund.

(c) Return of taxes to municipalities and counties.--The portions of the taxes imposed by s. 206.101(1)(b) or s. 206.101(1)(d) which results from the collection of such taxes paid by a municipality or county on motor fuel or special-fuel for use in a motor vehicle operated by it shall be returned to the governing body of such municipality or county for the construction, reconstruction, and maintenance of roads and streets within the municipality or county.

(d) Return of taxes to school districts and nonpublic schools.--

1. The portion of the tax imposed by s. 206.101(1)(b) which results from the collection of such tax paid by a school district or by a private contractor operating school buses for a school district, on motor fuel for use in a motor vehicle operated by such district or private contractor shall be returned to the governing body of each such school district.
The portion of the tax imposed by § 206.101(1)(d) this-part which results from the collection of such tax paid by a school district or a private contractor operating school buses for a school district or by a nonpublic school on motor fuel or-spectai-fuel for use in a motor vehicle operated by such district, private contractor, or nonpublic school shall be returned to the governing body of such school district or to such nonpublic school.

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

Refunds to farmers, fishermen, and aquaculturists.--

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

2.a. For the purposes of this paragraph, "agricultural and aquacultural purposes" means motor fuel or-spectai-fuel used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this

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state. This restriction does not apply to the movement of a farm vehicle or farm equipment between farms. The
transporting of bees by water and the operating of equipment used in the apiary of a beekeeper shall be also deemed an agricultural purpose.

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

Refunds to refiners, importers, and wholesalers on fuel used in blending gasoline—Any refiner, importer, or wholesaler who has paid the tax imposed by this part on purchases of motor fuel which is blended with ethyl alcohol to produce gasoline shall be entitled to a refund of 4 cents per gallon of such tax until July 1, 1985, and then shall be entitled to a refund of 2 cents per gallon of such tax through June 30, 1987. Such person may choose to adjust any overpayment authorized in this paragraph on the monthly motor fuel tax report. This paragraph operates retroactively to April 17, 1983, and applies to motor fuels blended with ethyl alcohol on or after April 17, 1983.

Refunds to wholesalers for fuel used in blending gasoline—Any wholesaler who is not licensed as a refiner, importer, or wholesaler who purchases motor fuel for blending with ethyl alcohol to produce gasoline shall be

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entitled to apply for a refund of 4 cents per gallon of such tax until July 1, 1983, and then shall be entitled to apply for a refund of 2 cents per gallon of such tax through June 30, 1983. This paragraph operates retroactively to April 17, 1983 and applies to motor fuels blended with ethyl alcohol on or after April 17, 1983.

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

(b) No person, municipality, county, school district, or nonpublic school may in any event be allowed a refund unless he has filed the application provided for in paragraph (a) with the department. A permit shall be effective for the year issued by the department and shall be continuous from year to year so long as the permit holder files refund claims from year to year. In the event the permit holder fails to file a claim for any year, he must apply for a new permit.

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

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(3)(a) When motor fuel or-spectrai-fuel is sold to a person who claims to be entitled to a refund under this section, the seller of such motor fuel or-spectrai-fuel shall make out a sales invoice, which shall contain the following information:

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

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

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

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

(e) Notwithstanding provisions of this subsection to the contrary, refunds to a school district for fuel consumed by school buses operated for the district by private contractors shall be based on an estimate of taxes paid. The estimate shall be determined quarterly by dividing the total miles traveled by such vehicles for school purposes by their average miles per gallon, as determined by the department, and multiplying the result by the applicable tax rate per gallon. It is the responsibility of the school district to provide information relevant to this determination.

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

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

(5) The right to receive any refund under the provisions of this section is not assignable, except to the executor or administrator, or to the receiver, trustee in

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bankruptcy, or assignee in an insolvency proceeding, of the person entitled to the refund.

(6)(a) Each refiner, importer, wholesaler, jobber, dealer, or retail dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the bulk plant where the sale is made a complete record or duplicate sales tickets of all motor fuel or special fuel sold by him for which a refund provided in this section may be claimed, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold, and the sale price. No refiner, importer, wholesaler, dealer, jobber, or retail dealer, or his agent or employee, may acknowledge or assist in the preparation of any claim for tax refund.

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

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

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

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Agents of the department are authorized to go upon the premises of any permitholder or refiner, importer, jobber, or wholesaler as defined in this part, or duly authorized agent thereof, to make inspection to ascertain any matter connected with the operation of this section or the enforcement hereof. However, no agent may enter the dwelling of any person without the consent of the occupant or authority from a court of competent jurisdiction.

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

No person shall:

(a) Knowingly make a false or fraudulent statement in an application for a refund permit or in an application for a refund of any taxes under this section;
(b) Fraudulently obtain a refund of such taxes;
(c) Knowingly aid or assist in making any such false or fraudulent statement or claim; or
(d) Buy motor fuel or special fuel to be used for any purpose other than as provided in this section.

The refund permit of any person who violates any provision of this section shall be revoked by the department and may not be reissued until 2 years have elapsed from the date of such revocation. The refund permit of any person who violates any other provision of this part may be suspended by

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the department for any period, in its discretion, not exceeding 6 months.

(11) The department shall prescribe a permit form which shall be used to secure refunds under this section and under this chapter 296.

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

(13) Any ethanol dealer who has paid the tax imposed under this chapter on purchases of motor fuel used for denaturing from a duty-issuance-refinery-importer-jobber-wholesaler is entitled to a refund. No refund permit is required. Application for a refund shall be made on a form prescribed by the department.

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

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

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

206.303 206.303 Penalties.--

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(2) Any person:

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

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

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

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

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

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

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206.305 206.44 Penalty and interest for failure to report on time; penalty and interest on tax deficiencies.--

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

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

Section 27. Section 206.426, Florida Statutes, is renumbered as section 206.325, Florida Statutes, and amended to read:

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206.325 206.426 Resale and exemption certificates; offenses; penalties.--Any person who:

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

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

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

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

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

Section 2e. Section 206.56, Florida Statutes, is renumbered as section 206.329, Florida Statutes, and amended to read:

206.329 206.56 Failure to account for tax collected; embezzlement.--If any person, refiner, importer, jobber, or wholesaler collects from another, upon an invoice rendered, the tax in this part contemplated, and fails to report and pay the same to the department as provided, with intent to

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temporarily or permanently deprive the state of a right or
benefit to such moneys or appropriate such moneys to his own
use or that of another not entitled to such moneys, he shall
be deemed to be guilty of embezzlement of funds, the property
of the state, and upon conviction shall be punished as if
convicted of larceny of a like sum.

Section 29. Section 206.14, Florida Statutes, is
renumbered as section 206.355, Florida Statutes, and amended
to read:

206.355 Inspection of records; audits;
hearings; forms; rules and regulations.--

The department shall have the authority to
prescribe all forms upon which reports shall be made to it and
any other forms required for the proper administration of this
law and shall prescribe and publish all rules and regulations
for the enforcement of this part, which rules and regulations
shall have the force and effect of law.

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

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The department or any of its duly authorized agents shall have the power in the enforcement of the provisions of this part to hold hearings, administer oaths to witnesses, and take sworn testimony of any person and cause it to be transcribed into writing; and for such purposes the department is authorized to issue subpoenas and subpoenas duces tecum, compel the attendance of witnesses and records, and conduct such investigations as it may deem necessary.

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

In any action or proceeding for the collection of the tax and penalties or interest imposed in connection therewith, an assessment by the department of the amount of the tax, penalties, or interest due shall be prima facie evidence of the claim of the state, and the burden of proof shall be upon the person charged to show the assessment was incorrect and contrary to law.

Section 30 Section 206.18, Florida Statutes, is renumbered as section 206.363, Florida Statutes, and subsection (1) of said section is amended to read:

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

(1) Whenever a person ceases to engage in business as a refiner, importer, jobber, retail dealer, or wholesaler

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within the state by reason of the discontinuance, sale, or transfer of the business, such person shall notify the department in writing at least 10 days prior to the time the discontinuance, sale, or transfer takes effect. Such notice shall give the date of discontinuance and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee. All gas taxes, penalties, and interest not due and payable under the provisions of the laws of this state shall, notwithstanding such provisions, become due and payable concurrently with such discontinuance, sale, or transfer; and any such person shall, concurrently with such discontinuance, sale, or transfer, make a report, pay all such taxes, interest, and penalties, and surrender to the department the license certificate theretofore issued to said person by the department.

Section 31. Section 206.06, Florida Statutes, is renumbered as section 206.365, Florida Statutes, and amended to read:

206.365 Estimate of amount of gas taxes due and unpaid.--

(1) Whenever any refiner, importer, jobber, or wholesaler neglects or refuses to make and file any report for any calendar month, as required by the gas tax laws of this state, or files an incorrect or fraudulent report, or is in default in the payment of any gas taxes and penalties thereon payable under the laws of this state, the department shall, from any information it may be able to obtain from its office or elsewhere, estimate the number of gallons of motor fuel with respect to which the refiner, importer, or wholesaler has become liable for taxes under the gas tax laws of this state and the amount of taxes due and payable thereon, to which sum

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shall be added a penalty and interest as provided in §.

206.305 m-206.44.

(2) In any action or proceeding for the collection of the gas tax and any penalties or interest imposed in connection therewith, an assessment by the department of the amount of the tax due and interest or penalties due to the state shall constitute prima facie evidence of the claim of the state, and the burden of proof shall be upon the refiner, importer, jobber, or wholesaler to show that the assessment was incorrect or contrary to law.

(3) If any refiner, importer, or wholesaler fails to make a complete report, including all schedules, the department shall add, in addition to any other penalty or interest due, a penalty in the amount of $500.

Section 32. Section 206.07, Florida Statutes, is renumbered as section 206.403, Florida Statutes, and amended to read:

206.403 206.07 Suits for collection of unpaid taxes.--

(1) Upon demand of the department, the Department of Legal Affairs or any state attorney of any judicial circuit shall bring appropriate actions in the name of the state, or in the name of the Department of Revenue in the capacity of its office, for the recovery of the above-mentioned taxes, penalties, and interest, and judgment shall be rendered for the amount so found to be due together with costs. However, if it shall be found as a fact that such failure to pay was willful on the part of any person, refiner, importer, jobber, or wholesaler, judgment shall be rendered for double the amount of the tax found to be due with costs. The department may employ an attorney at law to institute and prosecute proper proceedings to enforce payment of the gas taxes.

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provided for by the laws of this state and the penalties and
interest provided for by part I or part II of this chapter and
to fix the compensation for the services of said attorney at
law.

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

Section 33. Section 206.075, Florida Statutes, is
renumbered as section 206.408, Florida Statutes, and
subsection (4) of said section is amended to read:

206.408 206-408 Department's warrant for collection of
unpaid taxes.--

(4) Nothing in this section shall be construed as
forfeiting or waiving any rights to collect such taxes,
interest, or penalties by an action upon any bond that may be
filed with the department under the provisions of part-I or
part-II of this chapter or by suit or otherwise; and in case
such suit, action, or other proceeding is instituted for the
collection of the tax, such suit, action, or other proceeding
shall not be construed as waiving any other right herein
provided. Any civil proceeding under part-I or part-II of
this chapter or part-II of chapter-2 shall not be construed
as a waiver or estoppel in any criminal proceeding against
such person under part-I or part-II of this chapter or part-II
of chapter-2.

Section 34. Section 206.19, Florida Statutes, is
renumbered as section 206.433, Florida Statutes, and amended
to read:

206.433 206-433 Claim of state under gas tax laws;
settlement or compromise for less than full amount due not

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authorized.--The department shall have no right, power, or
authority to settle or compromise any claim of the state
accruing under the gas tax laws of this state for a sum less
than the full amount due, in conformity with part-i-or-part-ii
of this chapter.

Section 35. Section 206.21, Florida Statutes, is
renumbered as section 206.435, Florida Statutes, and
subsection (1) of said section is amended to read:

206.435 Trial of issues interposed by defense;
sale, etc.--

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

Section 36. Section 206.215, Florida Statutes, is
renumbered as section 206.443, Florida Statutes, and amended
to read:

206.443 Costs and expenses of proceedings.--

(1) For the performance of the duties required of the
sheriff by the provisions of ss. 206.435 and 206.465 he shall receive the same fees provided by
law for the arrest and return of persons charged with crime,
including the same mileage and the actual cost of transporting

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such things, and all such fees and compensations shall be paid out of the proceeds of the sale.

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

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

(4) In the event the proceeds of the sale are more than sufficient to pay all costs and fees attending the sale, then the surplus thereof shall be sent to the department to be disposed of as provided for the disposition of the taxes collected under the gas tax laws of the state; provided, however, that any property seized under s. 206.465 206.465 against which there is existing a mortgage lien or retain title contract held by a person who has no knowledge that such property is being used for the purpose of illegally evading or avoiding the payment of the gas taxes provided for under the laws of the state, then such seizure shall not invalidate such lien or retain title contract, but the same shall be paid out of any funds derived from a sale of said property, provided the retain titleholder or mortgagee shall within 30 days after seizure come into court and set up his claim to such retained title lien or mortgage.
Section 37. Section 206.24, Florida Statutes, is renumbered as section 206.453, Florida Statutes, and amended to read:

206.453 Z96TZ4 Department and agents may make arrests, seize property, and execute warrants.--

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

(2) The department and its deputies, agents, and employees also may seize property as set out in ss. 206.435, 206.443, and 206.465 ss.206.075,206.215, and upon said seizure being made shall surrender without delay such seized property to the sheriff of the county where said property was seized for further procedure as set out in said sections.

(3) When the department deems advisable, it may direct the warrant provided for in s. 206.408 ss.206.075 to one of the said department's deputies, agents, and employees who shall then execute said warrant and proceed thereon in the same manner provided for sheriffs in such cases.

Section 38. Section 206.27, Florida Statutes, is renumbered as section 206.503, Florida Statutes, and subsection (1) of said section is amended to read:

206.503 Z96TZ7 Records and files as public records.--

(1) The records and files in the office of the department appertaining to part-if-and-part-ff-of this chapter and-part-ff-of-chapter-21 shall be available in Tallahassee
to the public at any time during business hours. The
department shall prepare a list each month of all current
licensed refiners, importers, and wholesalers which also shall
include all new licenses issued and all licenses canceled
during the past 12 months, and mail a copy thereof to each
licensee. Such list shall be used to verify license numbers
of purchasers issuing exemption certificates or affidavits.

Section 39. Section 206.59, Florida Statutes, is
renumbered as section 206.525, Florida Statutes, and amended
to read:

206.525 206-59 Department to make rules; powers.--
(1) The department shall make rules and regulations,
which shall have the force and effect of law, to govern
reports and accounts by all persons dealing in or handling
motor fuel for the purpose of enabling the department to
ascertain whether or not any motor fuels are being dealt with,
handled, or stored in this state under such circumstances as
to become liable to the tax imposed by any law relating to a
tax on motor fuel.

(2) The department is further given power to
investigate, or cause to be investigated under its authority,
all cases involving dealing in motor fuel by persons
receiving, handling, or storing the same and to determine from
such investigation whether or not any section in this chapter
or-part-ii-of-chapter-212 relating to the gas tax is being
evaded or illegally avoided. The determination of the
department in any case shall be prima facie valid and
authentic in all courts in this state and in all actions
involving the validating of taxes on persons subject to the
provisions of part-i-or-part-ii-of this chapter or-part-ii-of
chapter-212.
(3) The department may investigate and audit inventories, receipts, and disposals of motor fuel to ascertain the validity of all taxes collected and remitted to the department. Any motor fuel which cannot be accounted for by a refiner, importer, jobber, or wholesaler is subject to all taxes levied under this part. Any person who collects on any one sale of motor fuel more tax than was paid when purchased by that person is liable for the difference in tax plus all applicable interest and penalties. If any person fails to properly remit this difference, the penalty shall be equal to 100 percent of the tax.

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

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

Section 40. Section 206.406, Florida Statutes, is renumbered as section 206.553, Florida Statutes, and amended to read:

206.553 206.406 Disposition of license tax funds. -- All moneys derived from the license tax pursuant to ss. 206.151, 206.152, 206.154, and 206.156 shall be paid into the State Treasury to the credit of the General Revenue Fund.

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Section 41. Section 206.45, Florida Statutes, is renumbered as section 206.555, Florida Statutes, and amended to read:

206.555 Payment of tax into State Treasury.--

All moneys derived from the gas taxes imposed by s. 206.101(1)(a), (b), or (c) this part shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, which fund is hereby created and from which fund the department shall maintain a balance of at least $500,000 within the fund after making the following transfers shall be made:

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

2. The county gas tax collected pursuant to s. 206.101(1)(b) shall be distributed as therein provided in s. 206.573.

3. The municipal gas tax collected pursuant to s. 206.101(1)(c) shall be distributed as therein provided in s. 206.575.

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

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

Section 42. Section 206.47, Florida Statutes, is renumbered as section 206.565, Florida Statutes, and subsections (5), (9), and (10) of said section are amended to read:

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206.565 206.47 Distribution of constitutional gas tax pursuant to State Constitution.--

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

(b) For the purpose of this section, "taxable gallons attributable to each county" shall be calculated as a consumption factor for each county divided by the sum of such consumption factors for all counties, and multiplied by the total gallons statewide upon which a tax was paid pursuant to s. 206.101(1)(a) 206.47. For each county imposing a tax pursuant to s. 206.102(1) or s. 206.102(2) 336.025, the consumption factor shall be the gallons upon which the county's tax was paid under either or both of said sections. For each other county, the consumption factor shall be calculated as the taxable gallons yielding the tax amount certified pursuant to this section for fiscal year 1984-1985 for the county, multiplied by the quotient of the statewide total taxes collected pursuant to s. 206.101(1)(a) 206.47 for the current year divided by the statewide total taxes certified pursuant to this section for fiscal year 1984-1985.

CODING: Words struck are deletions; words underlined are additions.
(9) The State Board of Administration shall will, in each fiscal year, distribute the 80-percent surplus gas tax allocated to each county to the debt service requirements of each bond issue pledging the 80-percent surplus accruing to that county under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended. The remaining 80-percent surplus gas tax funds will be advanced monthly, to the extent practicable, to the boards of county commissioners for use in the county.

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

Section 43. Section 206.60, Florida Statutes, is renumbered as section 206.573, Florida Statutes, and amended to read:

206.573 206.60 Distribution of county tax on motor fuel.

CODING: Words stricken are deletions; words underlined are additions
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.

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

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

(b) The Department of Revenue shall, from month to
month, distribute the amount allocated to each of the several
counties under paragraph (a) to the board of county
commissioners of the county, who shall use such funds solely
for the acquisition of rights-of-way; the construction,
reconstruction, operation, maintenance, and repair of
transportation facilities, roads, and bridges therein; or the
reduction of bonded indebtedness of such county or of special
road and bridge districts within such county, incurred for
road and bridge or other transportation purposes. In the
event the powers and duties relating to transportation

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facilities, roads, and bridges usually exercised and performed by boards of county commissioners are exercised and performed by some other or separate county board, such board shall receive the proceeds, exercise the powers, and perform the duties designated in this section to be done by the boards of county commissioners.

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

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

4. Nothing in this paragraph as amended by chapter 71-212, Laws of Florida, shall be construed to permit the expenditure of public funds in such manner or for such projects as would violate the State Constitution or the trust indenture of any bond issue or which would cause the state to lose any federal aid funds for highway or transportation.

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purposes; and the provisions of this paragraph shall be
applied in a manner to avoid such result.

(2)†† The gasoline inspection laws of the state shall
be and are declared to be applicable to the enforcement of
this section.

(3)†† The license tax herein levied in s.
206.101(1)(b) shall be in addition to all other license taxes
levied under the laws of the state and in addition to the
dealer's license tax for each place of business levied under
the provisions of the laws of the state.

(4)†† It is hereby expressly recognized and declared
by the Legislature that all public roads and bridges being
constructed or built or which will be hereafter constructed or
built, including the acquisition of rights-of-way as incident
thereto, either by the Department of Transportation or the
several counties of the state, were, are, and will be
constructed and built as general public projects and
undertakings and that the cost of the construction and
building thereof, including the acquisition of rights-of-way
as incident thereto, was, is, and will be legitimate, proper
state expense incurred for a general public and state purpose.
And it is expressly recognized and declared that the
construction, reconstruction, maintenance, and acquisition of
rights-of-way of all secondary roads are essential to the
welfare of the state and that such roads when constructed,
reconstructed, or maintained, or such rights-of-way when
acquired, are and will be for a general public and state
purpose. And the Legislature has found and hereby declares
that for the proper and efficient construction and maintenance
of public highways designated state roads, it is in the best
interest of the state to further integrate the activities of

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the Department of Transportation and the several boards of county commissioners as provided in subsection (1) (2) in order that both state and local highway needs may be adequately provided for.

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

Section 44. Section 206.605, Florida Statutes, is renumbered as section 206.575, Florida Statutes, and amended to read:

206.575 206.605 Distribution of municipal tax on motor fuel.--

†† In addition to all other taxes required by law—a tax of one cent per gallon is imposed upon the first sale or first removal from storage after importation into this state, of motor fuel. For purposes of this subsection, the term "first sale" does not include exchanges or loans—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.

(1)†† The proceeds of the such tax imposed under s. 206.101(1)(c), after deducting the service charge pursuant to

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chapter 215, shall be transferred into the Revenue Sharing Trust Fund for Municipalities.

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

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

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

Section 45. Section 212.69, Florida Statutes, is renumbered as section 206.585, Florida Statutes, and amended to read:

CODING: Words strucken are deletions; words underlined are additions.
206.585 Distribution of the tax on the privilege of selling motor fuel proceeds.--

(1) Notwithstanding other provisions of law to the contrary, moneys collected pursuant to s. 206.101(1)(d) this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.555 ss.206.45. Such moneys, exclusive of the service charge imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 206.285 ss.206.65, shall be distributed monthly to the State Transportation Trust Fund, except that $3.8 million per year shall be transferred to the Department of Natural Resources in equal monthly amounts: $1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(4) and (5), unless otherwise provided in the General Appropriations Act.

(3) All funds transferred in this section to the Department of Natural Resources shall be used for eradication of, control of, and research in water hyacinths and noxious aquatic vegetation.

Section 46. Section 206.703, Florida Statutes, is created to read:

206.703 Levy of tax.--

(1) The taxes levied on motor fuel pursuant to s. 206.101 and s. 206.102 apply to special fuels, unless specifically exempt.

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(2) Unless expressly provided to the contrary in this part, every sale shall be deemed to be for use in this state. This levy of tax shall be paid upon the first sale or transfer of title within this state by a dealer, except as expressly provided in this part, who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(3)(a) A dealer may purchase special fuel without the tax imposed by this section being paid upon the first sale or transfer of title in the state, and he shall pay the tax on all special fuel used or sold by him and shall act as agent for the state in the collection and payment thereof.

(b) All special fuel sold, transferred, or delivered by a licensed dealer of special fuel to any person who does not hold a valid dealer's license is taxable, except as provided by s. 206.755(1).

(c) The department has the authority to assess and collect any tax, penalty, and interest against any person or dealer who purchases, receives, or disposes of special fuel in violation of the provisions of this part.

Section 47. Section 206.89, Florida Statutes, is renumbered as section 206.713, Florida Statutes, and amended to read:

206.713 206.89 Licenses; necessity; prerequisites; issuance; nonassignability.—

(1) No person shall act as a dealer unless he holds a valid dealer's license issued by the department. However, a service station shall not be required nor be eligible to be licensed as a dealer. A person who has no facilities for placing special fuel into the supply system of a motor vehicle

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and who sells into containers of 5 gallons or less shall not be required to be licensed as a dealer.

(2) To procure a dealer's license, a person shall file with the department an application in such form as the department may prescribe, with a bond. No license shall be issued upon any application unless accompanied by such bond, except as provided in s. 206.715(1).

(3) When an application for a dealer's license is filed by a person whose license has been canceled for cause by the department or when the department is of the opinion that such application is not filed in good faith or is filed by some person as a subterfuge for the real person in interest whose license has theretofore been canceled, the department shall have authority, if the evidence warrants, to refuse to issue to that person a license.

(4) At the time of filing an application for a license, a filing fee of $5 shall be paid to the department for deposit into the General Revenue Fund.

(5) All requirements of this section having been complied with, the department shall issue to the applicant a license, and such license shall remain in effect until canceled as provided in this part.

(6) Such license shall not be assignable and shall be valid only for the dealer in whose name issued. It shall be displayed conspicuously by the dealer in the principal place of business for which it was issued.

(7) Every person as defined in this part, including, but not limited to, a state agency, federal agency, municipality, county, or special district, which operates or acts under the provisions of s. 206.702(10) is required to obtain a license as a dealer of special fuel and CODING: Words stricken are deletions, words underlined are additions.
Section 48. Section 206.90, Florida Statutes, is
renumbered as section 206.715, Florida Statutes, and
subsection (1) of said section is amended to read:

206.715 206-90 Bond required of licensed dealers.--

(1) Every dealer, except a municipality, county, state
agency, federal agency, school board, or special district
which is licensed as a dealer under this part, shall file with
the department a bond or bonds in the penal sum of not more
than $100,000. The sum of such bond shall be approximately 3
times the average monthly special fuels tax imposed under s.
206.101 pursuant to s. 206.703 and sales-tax-on-special-fuels
paid or due by such dealer during the preceding 12 calendar
months under this part, with a surety approved by the
department, upon which the dealer shall be the principal
obligor and the state shall be the obligee, conditioned upon
the faithful compliance with the provisions of this part and
of-part-ff-of-chapter-242. If the sum of 3 times a dealer's
average monthly tax is less than $50, no bond shall be
required.

Section 49. Section 206.91, Florida Statutes, is
renumbered as section 206.745, Florida Statutes, and amended
to read:

206.745 206-91 Tax reports; computation and payment of
tax.--

(1) For the purpose of determining the amount of tax
imposed by s. 206.101 and s. 206.102 pursuant to s. 206.703 s:
206-89, each dealer shall, not later than the 20th day of each
calendar month, mail to the department, on forms prescribed by
the department, monthly reports which shall show such

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information on inventories, purchases, nontaxable disposals, and taxable sales in gallons of each type of special fuel, including, but not limited to, diesel and heating fuel, kerosene, butane gas, propane gas, and all other forms of liquefied petroleum gases, for the preceding calendar month as may be required by the department. However, if the 20th day falls on a Saturday, a Sunday, or a federal or state legal holiday, returns shall be accepted if postmarked on the next succeeding workday. The reports shall contain or be verified by a written declaration that such report is made under the penalties of perjury. The dealer shall deduct from the amount of tax shown by the report to be payable an amount equivalent to 6 percent of the tax on special fuels imposed by § 206.101(1)(b) and (c) pursuant to s. 206.703 this-part not exceeding 500,000 taxable gallons, and less an amount equivalent to 3 percent of the tax on special fuels imposed by s. 206.101(1)(b) and (c) pursuant to s. 206.703 this-part in excess of 500,000 taxable gallons but not exceeding 1,000,000 taxable gallons, which deduction is hereby allowed to the dealer on account of services and expenses in complying with the provisions of this part. This allowance shall not be deductible unless payment of the tax is made on or before the 20th day of the month as herein required. Nothing in this subsection shall be construed to authorize a deduction from the constitutional gas tax.

(2) At the time of filing the monthly report, each dealer shall pay to the department the full amount of special fuels tax for the preceding calendar month at the rate provided for in s. 206.101 and s. 206.102 pursuant to s. 206.703 ss.206.67, less the amount allowable to the dealer on

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account of services and expenses as provided in subsection (1).

Section 50. Section 206.87, Florida Statutes, as amended by section 45 of chapter 87-548, Laws of Florida, is renumbered as section 206.755, Florida Statutes, and amended to read:

206.755 206.87 Exemptions by-0£-tax.--


(f) All-special-fuel-sold, transferred, or delivered by-a-licensed-dealer-of-special-fuel-to-any-person-who-does not-hold-a-valid-dealer's-license-is-taxable, except-as provided-by-subsection-(f);

(f) The department has the authority to assess and collect any-tax, penalty, and interest against any-person-or dealer-who-purchases, receives, or-disposes-of-special-fuel-in violation-of-the-provisions-of-this-party.
The following consumption or sales are not subject to any the tax herein imposed under s. 206.101(1)(a), (b), or (c), and the consumption or sales described in paragraphs (a), (b), (c), (d), (f), or (h) are not subject to any tax imposed under s. 206.102, upon the issuance of a valid resale certificate or an exemption certificate:

(a) Sales by a dealer when the special fuel is delivered by him into the purchaser's storage facilities, which are located at the purchaser's premises, place of business, or job site, and when the special fuel is to be used for:

1. Cooking or home heating;

2. Industrial, commercial, agricultural, or marine purposes, if the purchaser is not a dual user and furnishes the dealer with an exemption certificate which states that no portion of the special fuel purchased is to be used in a motor vehicle; or

3. Consumption for nonhighway purposes, if the purchaser is not a dual user.

(b) Sales at the dealer's place of business of not more than 1,000 gallons by a dealer to a person who is not a licensed dealer, if the special fuel is placed by the dealer into a receptacle not connected to the fuel supply system of a motor vehicle and the special fuel is solely for consumption other than use.

(c) Sales of 5 gallons or less by a person not a dealer who has no facilities for placing special fuel in the fuel supply system of a motor vehicle.

(d) Exports of special fuel by a dealer from the state when exempted by any provision of the constitutions of the United States or the State of Florida. The sale for export

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from the state of special fuel which is not exempted from the
taxes imposed by this part by either the constitution of the
United States or of the state shall also be exempt, but only
if both the seller and the exporter of the special fuel are
duly licensed as dealers of special fuel under the terms of
this part.

(e) Transfers or deliveries of special fuel into the
fuel supply tank of a motor vehicle operated by a common
carrier when the fuel is used on highways in another state,
provided the common carrier is a duly licensed dealer who is
under the jurisdiction of the Florida Public Service
Commission and keeps files timetables of schedules showing
operations on regular routes in interstate commerce with the
Florida Public Service Commission and maintains a complete
record of miles operated; and provided the tax on the special
fuel deducted for use in another state is paid to the taxing
authorities of that state. However, when the dealer maintains
adequate records of vehicle consumption of fuel as related to
miles traveled and such records show more mileage per gallon
than standards determined by the department for mileage per
gallon, the miles shown by such records may be used for
computing the exemption on a mileage basis.

(f) Sales or use by a dealer of special fuel consumed
by a power takeoff or engine exhaust for the purpose of
unloading bulk cargo by pumping or turning a concrete mixer
drum used in the manufacturing process, or for the purpose of
compacting solid waste, which is mounted on a motor vehicle
and which has no separate fuel tank or power unit.

(g) Transfers or deliveries of special fuel into the
fuel supply tank of a motor vehicle regularly engaged in

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interstate travel when such fuel is used on the highways of another state, provided:

a. The transfer or delivery occurs within this state and is executed by a duly licensed dealer who is regularly engaged in interstate travel;

b. A similar tax is paid in another state; and
c. The tax is paid to this state on all special fuel brought into the state and used in this state.

2. Any licensed dealer claiming such exemption must have evidence of the payments of such tax and must keep records showing the number of trips out of the state, the number of trips into the state, the number of gallons of special fuel carried out of state in fuel tanks, and the number of gallons brought into the state in fuel tanks for use in this state. However, when the dealer maintains adequate records of vehicle consumption of fuel as related to miles traveled and such records show more mileage per gallon than standards determined by the department for mileage per gallon, the miles shown by such records may be used for computing the exemption on a mileage basis.

(h) Sales to the United States Government or its departments or agencies when:

1. Delivered in bulk lots of not less than 500 gallons in each delivery to be used in motor vehicles owned and operated by the United States Government departments and agencies; or

2. Purchased for heating or for off-road purposes.

(2) All special fuel sold, transferred, or delivered by a licensed dealer of special fuel to any person who does not hold a valid dealer's license is taxable, except as provided by subsection (1).
Any dealer who neglects, fails, or refuses to collect the tax upon any sale which is subject to the tax imposed by this part is liable for the payment of all tax, penalties, and interest.

A sale must be in strict compliance with the rules of the department, and any dealer making a sale for resale which is not in strict compliance with such rules shall himself be liable for and pay the tax.

Any person who has purchased at retail, used, consumed, distributed, or stored for use, resale, or consumption in this state fuel and cannot substantiate that the tax levied by this part has been paid to his vendor is directly liable to the state for any tax, interest, and penalty due on any such fuel.

Any person or dealer who:

(a) Issues or assists in issuing a fraudulent resale or exemption certificate to obtain nontaxed special fuel from a licensed dealer; or

(b) Has issued a resale or exemption certificate and whose exempt status has become nonexempt and who neglects, fails, or refuses to inform the licensed dealer to whom the certificate was issued of such change in status

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

The tax levied pursuant to s. 206.101(1)(d) does not apply to special fuels when purchased or consumed for

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stationary purposes. However, special fuels purchased or consumed for stationary purposes are taxable under chapter 212, unless specifically exempt.

Section 51. Section 206.877, Florida Statutes, is renumbered as section 206.775, Florida Statutes, and subsections (1), (5), and (8) of said section are amended to read:

206.775 Motor vehicles fueled by liquefied petroleum gas or compressed natural gas; payment of annual decal fees in lieu of tax.--

(1) The tax imposed by s. 206.101 or s. 206.102 pursuant to s. 206.703 does not apply to motor vehicles licensed in this state pursuant to chapter 320 which are powered by alternative fuels and for which valid decals have been acquired as provided in this section.

(a) The owners or operators of such vehicles shall, in lieu of the excise tax imposed by this part, pay an annual decal fee on each such motor vehicle in accordance with the following rate schedule:

<table>
<thead>
<tr>
<th>Class</th>
<th>Vehicle License Category</th>
<th>State Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Vehicles licensed pursuant to s. 320.08(1), (2), (3)(a) - (c), (e), (6)(a), and (9)(c)1.</td>
<td>$44</td>
</tr>
</tbody>
</table>

Fee for each cent of tax imposed by s. 206.102

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Vehicles licensed pursuant to s. 320.08 (5)(b)-(e), (6)(b), (9)(c)2., and (14).

Vehicles licensed pursuant to s. 320.08(4).

(b) A person fueling vehicles from his own facilities shall, in addition to the state alternative fuel fee imposed by this section, pay a local alternative fuel fee in lieu of each cent of excise tax levied by a county pursuant to s. 206.102(1) or s. 206.102(2). This local fee shall be $60 for each cent of local excise tax on class "A" vehicles, $15 for each cent of local excise tax on class "B" vehicles, and $21 for each cent of local excise tax on class "C" vehicles. Those persons who do not operate their own fueling facilities shall indicate and pay the appropriate local fee for the particular county where the vehicles are predominantly used.

(5) Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, any person who is liable for fueling a vehicle which does not have the proper decal affixed is subject to the provisions of this section and the provisions of s. 206.365 or s. 206.94.

(8) The excise tax provided by s. 206.101(1)(a), (b), or (c) or s. 206.102 pursuant to s. 206.703 applies to purchases of alternative fuels by operators of vehicles licensed in other states and other vehicles which do not have the proper decals pursuant to this section.

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Section 52. Section 206.875, Florida Statutes, as amended by section 45 of chapter 87-548, Laws of Florida, is renumbered as section 206.785, Florida Statutes, and amended to read:

206.785 Allocation of tax.--

All moneys derived from the taxes imposed by this part shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund—which fund is created and from which the following transfers shall be made: After withholding $10,000 from the proceeds of the taxes imposed under s. 206.101(1)(a), (b), or (c) pursuant to s. 206.703 4-cents-of-such-tax, to be used as a revolving cash balance, all other moneys shall be transferred in the same manner and for the same purpose as provided by law for allocation of the taxes levied in part I, including transfer to the General Revenue Fund of the service charge provided for in s. 215.20.

Section 53. Section 206.879, Florida Statutes, is renumbered as section 206.786, Florida Statutes, and amended to read:

206.786 State and local alternative fuel user fee clearing trust funds; distribution.--

(1) Notwithstanding the provisions of s. 206.785 and 206.875, the revenues from the state alternative fuel fees imposed by s. 206.775 shall be deposited into the State Alternative Fuel User Fee Clearing Trust Fund, which is

CODING: Words stricken are deletions; words underlined are additions
hereby created. After deducting the service charge provided
in s. 215.20, the proceeds in this trust fund shall be
distributed as follows: 50 percent of the proceeds shall be
transferred to the State Board of Administration for
distribution according to the provisions of s. 16, Art. IX of
the State Constitution of 1885, as amended; 25 percent shall
be transferred to the Revenue Sharing Trust Fund for
Municipalities; and the remaining 25 percent shall be
distributed using the formula contained in s. 206.573(1)
(2) Notwithstanding the provisions of s. 206.785
imposed in lieu of s. 206.102 shall be deposited into the Local Alternative Fuel User Fee Clearing
Trust Fund, which is hereby created. After deducting the
service charge provided in s. 215.20, the proceeds in this
trust fund shall be returned monthly to the appropriate county
Section 54. Section 206.97, Florida Statutes, is
renumbered as section 206.799, Florida Statutes, and amended
to read:

206.799 Applicability of specified sections of part I.--The provisions of ss. 206.122, 206.125, 206.152,
206.154, 206.161, 206.162, 206.166, 206.172, 206.206, 206.213,
206.225, 206.235, 206.245, 206.253, 206.255, 206.275, 206.285,
206.303, 206.305, 206.325, 206.327, 206.329, 206.353, 206.355,
206.363, 206.365, 206.408, 206.413, 206.416, 206.423, 206.424,
206.433, 206.435, 206.443, 206.445, 206.453, 206.455, 206.463,
206.465, 206.503, 206.505, 206.525, 206.555, 206.563, 206.565,
206.573, 206.575, and 206.585. ss. 206.025, 206.027, 206.028,
206.04, 206.055, 206.075, 206.08, 206.095.
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, jobber, 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.

(4) The refund provisions of s. 206.285(1)(b), (f), or (g) do not apply to special fuels.

Section 55. Subsection (8) of section 206.01, Florida Statutes, is amended to read:

206.01 Definitions.--As used in part I of this chapter:

(8) "Jobber" means any person who holds a valid jobber license of motor fuel license and who does not qualify for a license as a refiner, importer, or wholesaler under this chapter. A jobber's license grants the privilege of storing and transporting tax-paid fuel in this state and making sales to persons other than the ultimate consumer, as well as the ultimate consumer.

Section 56. Subsection (3) of section 206.9915, Florida Statutes, is amended to read:

206.9915 Legislative intent and general provisions.--

(3) The provisions of ss. 206.01, 206.161, 206.164, 206.165, 206.166, 206.168, 206.206, 206.213, 206.225, 206.235, 

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Section 57. Section 206.9125, Florida Statutes, is amended to read:

206.9125 Aviation fuel tax.—An excise tax of 5.7 cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, 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. Fuel taxed pursuant to this part shall not be subject to the taxes imposed by s. 206.102 and 206.9815 shall, as far as lawful or practicable, be applicable to the levy and collection of taxes imposed pursuant to this part as if fully set out in this part and made expressly applicable to the taxes imposed herein.

Section 58. Section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—An excise tax of 5.7 cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, 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. Fuel taxed pursuant to this part shall not be subject to the taxes imposed by s. 206.102 and 206.9815 shall, as far as lawful or practicable, be applicable to the levy and collection of taxes imposed pursuant to this part as if fully set out in this part and made expressly applicable to the taxes imposed herein.

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shall be distributed monthly to the State Transportation Trust Fund.

Section 59. Subsection (1) of section 206.9931, Florida Statutes, as amended by chapters 87-6, 87-99, and 87-101, Laws of Florida, is amended to read:

206.9931 Administrative provisions.--

(1) Any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed pursuant to other parts of this chapter is hereby required to register and become licensed for the purposes of this part.

Such person shall register as either a producer or importer of pollutants and shall be subject to all applicable registration and licensing provisions of this chapter, as if fully set out in this part and made expressly applicable to the taxes imposed herein, including, but not limited to, ss. 206.151, 206.152, 206.154, 206.162, 206.171, 206.172, and 206.174 ss. 206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027-206.027.

For the purposes of this section, registrations required exclusively for this part shall be made within 90 days of July 1, 1986, for existing businesses, or prior to the first production or importation of pollutants for businesses created after July 1, 1986. The fee for registration shall be $30.

Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 60. Subsection (2) of section 206.9941, Florida Statutes, is amended to read:

206.9941 Exemptions.--

(2) Petroleum products exported from the first storage facility at which they are held in this state by the licensed
refiner, importer, jobber, wholesaler, producer, or dealer who
first imported said products are exempt from the tax imposed
under s. 206.9935(3).

Section 61. Subsection (1) of section 206.9942,
Florida Statutes, is amended to read:

206.9942 Refunds and credits.--

(1) Any licensed refiner, importer, producer, jobber,
wholesaler, or dealer who has purchased petroleum products,
who has paid the tax pursuant to s. 206.9935(3) to his
supplier, and who subsequently exports said products from the
state may deduct the amount of tax paid thereon pursuant to s.
206.9935(3) from the amount owed to the state and remitted
pursuant to s. 206.9931(2) or may apply for a refund of the
amount of tax paid thereon pursuant to s. 206.9935(3).
Administrative procedures governing such refunds shall be
those specified in s. 206.285 ss. 24722, except for the
provisions requiring refund permits.

Section 62. Section 207.026, Florida Statutes, as
amended by section 13 of chapter 87-198, Laws of Florida, is
amended to read:

207.026 Allocation of tax.--All moneys derived from
the taxes and fees imposed by this chapter shall be paid into
the State Treasury by the department for deposit in the Gas
Tax Collection Trust Fund, from which the following transfers
shall be made: After withholding $50,000 from the proceeds
therefrom, to be used as a revolving cash balance, and the
amount of funds necessary for the administration and
enforcement of this tax, all other moneys shall be transferred
in the same manner and for the same purpose as provided in ss.
206.565, 206.573, 206.575, and 206.585 ss. 24722472, 247457
206.6057-206.6057-2472, and 2472469.

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Section 63. Paragraph (g) of subsection (1) of section 212.05, Florida Statutes, as amended by chapter 87-548, Laws of Florida, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this section, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(g) At-the-rate-of-5-percent-of-the-price-as determined-pursuant-to-part-II-of-this-chapter,-of-each-gallon of-motor-fuel-or-special-fuel-taxable-pursuant-to-that-part, except-that Motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

Section 64. Paragraph (a) of subsection (4) and paragraph (e) of subsection (5) of section 212.08, Florida Statutes, as amended by chapter 87-548, Laws of Florida, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax: specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.
(4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.--

(a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in § 206.101(1)(d) part-II. Motor fuels and special fuels are taxable as provided in § 206.101(1)(d) part-II, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. This ratio shall be applied each month to the total Florida purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part.

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Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. The transmission or wheeling of electricity.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(e) Gas used for certain agricultural purposes.--

Butane gas, propane gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use. This exemption shall inure to the taxpayer only through refund of previously paid taxes. Refunds under this paragraph shall be authorized and administered as provided in s. 206.285.

Section 65. Section 336.021, Florida Statutes, is amended to read:

336.021 County transportation system; levy of voted gas tax on motor fuel and special fuel.--

(1) Any county in the state which imposes a gas tax pursuant to s. 206.102(1) shall use the revenues from such tax in the discretion of its governing body and subject to a referendum may impose in addition to all other taxes required or allowed by law a 1-cent voted gas tax upon every gallon of motor fuel and special fuel sold in such county and taxed under the provisions of part I or part II of chapter 206, for the purpose of paying the costs and expenses of...
establishing, operating, and maintaining a transportation
system and related facilities and the cost of acquisition,
construction, reconstruction, and maintenance of roads and
streets. The governing body of the county may provide that
the referendum be worded to limit the number of years such tax
will remain in effect. The governing body of the county may,
by joint agreement with one or more of the municipalities
located therein, provide for these transportation purposes and
the distribution of the proceeds of this tax within both the
unincorporated and incorporated areas of the county. The tax
shall be collected and remitted by any person engaged in
selling at retail motor fuel or using or selling at retail
special fuel within a county in which the tax is authorized
and shall be distributed monthly by the department to the
county where collected. The provisions for refund provided in
§ 206.625 and 206.64 shall not be applicable to such tax
levied by any county. Any person licensed under part I or
part II of chapter 206 who uses motor fuel or special fuel or
who engages in selling motor fuel or special fuel at retail
shall deduct from the amount of tax shown by the report to be
payable an amount equivalent to 3 percent of the tax on motor
or special fuels imposed by this section, which deduction is
hereby allowed on account of services and expenses in
complying with the provisions of the law. If the amount of
taxes due and remitted to the department for the reporting
period exceeds $1,000, the 3 percent allowance shall be
reduced to 1 percent for all amounts in excess of $1,000.
However, this allowance shall not be deductible unless payment
of the tax is made on or before the 20th day of the month as
required. The United States post office date stamped on the
envelope in which the report is submitted shall be considered
as the date the report is received by the department.

(2) The additional tax collected by the department
pursuant to subsection (1) shall be transferred to the Voted
Gas Tax Trust Fund, which fund is created for distribution to
the county in which the tax was collected. The department has
the authority to prescribe and publish all forms upon which
reports shall be made to it and other forms and records deemed
to be necessary for proper administration and collection of
the tax levied by any county and shall promulgate such rules
as may be necessary for the enforcement of this section, which
rules shall have the full force and effect of law. The
sections of chapter 2067, including, but not limited to, those
sections relating to timely filing of reports and tax
collected, suits for collection of unpaid taxes, department
warrants for collection of unpaid taxes, penalties, interest,
retention of records, inspection of records, items on
property, foreclosure and enforcement and collection also
apply to the tax authorized in this section.

(2) It is expressly recognized and declared by the
Legislature that the establishment, operation, and maintenance
of a transportation system and related facilities and the
acquisition, construction, reconstruction, and maintenance of
roads and streets fulfill a public purpose and that payment of
the costs and expenses therefor may be made from county
general funds, special taxing district funds, or such other
funds as may be authorized by special or general law.
Counties are authorized to expend the funds received under
this section in conjunction with the state or federal
government in joint projects.
Within 10 days after the ordinance levying the tax is approved, the county shall provide the department with a certified copy of the ordinance and a certified copy of the ordinance proposing to levy the tax allowed by this section shall be furnished by the county to the department within 10 days of approval of such ordinance---Furthermore, the county levying such tax shall notify the department within 10 days after the passage of the referendum of such passage and of the time period during which the tax will be levied. The failure to furnish the certified copy will not invalidate the passage of the ordinance.

The tax shall not take effect until at least 60 days after the county notifies the department of passage of the referendum. No decision to rescind the tax shall take effect until at least 60 days after the county notifies the department of such decision.

Section 66. Section 336.025, Florida Statutes, is amended to read:

336.025 County transportation system; levy of local option gas tax on motor fuel and special fuel.--

(1) In addition to other taxes allowed by law, there may be imposed as provided in this section a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option gas tax upon every gallon of motor fuel and special fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

(a) Any tax imposed under s. 206.102(2) shall be imposed before July 1 to be effective September 1 of any year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (2) or subsection (3). Upon expiration, the

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tax may be reimposed provided that a redetermination of the
method of distribution is made as provided in this section.

(b) County and municipal governments shall utilize
moneys received pursuant to this section only for
transportation expenditures.

c) Any tax imposed pursuant to s. 206.102(2) this
section may be extended on a majority vote of the governing
body of the county. A redetermination of the method of
distribution shall be established pursuant to subsection
(2) or subsection (3), if, after July 1, 1986, the tax
is extended or the tax rate changed, for the period of
extension or for the additional tax.

d) Local governments may use the services of the
Division of Bond Finance of the Department of General Services
pursuant to the State Bond Act to issue any bonds through the
provisions of this section and may pledge the revenues from
the local option gas tax to secure the payment of the bonds.
In no case may a jurisdiction issue bonds pursuant to this
section more frequently than once per year. Counties and
municipalities may join together for the issuance of bonds
issued pursuant to this section.

2(a) The tax shall be collected and remitted by any
person engaged in selling at retail motor fuel or using or
selling at retail special fuel within a county in which the
tax is authorized and shall be distributed monthly by the
Department of Revenue to the county where collected.--The tax
remitted to the Department of Revenue pursuant to this section
shall be transferred to the Local Option Gas Tax Trust Fund,
which fund is created for distribution to the county and
eligible municipal governments within the county in which the
tax was collected and which fund is subject to the service

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The Department of Revenue has the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax and shall promulgate such rules as may be necessary for the enforcement of this section. The sections of Chapter 2067, including but not limited to, those sections relating to timely filing of reports and tax collected, suits for collection of unpaid taxes, department warrants for collection of unpaid taxes, penalties, interest, retention of records, inspection of records, items on property, foreclosure, and enforcement and collection also apply to the tax authorized in this section.

The provisions for refund provided in § 2067.625 are not applicable to such tax levied by any county. Any person licensed under Part I or Part II of Chapter 206 who uses motor fuel or special fuel who engages in selling motor fuel or special fuel at retail shall deduct from the amount of tax shown by the report to be payable any amount equivalent to 3 percent of the tax on motor or special fuels imposed by this section, which deduction is hereby allowed on account of services and expenses in complying with the provisions of the law. If the amount of taxes due and remitted to the Department of Revenue for the reporting period exceeds $1,000, the 3 percent allowance shall be reduced to 2 percent for all amounts in excess of $1,000. However, this allowance shall not be deductible unless payment of the tax is made on or before the 20th day of the month as required. The United States post office date stamped on the envelope in which the report is submitted shall be considered as the date the report is received by the Department of Revenue.
provisions for refund in § 282367 and (a) and (e) apply to such

the-refund-shall-be-administered-in-accordance-with

the-provisions-of-§ 282367-—However—the-amount-refunded

shall-be-deducted-from-moneys-in-the-local-option-gas-tax

Trust-Fund-otherwise-distributed-to-the-county-area-in-which

the-tax-is-levied—

(2) The tax shall be imposed using either of the

following procedures:

(a) The tax may be levied by an ordinance adopted by a

majority vote of the governing body or upon approval by

referendum. Such ordinance shall be adopted in accordance

with the requirements imposed under one of the following

circumstances, whichever is applicable:

1. The county may, prior to June 1, establish by

interlocal agreement with one or more of the municipalities

located therein, representing a majority of the population of

the incorporated area within the county, a distribution

formula for dividing the entire proceeds of the local option

gas tax among the county government and all eligible

municipalities within the county. If no interlocal agreement

exists, a new interlocal agreement may be established prior to

August 1, 1986, or June 1 of any year thereafter pursuant to

this subparagraph. However, any interlocal agreement agreed

to under this subparagraph after the initial imposition of the

tax, extension of the tax, or change in the tax rate

authorized in this section shall under no circumstances

materially or adversely affect the rights of holders of

outstanding bonds which are backed by taxes authorized by this

section, and the amounts distributed to the county government

and each municipality shall not be reduced below the amount

necessary for the payment of principal and interest and

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reserves for principal and interest as required under the
covenants of any bond resolution outstanding on the date of
establishment of the new interlocal agreement.

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

(b) If no interlocal agreement or resolution is
adopted pursuant to subparagraph (a)1. or subparagraph (a)2.,
municipalities representing more than 50 percent of the county
population may, prior to June 20, adopt uniform resolutions
approving the local option tax, establishing the duration of
the levy and the rate authorized in s. 206.102(2) paragraph
†††††††††, and setting the date for a countywide referendum on
whether to impose the tax. A referendum shall be held in
accordance with the provisions of such resolution and
applicable state law, provided that the county shall bear the
costs thereof. The tax shall be imposed and collected
countywide on September 1 following 30 days after voter
approval.

(3)†††††††††(a) If the tax is imposed under the
circumstances of subparagraph (2)(a)2. ††††††††† or paragraph
(2)(b) †††††††††, the proceeds of the tax shall be distributed
among the county government and eligible municipalities based
on the transportation expenditures of each for the immediately
preceding 5 fiscal years, as a proportion of the total of such
expenditures for the county and all municipalities within the
county. After the initial imposition of a tax being
distributed pursuant to the provisions of this paragraph, the
proportions shall be recalculated every 10 years based on the
transportation expenditures of the immediately preceding 5
years. However, such recalculation shall under no circumstances materially or adversely affect the rights of holders of bonds outstanding on July 1, 1986, which are backed by taxes authorized in s. 206.102(2) this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the recalculation.

(b) Any newly incorporated municipality which is eligible for participation in the distribution of moneys under parts II and VI of chapter 218 and which is located in a county levying the tax imposed pursuant to s. 206.102(2) this section is entitled to receive a share of the tax revenues. Distribution of such revenues to a newly incorporated municipality shall begin in the first full fiscal year following incorporation. The distribution to a newly incorporated municipality shall be:

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

2. Determined by the local act incorporating the municipality.

Such distribution shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized in s. 206.102(2) this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and

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reserves for principal and interest as required under the
covenants of any bond resolution outstanding on the date of
the redistribution.

(4) By July 1 of each year, the county shall
notify the Department of Revenue of the rate of tax levied, of
its decision to rescind the tax, if applicable, and provide
the department with a certified copy of the interlocal
agreement established under subparagraph (2)(a), with distribution proportions established by such agreement or
pursuant to subsection (3), if applicable. No decision to
rescind the tax shall take effect until at least 60 days after
the county notifies the Department of Revenue of such
decision.

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

(5) Only those municipalities and counties eligible
for participation in the distribution of moneys under parts II
and VI of chapter 218 are eligible to receive moneys under
this section. Any funds otherwise undistributed because of
ineligibility shall be distributed to eligible governments
within the county in proportion to other moneys distributed
pursuant to this section.

(6) For the purposes of this section, the term
"transportation expenditures" means expenditures by the local
government from local or state shared revenue sources,
excluding expenditures of bond proceeds, for the following programs:

(a) Public transportation operations and maintenance.
(b) Roadway and right-of-way maintenance and equipment.
(c) Roadway and right-of-way drainage.
(d) Streetlighting.
(e) Traffic signs, traffic engineering, signalization, and pavement markings.
(f) Bridge maintenance and operation.
(g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads.

Section 67, Section 336.026, Florida Statutes, is amended to read:

336.026 Metropolitan transportation system; levy of local option gas tax on motor fuel and special fuel.--

(1)(a) In addition to other taxes allowed by law, including the 6-cent local option gas tax on motor fuel and special fuel as provided in s. 336.0257, there may be imposed as provided herein a 1-cent, 2-cent, 3-cent, or 4-cent local option gas tax upon every gallon of motor fuel and special fuel sold in a regional ground transportation area as defined in s. 163.803(4) and taxed under the provisions of part I or part II of chapter 206.

(a)\+\+ Any tax imposed under s. 206.102(3) shall take effect imposed-effective 60 days after the first day of the month following the referendum ratifying the regional ground transportation plan pursuant to s. 163.805. The tax shall only be collected in those counties in a regional ground transportation area, as defined in s. 163.803(4), which have

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ratted the regional ground transportation plan adopted by
the metropolitan transportation authority pursuant to s.
163.805.

(b) Metropolitan transportation authorities shall
utilize moneys received pursuant to this section only as
authorized in the Metropolitan Transportation Authority Act.

(2)(a)--The tax shall be collected and remitted by any
person engaged in selling at retail motor fuel or using or
selling at retail special fuel within a regional ground
transportation area in which the tax is authorized and shall
be distributed monthly by the department to the authority in
the regional ground transportation area where collected.--The
tax remitted to the Department of Revenue pursuant to this
section shall be transferred to the local Option Gas Tax Trust
Fund, which fund is created for distribution to the
Metropolitan Transportation Authority in the regional ground
transportation area in which the tax was collected and which
fund is subject to the service charge imposed in chapter 2167.
The department has the authority to prescribe and publish all
forms upon which reports shall be made to it and other forms
and records deemed to be necessary for proper administration
and collection of the tax and shall promulgate such rules as
may be necessary for the enforcement of this section.--The
sections of chapter 2167 including, but not limited to, those
sections relating to timely filing of reports and tax
collected, suits for collection of unpaid taxes, department
warrants for collection of unpaid taxes, penalties, interest,
retention of records, inspection of records, items on
property, foreclosure and enforcement and collection also
apply to the tax authorized in this section.

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(b) The provisions for refund provided in ss. 206.625 and 206.64 are not applicable to such tax levied by any authority. The provisions for refund in ss. 212.67(1)(a) and (f) apply to such tax, and the refund shall be administered in accordance with the provisions of ss. 212.67. However, the amount refunded shall be deducted from moneys in the local Option-Gas-Tax-Trust-Fund otherwise distributed to the authority in the regional ground transportation area in which the tax is levied.

(2)(3) At least 60 days prior to the effective date of any tax under this section, the authority shall provide the Department of Revenue with the amount of the tax levied and imposed under this section pursuant to the regional ground transportation plan approved in the referendum required by s. 163.805. No decision to rescind the tax may take effect until at least 60 days after the authority notifies the Department of Revenue of such decision.


Section 69. Section 7.52, Florida Statutes, is amended to read:

7.52 Pinellas County.--The boundary lines of Pinellas County are as follows: Beginning at a point where the line dividing townships twenty-six and twenty-seven south 1f

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projected in a westerly direction intersects with the western boundary of the jurisdictional waters of the State of Florida in the Gulf of Mexico; thence east on said line to the northeast corner of section one in township twenty-seven south, range sixteen east; thence south to the shore of old Tampa Bay; thence in a southerly direction through the middle waters of old Tampa Bay and Tampa Bay, to a point in Tampa Bay due east of the north shore of Mullet Key; thence due west to a point due north of a point 100 yards due east from the easternmost point of Mullet Key; thence in a line 100 yards from the shoreline around the southern portion of Mullet Key to a point 100 yards west of the northernmost shore of Mullet Key; thence west to a point where such line intersects the western boundary of the jurisdictional waters of the State of Florida in the Gulf of Mexico and northward, including the waters of said gulf within the jurisdiction of the State of Florida, to point of beginning; provided however that nothing herein contained shall now or at any time hereafter in any manner whatsoever repeal, amend, change or disturb in any manner whatsoever the apportionment, allotment, allocation, basis of computation, or other formula wherein and whereby the participation in the gas tax by both counties hereto under and by virtue of ss. 206.263 and 206.565 ss.-206:42-and-206:47 or any law hereafter enacted, is changed so that Hillsborough County would receive a lesser amount and Pinellas County would receive a greater amount of such gas funds or tax by reason of the change of the boundary line herein authorized.

Section 70. Paragraph (a) of subsection (11) of section 163.3184, Florida Statutes, is amended to read:

163.3184 Process for adoption of comprehensive plan or amendment thereto.--
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(11) ADMINISTRATION COMMISSION.--

(a) If the Administration Commission, upon a hearing pursuant to subsection (9) or subsection (10), finds that the comprehensive plan or plan amendment is not in compliance with this act, the commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance. The commission may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of those local governmental entities which have comprehensive plans or plan elements that are determined not to be in compliance. The commission order may also specify that the local government shall not be eligible for grants administered under the following programs:

1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049.

2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.

3. Revenue sharing pursuant to ss. 206.573 ss. 206-20, and 218.61 and part I of chapter 212, to the extent not pledged to pay back bonds.

Section 71. Subsection (3) of section 207.023, Florida Statutes, as amended by chapter 87-198, Laws of Florida, is amended to read:

207.023 Authority to inspect vehicles, make arrests, seize property, and execute warrants.--

(3) Commercial motor vehicles owned or operated by any motor carrier who refuses to comply with this chapter may be seized by authorized agents or employees of the Department of Highway Safety and Motor Vehicles, the Department of Agriculture and Consumer Services, or the Department of

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Transportation; or authorized agents and employees of any of these departments also may seize property as set out in ss. 206.435, 206.443, and 206.465. Upon such seizure, the property shall be surrendered without delay to the sheriff of the county where the property was seized for further proceedings.

Section 72. Section 207.026, Florida Statutes, as amended by sections 46 and 47 of chapter 87-548, Laws of Florida, is amended to read:

207.026 Allocation of tax.--All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, from which the following transfers shall be made: After withholding $50,000 from the proceeds therefrom, to be used as a revolving cash balance, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in ss. 206.263, 206.555, 206.573, 206.575, 206.585, and 206.785.

Section 73. 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 s. ss. 201.15(5) and 206.875(1) and interest earned, in excess of $200 million in fiscal year 1987-1988 and $550 million thereafter, shall revert to the General Revenue Fund.

Section 74. Subsections (1), (2), (3), (4), (5), and (14) of section 215.22, Florida Statutes, are amended to read:

215.22 Certain moneys and certain trust funds enumerated.--The following described moneys and income of a revenue nature deposited in the following described trust funds, by whatever name designated, shall be those from which the deductions authorized by s. 215.20 shall be made:

1. The Gas Tax Collection Trust Fund created in s. 206.555 ss. 206.045.

2. All income derived from outdoor advertising and overweight violations which is deposited in the State Transportation Trust Fund created in s. 206.563 ss. 206.046.

3. All taxes levied on motor fuels other than gasoline levied pursuant to the provisions of s. 206.755 ss. 206.097.

4. The State Alternative Fuel User Fee Clearing Trust Fund established pursuant to s. 206.786(1) ss. 206.049.

5. The Local Alternative Fuel User Fee Clearing Trust Fund established pursuant to s. 206.786(2) ss. 206.049.

14. The Local Option Gas Tax Trust Fund created pursuant to s. 206.102 ss. 336.025.

The enumeration of the above moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the...
Governor determine that for the reasons mentioned in s. 215.24 the money or trust fund should be exempt herefrom, as it is the purpose of this law to exempt all trust funds from its force and effect when, by the operation of this law, federal matching funds or contributions to any trust fund would be lost to the state.

Section 75. Paragraph (b) of subsection (6) of section 218.21, Florida Statutes, is amended to read:

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

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

(b) No eligible municipality shall receive less funds from the Revenue Sharing Trust Fund for Municipalities in any fiscal year than the aggregate amount it received from the state in fiscal year 1971-1972 under the provisions of the then existing s. 210.20(2)(a), tax on cigarettes; s. 323.16(3), road tax; and s. 206.575 s-206.605, tax on motor fuel; except that any government exercising municipal powers pursuant to s. 6(f), Art. VIII of the State Constitution shall not receive less funds from any such revenue sharing trust fund than the aggregate amount it received from the state in the preceding state fiscal year under the provisions of this part, plus a 7 percent increase in such amount.

Section 76. Section 336.024, Florida Statutes, is amended to read:

336.024 Distribution of constitutional gas tax.--

Effective July 1, 1983, the State Board of Administration

CODING: Words struck are deletions; words underlined are additions.
shall assume the responsibility for distribution of the
counties' 50-percent share of the constitutional gas tax in
the same manner as the 20-percent share is currently
distributed pursuant to s. 206.565 et seq.; however, the
State Board of Administration shall assure that county funds
are made available to the department to be held in escrow for
any construction underway on behalf of the county pursuant to
resolution of the county governing body.

Section 77. Paragraph (c) of subsection (11) of
section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-
376.319. When used in ss. 376.30-376.319, unless the context
clearly requires otherwise, the term:

(11) "Petroleum storage system" means a stationary
tank not covered under the provisions of chapter 377, together
with any onsite integral piping or dispensing system
associated therewith, which is used, or intended to be used,
for the storage or supply of any petroleum product as defined
herein, and which:

(c) Is located in a storage facility licensed with the
Department of Revenue under s. 206.154 et seq. or s.
206.9930, excluding offsite pipelines;

Section 78. Section 849.092, Florida Statutes, is
amended to read:

849.092 Retail merchandising business; certain
activities permitted. The provisions of s. 849.09 shall not
be construed to prohibit or prevent persons who are licensed
to conduct business under s. 206.156 et seq., from giving
away prizes to persons selected by lot, if such prizes are
made on the following conditions:

101

CODING: Words struck are deletions; words underlined are additions.
(1) Such gifts are conducted as advertising and promotional undertakings, in good faith, solely for the purpose of advertising the goods, wares, merchandise and business of such licensee; and

(2) The principal business of such licensee is the business permitted to be licensed under s. 206.156 et seq.; and

(3) No person to be eligible to receive such gift shall ever be required to:

(a) Pay any tangible consideration to such licensee in the form of money or other property or thing of value, or

(b) Purchase any goods, wares, merchandise or anything of value from such licensee.

(4) The person selected to receive any such gift or prize offered by any such licensee in connection with any such advertising or promotion is notified of his selection at his last known address. Newspapers, magazines, television and radio stations may, without violating any law, publish and broadcast advertising matter describing such advertising and promotional undertakings of such licensees which may contain instructions pursuant to which persons desiring to become eligible for such gifts or prizes may make their name and address known to such licensee.

(5) All brochures, advertisements, promotional material, and entry blanks promoting such undertakings shall contain a clause stating that residents of Florida are entitled to participate in such undertakings and are eligible to win gifts or prizes.

Section 79. Sections 206.08, 206.25, 206.41, 206.435, 206.49, 206.625, 206.63, 206.64, 206.93, 206.94, 206.945, 212.60, 212.62, 212.6201, 212.63, 212.635, 212.64, 212.65,
212.655, and 212.66, Florida Statutes, and section 212.61, Florida Statutes, as amended by section 34 of chapter 87-548, Laws of Florida, are hereby repealed.

Section 80. This act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

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.

CODING: Words stricken are deletions; words underlined are additions.
# Tax Administration

**Prime Bill Number**: 88/S1203 *

**Type of Bill**: General

**Sponsor**: Deratany

**Prime Bill Title (Short Title)**: Tax Administration

**Similar/Identical Bill Substituted by Prime Bill**: 88/H0350

### Documentation Reproduced

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**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)
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.

Be It Enacted by the Legislature of the State of Florida

Section 1. Subsection (1) of section 213.75, Florida

Statutes, is amended to read:

213.75 Application of payments.--

(1) Except for any payment made pursuant to s. 213.21,

or as otherwise specified by the taxpayer at the time he makes

a payment, whenever any payment is made to the department with

respect to any of the revenue laws of this state, such payment

shall be applied as follows:

(a) First, against the accrued interest, if any;

(b) The amount, if any, remaining after the

application to interest shall be credited against any accrued

penalty; and

(c) The amount, if any, remaining after application to

interest and penalty shall be credited to any tax due.

Section 2. Section 108 of chapter 87-6, Laws of

Florida, is amended to read:

Section 108. Effective July 1, 1988, Except-for

violations-for-which-the-period-of-time-for-bringing-an-action

or-enforcing-a-ien-has-expired-prior-to-July-17-1988-the

penalties-provided-by-sections-49-through-98-of-this-act-apply
with respect to any period of time for which a tax may be assessed on July 1, 1988 are applicable to the failure to pay taxes which are due before and remain unpaid on July 1, 1988.

Section 3. Section 66 of chapter 87-101, Laws of Florida, is amended to read:

Section 66. Effective July 1, 1988, Except for violations for which the period of time for bringing an action or enforcing a lien has expired prior to July 1, 1988, the penalties provided by sections 29 through 62 of this act apply with respect to any period of time for which a tax may be assessed on July 1, 1988 are applicable to the failure to pay taxes which are due before and remain unpaid on July 1, 1988.

Section 4. This act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

SENATE SUMMARY

Provides exceptions to the statutory scheme of applying tax payments first against accrued interest, next against any accrued penalty, then against any tax due.

Amends s. 108 of ch. 87-6, Laws of Florida, and s. 66 of ch. 87-101, Laws of Florida, to provide that certain sections of those laws apply with respect to any period of time for which a tax may be assessed on July 1, 1988.

CODING: Words stricken are deletions; words underlined are additions.
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 department's ability to audit. Under Chapters 87-6 and 87-101, Laws of Florida, the department's 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.
Amendment #1 by FT&F: 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&F: Provides for retroactive operation of the bill to July 1, 1988, if it becomes a law after that date.

Amendment #3 by FT&F: Title Amendment corresponding to Amendment #1.
The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator..........and adopted:

Senate Amendment

On page 2, between lines 12 & 13,

If amendment is text from another bill insert:

Bill No. Draft No. With Changes? Yes

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) 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 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 ___/___/___)
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.
The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator .......... and adopted:

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? Yes No

, 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 __/__/__)
The Committee on Fin., Tax., & Claims recommended the following amendment which was moved by Senator.........and adopted:

Senate Amendment

In title, on page 1, line 7, after the semicolon ";";

If amendment is text from another bill insert:

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<th>Bill No.</th>
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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 strucken 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 ___/___/___)
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 distributions to 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:
(a) Its population is less than 50,000.

CODING: Words stricken are deletions; words underlined are additions.
(a) If the county has a population of 50,000 or above:

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

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

(b)(c) The moneys estimated to be distributed to the county government pursuant to s. 218.62 for the year will be less than the current $28 per capita limitation, based on the population of that county.

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

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

(5) The moneys appropriated for emergency distribution shall be divided equally per capita among

CODING: Words stricken are deletions; words underlined are additions.
qualified county governments; however, such moneys, when
combined with other moneys distributed pursuant to this part,
shall not exceed the current $20 per capita limitation, based
on the population of each for any county government. Any
excess shall be redistributed in the same fashion to remaining
qualified county governments; however, in no event shall the
current per capita limitation $20 limitation be exceeded.

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

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

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

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

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

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

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

218.66 Emergency distribution; municipalities.—

(1) Each municipal 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 municipality where the moneys estimated to be distributed to the municipal government pursuant to s. 218.62 for the year will be less than the current per capita limitation, based on the population of that municipality.

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

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

CODING: Words stricken are deletions; words underlined are additions.
Thereafter, commencing with the local government fiscal year which begins October 1, 1989, this limitation shall be adjusted annually for inflation. The annual adjustment to the per capita limitation for each fiscal period shall be the percentage change in the state and local government price deflator for purchases of goods and services, all items, 1983 equals 100, or successor reports for the preceding calendar year as initially reported by the United States Department of Commerce, Bureau of Economic Analysis, as certified by the Florida Consensus Estimating Conference.

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

(6) There is hereby annually appropriated from the General Revenue Fund to the Local Government Half-cent Sales Tax Clearing Trust Fund $1.2 million to be used for emergency distributions pursuant to this section and to be expended during the local government fiscal year. If any excess exists pursuant to subsection (5) at the end of the local government fiscal year after all qualified municipal governments have reached the current per capita limitation, it shall revert to the General Revenue Fund.

Section 3. This act shall take effect upon becoming a 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.
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 state's 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:

\[
\text{County Distribution Factor} = \frac{\text{Unincorporated Population}}{\text{Total County Population}} + \frac{2/3 \text{ Population}}{2/3 \text{ Population}}
\]

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:

\[
\text{Municipal Distribution Factor} = \frac{\text{Municipal Population}}{\text{Total County Population}} + \frac{2/3 \text{ Incorporated Population}}{2/3 \text{ Population}}
\]

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 "countwide tax relief or countwide 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:

<table>
<thead>
<tr>
<th>City</th>
<th>1985 Population</th>
<th>Total Dollars Per Capita</th>
<th>City</th>
<th>1985 Population</th>
<th>Total Dollars Per Capita</th>
</tr>
</thead>
<tbody>
<tr>
<td>Archer</td>
<td>1,394</td>
<td>31,660</td>
<td>South Pasadena</td>
<td>5,157</td>
<td>117,964</td>
</tr>
<tr>
<td>Tavares</td>
<td>5,895</td>
<td>134,894</td>
<td>Tavares</td>
<td>5,895</td>
<td>134,894</td>
</tr>
<tr>
<td>Lake Placid</td>
<td>992</td>
<td>22,766</td>
<td>Sebring</td>
<td>9,962</td>
<td>230,522</td>
</tr>
<tr>
<td>New Port Richey</td>
<td>12,558</td>
<td>292,144</td>
<td>Cooper City</td>
<td>14,254</td>
<td>333,132</td>
</tr>
<tr>
<td>High Springs</td>
<td>2,729</td>
<td>64,004</td>
<td>West Melbourne</td>
<td>7088</td>
<td>166,421</td>
</tr>
<tr>
<td>Sebastian</td>
<td>5,604</td>
<td>132,091</td>
<td>Sebastian</td>
<td>5,604</td>
<td>132,091</td>
</tr>
<tr>
<td>Coral Springs</td>
<td>56,193</td>
<td>1,326,489</td>
<td>Laurel Hill</td>
<td>673</td>
<td>15,929</td>
</tr>
<tr>
<td>Zephyrhills</td>
<td>6,476</td>
<td>153,486</td>
<td>Ft. Pierce</td>
<td>37,478</td>
<td>889,615</td>
</tr>
<tr>
<td>Ft. Pierce</td>
<td>37,478</td>
<td>889,615</td>
<td>St. Leo</td>
<td>955</td>
<td>22,694</td>
</tr>
<tr>
<td>Alachua</td>
<td>4,171</td>
<td>99,138</td>
<td>Okeechobee</td>
<td>4,397</td>
<td>104,681</td>
</tr>
<tr>
<td>Crystal River</td>
<td>3,544</td>
<td>84,557</td>
<td>Crystal River</td>
<td>3,544</td>
<td>84,557</td>
</tr>
<tr>
<td>Gainesville</td>
<td>82,882</td>
<td>1,979,024</td>
<td>Umatilla</td>
<td>2,052</td>
<td>49,028</td>
</tr>
<tr>
<td>Pinellas Park</td>
<td>39,871</td>
<td>952,769</td>
<td>Pinellas Park</td>
<td>39,871</td>
<td>952,769</td>
</tr>
<tr>
<td>Ponce Inlet</td>
<td>1,328</td>
<td>31,794</td>
<td>Clermont</td>
<td>5,928</td>
<td>142,044</td>
</tr>
<tr>
<td>Dade City</td>
<td>5,608</td>
<td>134,485</td>
<td>Dade City</td>
<td>5,608</td>
<td>134,485</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Dollars Per Capita</th>
<th>IDGDP (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988-89</td>
<td>$24.60</td>
<td>1.0363</td>
</tr>
<tr>
<td>1989-90</td>
<td>$25.49</td>
<td>1.0370</td>
</tr>
<tr>
<td>1990-91</td>
<td>$26.43</td>
<td>1.0405</td>
</tr>
<tr>
<td>1991-92</td>
<td>$27.50</td>
<td>1.0472</td>
</tr>
<tr>
<td>1992-93</td>
<td>$28.80</td>
<td>1.0515</td>
</tr>
<tr>
<td>1993-94</td>
<td>$30.28</td>
<td>1.0532</td>
</tr>
<tr>
<td>1994-95</td>
<td>$31.89</td>
<td>1.0554</td>
</tr>
</tbody>
</table>

[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
Staff Director: Mario L. Taylor

FINANCE & TAXATION:
Prepared by: Sarah Bleakley
Staff Director: Henry C. Cain

APPROPRIATIONS:
Prepared by: 
Staff Director: 
A bill to be entitled
An act relating to tax records; amending s. 192.105, F.S., which provides an exemption from public records requirements for certain federal tax information; 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. Subsection (1) of section 192.105, Florida Statutes, is amended to read:

192.105 Unlawful disclosure of federal tax information; penalty.--

(1) Notwithstanding the provisions of s. 119.14, it is unlawful for any person to divulge or make known federal tax information obtained pursuant to 26 U.S.C. s. 6103, except in accordance with a proper judicial order or as otherwise provided by law for use in the administration of the tax laws of this state, and such information is 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.

CODING: Words stricken are deletions; words underlined are additions.
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.

CODING: Words stricken are deletions; words underlined are additions.
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.
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 citizen's 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

VII. STAFF DIRECTOR: Jack M. Holland

( fabricated signature)
A bill to be entitled
An act relating to ad valorem tax exemptions;
amending s. 196.101, F.S., which provides an
exemption from public records requirements for
records produced by a taxpayer in connection
with the exemption granted totally and
permanently disabled persons; 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. Paragraph (b) of subsection (4) of section
196.101, Florida Statutes, is amended to read,

196.101 Exemption for totally and permanently disabled
persons.--

(4)

(b) The department shall require by rule that the
taxpayer annually submit a sworn statement of gross income,
pursuant to paragraph (a). The department shall require that
the filing of such statement be accompanied by copies of
federal income tax returns for the prior year, wage and
earnings statements (W-2 forms), and other documents it deems
necessary, for each member of the household. The taxpayer's
statement shall attest to the accuracy of such copies. The
department shall prescribe and furnish a form to be used for
this purpose, which form shall include spaces for a separate
listing of Veterans Administration benefits and social
security benefits. Notwithstanding the provisions of s.
119.14, all records produced by the taxpayer under this
paragraph are confidential in the hands of the property

CODING: Words stricken are deletions; words underlined are additions.
appraiser, the department, the tax collector, and the Auditor General and shall not be 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, and such records 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.

**HOUSE SUMMARY**

Provides that the exemption from public records requirements for records produced by a taxpayer in connection with the ad valorem tax exemption granted to totally and permanently disabled persons 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.

CODING: Words stricken are deletions; words underlined are additions.
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
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
A bill to be entitled
An act relating to tax records; amending s.
193.074, F.S., which provides an exemption from
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
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.

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CODING: Words strucken are deletions; words underlined are additions.
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.
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
A bill to be entitled

An act relating to property tax records;
amending s. 195.027, F.S., which provides an
exemption from public records requirements for
financial records relating to nonhomestead
property and for information forms which
disclose certain fees, costs, and financing
terms; saving such exemptions 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 (3) and (6) of section 195.027,
Florida Statutes, are amended to read:

195.027 Rules and regulations.--

(3) The rules and regulations shall provide procedures
whereby the property appraiser, the Department of Revenue, and
the Auditor General shall be able to obtain access, where
necessary, to financial records relating to nonhomestead
property, which records are required to make a determination
of the proper assessment as to the particular property in
question. Access to a taxpayer's records shall be provided
only in those instances in which it is determined that such
records are necessary to determine either the classification
or the value of the taxable nonhomestead property. Access
shall be provided only to those records which pertain to the
property physically located in the taxing county as of January
1 of each year and to the income from such property generated
in the taxing county for the year in which a proper assessment
is made. Notwithstanding the provisions of s. 119.14, all

CODING: Words struck are deletions; words underlined are additions.
records produced by the taxpayer under this subsection shall be deemed to be confidential in the hands of the property appraiser, the department, the tax collector, and the Auditor General and shall not be 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, and such records are exempt from the requirements of s. 119.0711. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(6) The fees and costs of the sale or purchase and terms of financing shall be presumed to be usual unless the buyer or seller, or agent thereof, files a form which discloses the unusual fees, costs, and terms of financing. Such form shall be filed with the clerk of the circuit court at the time of recording. The rules and regulations shall prescribe an information form to be used for this purpose. Either the buyer or the seller, or the agent of either, shall complete the information form and certify that the form is accurate to the best of his knowledge and belief.

Notwithstanding the provisions of s. 119.14, the information form shall be confidential in the hands of all persons after delivery to the clerk, except that the Department of Revenue and the Auditor General shall have access to it in the execution of their official duties, and such form is exempt from the requirements of s. 119.0711. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The information form may be used in any judicial proceeding, upon a motion to produce duly made by any party to such proceedings. Failure of the clerk to obtain an information form with the recording shall not impair the validity of the recording or the conveyance. The form shall

CODING: Words stricken are deletions; words underlined are additions.
provide for a notation by the clerk indicating the book and page number of the conveyance in the official record books of the county. The clerk shall promptly deliver all information forms received by him to the property appraiser for his custody and use.

Section 2. This act shall take effect October 1, 1988.

************

HOUSE SUMMARY

Provides that the exemptions from public records requirements for financial records relating to nonhomestead property and for information forms which disclose unusual fees, costs, and financing terms with respect to the sale or purchase of 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.

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CODING: Words stricken are deletions; words underlined are additions.
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) 

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.
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.
V. AMENDMENTS:
None.

VI. PREPARED BY: Vickie M. Smith

VII. STAFF DIRECTOR: Jack M. Holland
Florida House of Representatives - 1988

By the Committee on Governmental Operations and Representative Hodges

A bill to be entitled

An act relating to property tax records;
amending s. 195.084, F.S., which specifies that
the Auditor General and property appraisers are
bound by the same confidentiality requirements
as the Department of Revenue and provides
requirements and penalties applicable thereto;
including tax collectors within such
provisions; saving such exemption from public
records requirements 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. Subsection (1) of section 195.084, Florida
Statutes, is amended to read:

195.084 Information exchange.--
(1) The department shall promulgate rules and
regulations for the exchange of information among the
department, the property appraisers' offices, the tax
collectors' offices, and the Auditor General. All records and
returns of the department useful to the property appraiser or
tax collector shall be made available upon his request, but
subject to the reasonable conditions imposed by the
department. This section shall supersede statutes prohibiting
disclosure only with respect to the property appraiser, the
tax collector, and the Auditor General, but the department may
establish regulations setting reasonable conditions upon the
access to and custody of such information. Notwithstanding

the provisions of s. 119.14, the Auditor General, and the
property appraisers, and the tax collectors shall be bound by
the same requirements of confidentiality as the Department of
Revenue. This exemption is subject to the Open Government
Sunset Review Act in accordance with s. 119.14. Breach of
confidentiality shall be a misdemeanor of the first degree
punishable as provided by ss. 775.082 and 775.083.

Section 2. This act shall take effect October 1, 1988.

********************

Amends provisions which specify that the Auditor General
and property appraisers are bound by the same
confidentiality requirements as the Department of Revenue
with respect to exchange of information regarding
property tax records, to include tax collectors within
such provisions and to provide that this exemption from
public records requirements shall not be repealed October
1, 1988, under the Open Government Sunset Review Act.
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.

CODING: Words stricken are deletions; words underlined are additions.
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.
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
A bill to be entitled
An act relating to returns stating
consideration paid for real property; amending
s. 201.022, F.S., which requires such return as
a condition for recording a deed transferring
an interest in real property, and which
provides an exemption from public records
requirements for such 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. Subsection (1) of section 201.022, Florida
Statutes, is amended to read:
201.022 Consideration for realty; filing of return
condition precedent to recordation; failure to file does not
impair validity.--

(1) As a condition precedent to the recordation of any
deed transferring an interest in real property, the grantor or
the grantee or agent for grantee shall execute and file a
return with the clerk of the circuit court. The return shall
state the actual consideration paid for the interest in real
property. **Notwithstanding the provisions of s. 119.14, the
return shall not be recorded, or otherwise become a public
record, and shall be confidential as provided by s. 193.074, 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. The original return shall
be forwarded to the department, and a copy shall be forwarded
to the property appraiser.

CODING: Words stricken are deletions; words underlined are additions.
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.

CODING: Words stricken are deletions; words underlined are additions.
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.
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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A bill to be entitled
An act relating to confidentiality of tax
information; amending s. 213.053, F.S., which
provides an exemption from public records
requirements for specified tax information
received or prepared by the Department of
Revenue and which provides for application of
confidentiality requirements to specified state
officers and agencies; including property
appraisers and tax collectors within provisions
authorizing information sharing and providing
for application of confidentiality requirements
and penalties; saving such exemptions 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 (2) and (6) of section 213.053,
Florida Statutes, and subsection (7) of said section, as
amended by chapter 87-198, Laws of Florida, are amended to
read:

213.053 Confidentiality and information sharing.--
(2) Notwithstanding the provisions of s. 119.14,
except as provided in subsections (3), (4), (5), (6), (7),
(8), and (9), all information contained in returns, reports,
accounts, or declarations received by the department,
including investigative reports and information and including
letters of technical advice, is confidential except for
official purposes, and is exempt from the requirements of s.
119.07(1). Any officer or employee, or former officer or

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employee, of the department who divulges any such information
in any manner, except for such official purposes or in
accordance with the provisions of subsection (3), subsection
(4), subsection (5), subsection (6), subsection (7),
subsection (8), or subsection (9), is guilty of a misdemeanor
of the first degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084. This exemption is subject to the Open
Government Sunset Review Act in accordance with s. 119.14.

(6) Any information received by the Department of
Revenue in connection with the administration of taxes,
including, but not limited to, information contained in
returns, reports, accounts, or declarations filed by persons
subject to tax, shall be made available by the department to
the Auditor General or his authorized agent, the Comptroller
or his authorized agent, the property appraiser or tax collector
or their authorized agents pursuant to s. 195.084(1), and the
Treasurer or his authorized agent, in the performance of their
official duties; however, no information shall be disclosed to
the Auditor General or his authorized agent, the Comptroller
or his authorized agent, the property appraiser or tax
collector or their authorized agents pursuant to s.
195.084(1), or the Treasurer or his authorized agent, if such
disclosure is prohibited by federal law. Notwithstanding the
provisions of s. 119.14, the Auditor General or his authorized
agent, the Comptroller or his authorized agent, the property
appraiser or tax collector or their authorized agents, and the
Treasurer or his authorized agent shall be subject to the same
requirements of confidentiality and the same penalties for
violation of the requirements as the department. This
exemption is subject to the Open Government Sunset Review Act
in accordance with s. 119.14.
(7) Nothing in this section shall prevent the department from providing information relative to chapter 211, chapter 376, or chapter 377 to the proper state agency in the conduct of its official duties or from providing information relative to chapter 212 to the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation in the conduct of its official duties. Notwithstanding the provisions of s. 119.14, such state agencies shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083. 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.

HOUSE SUMMARY

Provides that the exemption from public records requirements for specified tax information received or prepared by the Department of Revenue and the application of confidentiality requirements to specified state officers and agencies shall not be repealed October 1, 1988, under the Open Government Sunset Review Act, and provides for future review and repeal under said act.

Includes property appraisers and tax collectors within provisions which authorize information sharing and which provide for application of confidentiality requirements and penalties.

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.

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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) 

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.
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
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
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(11). 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.

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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CODING: Words stricken are deletions; words underlined are additions.
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
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
A bill to be entitled
An act relating to confidentiality of tax
information; amending s. 206.27, F.S., which
provides an exemption from public records
requirements for audits in progress and pending
investigations concerning taxation of fuels and
other pollutants; saving such exemption from
repeal; providing an effective date.

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

Section 1. Subsection (2) of section 206.27, Florida
Statutes, is amended to read:

206.27 Records and files as public records.--
(2) Notwithstanding the provisions of s. 119.14,
nothing herein shall be construed as requiring the department
to provide as a public record any information concerning
audits in progress or those records and files of the
department described in this section which are currently the
subject of pending investigation by the Department of Revenue
or the Florida Department of Law Enforcement. It is
specifically provided that the foregoing information shall be
exempt from the provisions of s. 119.07(1) chapter-119 and
shall be considered confidential pursuant to s. 213.053. Any
officer, employee, or former officer or employee of the
department who divulges any such information in any manner
except for such official purposes or under s. 213.053 is
guilty of a misdemeanor of the first degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084. This
exemption is subject to the Open Government Sunset Review Act
in accordance with s. 119.14.

CODING: Words stricken are deletions; words underlined are additions.
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 audits in progress and pending investigations concerning taxation of motor and special fuels and other pollutants shall not be repealed October 1, 1988, under the Open Government Sunset Review 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.

CODING: Words stricken are deletions; words underlined are additions.
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)  

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.
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
A bill to be entitled
An act relating to confidentiality of tax information; amending s. 211.33, F.S., which provides an 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; 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. Subsection (5) 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.--
(5) Notwithstanding the provisions of s. 119.14, the use of information contained in any return filed by a producer under this part or in any books, records, or documents of a producer shall be 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.

CODING: Words struck are deletions; words underlined are additions.
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.

Coding: Words stricken are deletions; words underlined are additions.
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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APR 25 1988

STANDARD FORM 10-30-87
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
A bill to be entitled
An act relating to confidentiality of tax
information; amending s. 211.125, F S., which
provides an 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;
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. Subsection (10) 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. --

(10) Notwithstanding the provisions of s. 119.14, all
returns and information filed with the department under this
part are confidential and exempt from the requirements of s.
119.07(1), and such returns or information shall be protected
from unauthorized disclosure as provided in s. 213 053 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.

CODING: Words stricken are deletions, words underlined are additions.
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.

CODING: Words stricken are deletions; words underlined are additions.
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.
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
A bill to be entitled
An act relating to confidentiality of tax
information; amending s. 212.0305, F.S., which
provides an exemption from public records
requirements for records concerning convention
development tax collections; 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. Paragraph (d) of subsection (3) of section
212.0305, Florida Statutes, is amended to read:
212.0305 Convention development taxes; intent;
administration; authorization; use of proceeds.--
(3) APPLICATION; ADMINISTRATION, PENALTIES.--
(d) The department shall keep records showing the
amount of taxes collected, which records shall disclose the
taxes collected from each county in which a local government
resort tax is levied. Notwithstanding the provisions of s.
119.14, these records shall be open-for-inspection-during-the
regular-office-hours-of-the-department, subject to the
provisions of s. 213.053, and 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.

CODING: Words stricken are deletions; words underlined are additions.
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.

CODING: Words stricken are deletions; words underlined are additions.
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
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
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) 

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
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
A bill to be entitled
An act relating to confidentiality of tax
information; amending s. 213.21, F S., which
provides an exemption from public records
requirements for records relating to
compromises of taxes or interest due maintained
by the Department of Revenue; 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. Subsection (3) of section 213.21, Florida
Statutes, is amended to read:

213.21 Informal conferences; compromises.--
(3) A taxpayer's liability for any tax or interest
specified in s. 72.011(1), except taxes imposed under chapter
206, may be compromised by the department upon the grounds of
doubt as to liability for or collectibility of such tax or
interest. A taxpayer's liability for penalties under any of
the chapters specified in s. 72.011(1) may be settled or
compromised if it is determined by the department that the
noncompliance is due to reasonable cause and not to willful
negligence, willful neglect, or fraud. The department shall
maintain records of all compromises, and the records shall
state the basis for the compromise. Notwithstanding the
provisions of s. 119.14, the records of compromise shall not
be subject to disclosure pursuant to s. 119.07(1) chapter-449
and shall be considered confidential information governed by
the provisions of s. 213.053. This exemption is subject to

CODING Words struck are deletions; words underlined are additions.
the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. This act shall take effect October 1, 1988.

HOUSE SUMMARY

Provides that the exemption from public records requirements for records relating to compromises of taxes or interest due maintained 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 per single page in compliance with the Rules and for the information of members of the Legislature and the public.

CODING: Words strucken are deletions; words underlined are additions.
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
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
A bill to be entitled
An act relating to confidentiality of tax
information; amending s. 213.22, F.S., which
provides an exemption from public records
requirements for technical assistance
advisements issued by the Department of
Revenue; 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. Subsection (2) of section 213.22, Florida
Statutes, is amended to read:

213.22 Technical assistance advisements.--
(2) Notwithstanding the provisions of s. 119.14, the
department may not disclose pursuant to s. 119.07(1) chapter
119, or otherwise, a technical assistance advisement or a
request for a technical assistance advisement to any person
other than the person who requested the advisement, or his
authorized representative, or for official departmental
purposes, without first deleting the name, address, and other
identifying details of the person to whom the technical
assistance advisement was issued. 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.

CODING: Words strucken are deletions; words underlined are additions.
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.

CODING: Words strucken are deletions; words underlined are additions.
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.
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
HB 768

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. 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.
(6) Notwithstanding the provisions of s. 119.14, confidential information shared with debt collection or auditing agencies is exempt from the requirements of s. 119.07(1), and these agencies shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by ss. 775.082 and 775.083. 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.

******************************

HOUSE SUMMARY

Provides that the exemption from public records requirements for confidential information shared by the Department of Revenue with debt collection or auditing agencies 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.

CODING: Words stricken are deletions; words underlined are additions.
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.
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
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.

CODING: Words struck are deletions; words underlined are additions.
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.

CODING: Words stricken are deletions; words underlined are additions.
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
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
A bill to be entitled
An act relating to corporate income tax;
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,
providing an effective date.

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

Section 1 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, 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

CODING: Words stricken are deletions; words underlined are additions.
Section 2. 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 3. 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. ss. 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.

Section 4. This act shall take effect upon becoming a law, and shall operate retroactively to January 1, 1988.

HOUSE SUMMARY
Updates references to the Internal Revenue Code for purposes of the Florida Income Tax Code. Clarifies provisions for determination of the amount of corporate income tax for taxpayers using the federal alternative minimum tax base. Revises the definition of "bank" under the code to include Florida Industrial Development Corporations.

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.

CODING: Words stricken are deletions; words underlined are additions.
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:
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:
Bill #: PCB FT 88-9
Date: April 14, 1988

APPROPRIATIONS:
Prepared by:

Signed by:

Staff Director:
HB 1682

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

CODING: Words strucken are deletions; words underlined are additions.
and other transactions, including admissions
and rentals and license fees; and designated
nonproperty taxes; providing construction
regarding retention of records; amending s
215.322, F.S.; revising requirements regarding
acceptance of credit cards by state agencies;
removing an exemption from service fees for
certain revenues; authorizing imposition of
such charges; providing for contracts with
financial institutions or credit card
companies; authorizing units of local
government to accept credit cards; providing
for confidentiality; amending s 206.425, F.S.;
providing 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; providing an
effective date.

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

Section 1. Section 213.305, Florida Statutes, is
amended to read:

213.305 Application of penalties-provided-by ss. 49
through 98 of chapter 87-6, Laws of Florida --Except-for
violations-for-which-the-period-of-time-for-bringing-an-action
or-enforcing-a-lien-has-expired-prior-to-July-1,1988,-the
penalties-provided-by Sections 49 through 98 of chapter 87-6,
Laws of Florida, are effective July 1, 1988, and are
applicable to taxable periods which remain open to assessment

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on that date the-failure-to-pay-taxes-which-are-due-before-and

Section 2. Section 66 of chapter 87-101, Laws of
Florida, is amended to read:

Section 66. Except-for-violations-for-which-the-period
of-time-for-bringing-an-action-or-enforcing-a-lien-has-expired
prior-to-July-1, 1988, the-penalties-provided-by Sections 29
through 62 of this act are effective July 1, 1988, and are
applicable to taxable periods which remain open to assessment
on that date the-failure-to-pay-taxes-which-are-due-before-and
remain-unpaid-on-July-1, 1988

Section 3 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. 1. 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. 3. 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

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In any case in which there has been 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 4. 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 5. Subsection (1) of section 213.75, Florida Statutes, is amended to read:

213.75 Application of payments.--
(1) Except for payments made pursuant to s. 213.21 and absent a specific assignment to the contrary made by the
taxpayer at the time of payment, whenever any payment is made to the department with respect to any of the revenue laws of this state, such payment shall be applied as follows:

(a) First, against the accrued interest, if any;

(b) The amount, if any, remaining after the application to interest shall be credited against any accrued penalty, and

(c) The amount, if any, remaining after application to interest and penalty shall be credited to any tax due.

Section 6. 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 7. 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 8. Section 207.008, Florida Statutes, is amended to read:

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207.008 Retention of records by motor carrier.--Each registered motor carrier shall maintain and keep, for a period of four 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 9. 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 10. 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 11. 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 12. 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

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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

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guilty of a misdemeanor of the first degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. 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,
共同 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

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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 14. 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.

(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 15. (1) Nothing in this act requires the retention of records of taxable transactions or other activities that occurred or were consummated prior to July 1, 1985.

(2) Notwithstanding subsection (1), nothing in this act shortens the time during which any record pertinent to this state's taxes was required before its enactment to be retained.

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Section 16. 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) The types of revenue or collections that may be subject to service fees by the financial institution or surcharges. Taxes, license fees, tuition, and other statutorily prescribed revenues may 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.

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

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.

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.

Credit card account numbers in the possession of a state agency or unit of local government shall not be public record or subject to chapter 119.

Section 17. Subsection (4) of section 206.425, Florida Statutes, is amended to read:

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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, that person or licensee may seek relief from the department pursuant to s. 213.21.

Section 18. 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.

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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.

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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.
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. 95.09113), 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:

FINANCE & TAXATION:
Prepared by: Alan W. Johanson

APPROPRIATIONS:
Prepared by:

Staff Director:

Henry O. Cain

Staff Director:
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:

CODING: Words stricken are deletions, words underlined are additions.
Section 1. Section 192.105, Florida Statutes, is amended to read:

192.105 Unlawful disclosure of federal tax information; penalty.—

(1) Notwithstanding s. 119.14, it is unlawful for any person to divulge or make known federal tax information obtained pursuant to 26 U.S.C. s. 6103, except in accordance with a proper judicial order or as otherwise provided by law for use in the administration of the tax laws of this state. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 193.074, Florida Statutes, is amended to read:

193.074 Confidentiality of returns.—Notwithstanding 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. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Subsections (3) and (6) of section 195.027, Florida Statutes, are amended to read:

195.027 Rules and regulations.—

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(3) The rules and regulations shall provide procedures whereby the property appraiser, the Department of Revenue, and the Auditor General shall be able to obtain access, where necessary, to financial records relating to nonhomestead property, which records are required to make a determination of the proper assessment as to the particular property in question. Access to a taxpayer's records shall be provided only in those instances in which it is determined that such records are necessary to determine either the classification or the value of the taxable nonhomestead property. Access shall be provided only to those records which pertain to the property physically located in the taxing county as of January 1 of each year and to the income from such property generated in the taxing county for the year in which a proper assessment is made. Notwithstanding s. 119.14, all records produced by the taxpayer under this subsection shall be deemed to be confidential in the hands of the property appraiser, the department, the tax collector, and the Auditor General and shall not be 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. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(6) The fees and costs of the sale or purchase and terms of financing shall be presumed to be usual unless the buyer or seller, or agent thereof, files a form which discloses the unusual fees, costs, and terms of financing. Such form shall be filed with the clerk of the circuit court at the time of recording. The rules and regulations shall prescribe an information form to be used for this purpose. Either the buyer or the seller, or the agent of either, shall

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complete the information form and certify that the form is accurate to the best of his knowledge and belief.

Notwithstanding s. 119.14, the information form shall be confidential in the hands of all persons after delivery to the clerk, except that the Department of Revenue and the Auditor General shall have access to it in the execution of their official duties. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

The information form may be used in any judicial proceeding, upon a motion to produce duly made by any party to such proceedings. Failure of the clerk to obtain an information form with the recording shall not impair the validity of the recording or the conveyance. The form shall provide for a notation by the clerk indicating the book and page number of the conveyance in the official record books of the county. The clerk shall promptly deliver all information forms received by him to the property appraiser for his custody and use.

Section 4. Subsection (1) of section 195.084, Florida Statutes, is amended to read:

195.084 Information exchange.--

(1) The department shall promulgate rules and regulations for the exchange of information among the department, the property appraisers' offices, the tax collector, and the Auditor General. All records and returns of the department useful to the property appraiser or the tax collector shall be made available upon his request, but subject to the reasonable conditions imposed by the department. This section shall supersede statutes prohibiting disclosure only with respect to the property appraiser, the tax collector, and the Auditor General, but the department may
establish regulations setting reasonable conditions upon the
access to and custody of such information. Notwithstanding s.
119.14, the Auditor General, the tax collectors, and the
property appraisers shall be bound by the same requirements of
confidentiality as the Department of Revenue. This exemption
is subject to the Open Government Sunset Review Act in
accordance with s. 119.14. Breach of confidentiality shall be
a misdemeanor of the first degree punishable as provided by
ss. 775.082 and 775.083.

Section 5. Subsection (4) of section 196.101, Florida
Statutes, is amended to read:

196.101 Exemption for totally and permanently disabled
persons.--

(4)(a) A person entitled to the exemption in
subsection (2) must be a permanent resident of this state.
Submission of an affidavit that the applicant claiming the
exemption under subsection (2) is a permanent resident of this
state is prima facie proof of such residence. However, the
gross income of all persons residing in or upon the homestead
for the prior year shall not exceed $12,000. For the purposes
of this section, the term "gross income" includes Veterans
Administration benefits and any social security benefits paid
to the persons.

(b) The department shall require by rule that the
taxpayer annually submit a sworn statement of gross income,
pursuant to paragraph (a). The department shall require that
the filing of such statement be accompanied by copies of
federal income tax returns for the prior year, wage and
earnings statements (W-2 forms), and other documents it deems
necessary, for each member of the household. The taxpayer's
statement shall attest to the accuracy of such copies. The

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department shall prescribe and furnish a form to be used for this purpose, which form shall include spaces for a separate listing of Veterans Administration benefits and social security benefits. Notwithstanding s. 119.14, all records produced by the taxpayer under this paragraph are confidential in the hands of the property appraiser, the department, the tax collector, and the Auditor General and shall not be 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. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 6. Section 199.222, Florida Statutes, is amended to read:

199.222 Confidentiality of returns.--Notwithstanding s. 119.14, all annual personal property tax returns filed with the department shall be confidential, as provided in s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 7. Subsection (1) of section 201.022, Florida Statutes, is amended to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; failure to file does not impair validity.--

(1) As a condition precedent to the recordation of any deed transferring an interest in real property, the grantor or the grantee or agent for grantee shall execute and file a return with the clerk of the circuit court. The return shall state the actual consideration paid for the interest in real property. Notwithstanding s. 119.14, the return shall not be recorded, or otherwise become a public record, and shall be
confidential as provided by s. 193.074. The original return shall be forwarded to the department, and a copy shall be forwarded to the property appraiser. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 8. Subsection (2) of section 206.27, Florida Statutes, is amended to read:

206.27 Records and files as public records.--

(2) Notwithstanding s. 119.14, nothing herein shall be construed as requiring the department to provide as a public record any information concerning audits in progress or those records and files of the department described in this section which are currently the subject of pending investigation by the Department of Revenue or the Florida Department of Law Enforcement. It is specifically provided that the foregoing information shall be exempt from the provisions of chapter 119 and shall be considered confidential pursuant to s. 213.053. Any officer, employee, or former officer or employee of the department who divulges any such information in any manner except for such official purposes or under s. 213.053 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 9. Subsection (10) 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.--

(10) Notwithstanding s. 119.14, all returns and information filed with the department under this part are

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confidential, and such returns or information shall be
protected from unauthorized disclosure as provided in s.
213.053. This exemption is subject to the Open Government
Sunset Review Act in accordance with s. 119.14.

Section 10. Subsection (5) 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.--
(5) Notwithstanding s. 119.14, the use of information
contained in any return filed by a producer under this part or
in any books, records, or documents of a producer shall be as
provided in s. 213.053. This exemption is subject to the Open
Government Sunset Review Act in accordance with s. 119.14.

Section 11. Paragraph (d) of subsection (3) of section
212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent;
administration; authorization; use of proceeds.--
(3) APPLICATION; ADMINISTRATION; PENALTIES.--
(d) The department shall keep records showing the
amount of taxes collected, which records shall disclose the
taxes collected from each county in which a local government
resort tax is levied. Notwithstanding s. 119.14, these
records shall be open for inspection during the regular office
hours of the department, subject to the provisions of s.
213.053. This exemption is subject to the Open Government
Sunset Review Act in accordance with s. 119.14.

Section 12. Subsections (2), (6), (7), and (9) of
section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.--
(2) Notwithstanding s. 119.14, except as provided in
subsections (3), (4), (5), (6), (7), (8), and (9), all

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information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and including letters of technical advice, is confidential except for official purposes. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), or subsection (9), is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any information received by the Department of Revenue in connection with the administration of taxes, including, but not limited to, information contained in returns, reports, accounts, or declarations filed by persons subject to tax, shall be made available by the department to the Auditor General or his authorized agent, the Comptroller or his authorized agent, and the Treasurer or his authorized agent, or a property appraiser or tax collector or their authorized agents pursuant to s. 195.084(1), in the performance of their official duties; however, no information shall be disclosed to the Auditor General or his authorized agent, the Comptroller or his authorized agent, or the Treasurer or his authorized agent, or to a property appraiser or tax collector or their authorized agents if such disclosure is prohibited by federal law. The Auditor General or his authorized agent, the Comptroller or his authorized agent, and the Treasurer or his authorized agent, and the property appraiser or tax collector and their authorized agents, shall

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be subject to the same requirements of confidentiality and the same penalties for violation of the requirements as the department.

(7) The provisions of this section apply to all sections of chapter 207, the Florida Special Fuel and Motor Fuel Use Tax Act of 1981, except for s. 207.025, exchange of information. However, nothing in this section shall prevent the department from providing information relative to chapter 211, chapter 376, or chapter 377 to the proper state agency in the conduct of its official duties or from providing information relative to chapter 212 to the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation in the conduct of its official duties.

Notwithstanding s. 119.14, such state agencies shall be bound by the same requirements of confidentiality as the Department of Revenue. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

(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 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.
(b) Such information shall be disclosed only if the department receives an authenticated copy of a resolution adopted by the governing body requesting it.

(c) Notwithstanding s. 119.14, after receipt of such information, the governing body and its officers and employees are subject to the same requirements of confidentiality and the same penalties for violating confidentiality as the department and its employees. The resolution requesting such information shall provide assurance that the governing body and its officers and employees are aware of those requirements and of the penalties for their violation of such requirements, and shall describe the measures that will be put into effect to ensure such confidentiality. The officer of the department who is authorized to receive, consider, and act upon such requests shall, if satisfied that the assurances in the resolution are adequate to assure confidentiality, grant the request. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(d) Nothing in this subsection authorizes disclosure of any information prohibited by federal law from being disclosed.

Section 13. Subsection (3) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.--

(3) A taxpayer's liability for any tax or interest specified in s. 72.011(1), except taxes imposed under chapter 206, may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the

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noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. Notwithstanding s. 119.14, the records of compromise shall not be subject to disclosure pursuant to chapter 119 and shall be considered confidential information governed by the provisions of s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 14. Subsection (2) of section 213.22, Florida Statutes, is amended to read:

213.22 Technical assistance advisements.--

(2) Notwithstanding s. 119.14, the department may not disclose pursuant to chapter 119, or otherwise, a technical assistance advisement or a request for a technical assistance advisement to any person other than the person who requested the advisement, or his authorized representative, or for official departmental purposes, without first deleting the name, address, and other identifying details of the person to whom the technical assistance advisement was issued. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 15. 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

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pursuant to the contract necessary for the collection of
delinquent taxes. Contracts will be made pursuant to chapter
227. The taxpayer must be notified by certified mail by the
department, its employees, or its authorized representative 31
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.

(6) Notwithstanding s. 119.14, confidential
information shared with debt collection or auditing agencies
is exempt from chapter 119, and debt collection or auditing
agencies shall be bound by the same requirements of
confidentiality as the Department of Revenue. Breach of
confidentiality is a misdemeanor of the first degree,
punishable as provided by ss. 775.082 and 775.083. This
exemption is subject to the Open Government Sunset Review Act
in accordance with s. 119.14.

Section 16. Section 220.242, Florida Statutes, is
amended to read:

220.242 Declaration as return.—Notwithstanding 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. 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.
This exemption is subject to the Open Government Sunset Review
Act in accordance with s. 119.14.

Section 17. This act shall take effect October 1,

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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.
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

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agency; 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; providing an
effective date.

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

1. Section 192.105, Florida Statutes, is
amended to read:

192.105 Unlawful disclosure of federal tax
information; penalty.--

(1) Notwithstanding s. 119.14, it is unlawful for any
person to divulge or make known federal tax information
obtained pursuant to 26 U.S.C. s. 6103, except in accordance
with a proper judicial order or as otherwise provided by law
for use in the administration of the tax laws of this state.
This exemption is subject to the Open Government Sunset Review
Act in accordance with s. 119.14.

(2) Any person who violates the provisions of this
section is guilty of a misdemeanor of the first degree,
punishable as provided in s. 775.082, s. 775.083, or s.
775.084.

2. Section 193.074, Florida Statutes, is
amended to read:

193.074 Confidentiality of returns.--Notwithstanding
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. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Subsections (3) and (6) of section 195.027, Florida Statutes, are amended to read:

195.027 Rules and regulations.--

(3) The rules and regulations shall provide procedures whereby the property appraiser, the Department of Revenue, and the Auditor General shall be able to obtain access, where necessary, to financial records relating to nonhomestead property, which records are required to make a determination of the proper assessment as to the particular property in question. Access to a taxpayer's records shall be provided only in those instances in which it is determined that such records are necessary to determine either the classification or the value of the taxable nonhomestead property. Access shall be provided only to those records which pertain to the property physically located in the taxing county as of January 1 of each year and to the income from such property generated in the taxing county for the year in which a proper assessment is made. Notwithstanding s. 119.14, all records produced by the taxpayer under this subsection shall be deemed to be confidential in the hands of the property appraiser, the department, the tax collector, and the Auditor General and shall not be 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. This

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exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(6) The fees and costs of the sale or purchase and terms of financing shall be presumed to be usual unless the buyer or seller, or agent thereof, files a form which discloses the unusual fees, costs, and terms of financing. Such form shall be filed with the clerk of the circuit court at the time of recording. The rules and regulations shall prescribe an information form to be used for this purpose. Either the buyer or the seller, or the agent of either, shall complete the information form and certify that the form is accurate to the best of his knowledge and belief.

Notwithstanding s. 119.14, the information form shall be confidential in the hands of all persons after delivery to the clerk, except that the Department of Revenue and the Auditor General shall have access to it in the execution of their official duties. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

The information form may be used in any judicial proceeding, upon a motion to produce duly made by any party to such proceedings. Failure of the clerk to obtain an information form with the recording shall not impair the validity of the recording or the conveyance. The form shall provide for a notation by the clerk indicating the book and page number of the conveyance in the official record books of the county. The clerk shall promptly deliver all information forms received by him to the property appraiser for his custody and use.

Section 4. Subsection (1) of section 195.084, Florida Statutes, is amended to read:

195.084 Information exchange.--

CODING: Words struck are deletions; words underlined are additions.
(1) The department shall promulgate rules and regulations for the exchange of information among the department, the property appraisers' offices, the tax collector, and the Auditor General. All records and returns of the department useful to the property appraiser or the tax collector shall be made available upon his request, but subject to the reasonable conditions imposed by the department. This section shall supersede statutes prohibiting disclosure only with respect to the property appraiser, the tax collector, and the Auditor General, but the department may establish regulations setting reasonable conditions upon the access to and custody of such information. Notwithstanding s. 119.14, the Auditor General, the tax collectors, and the property appraisers shall be bound by the same requirements of confidentiality as the Department of Revenue. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Breach of confidentiality shall be a misdemeanor of the first degree punishable as provided by ss. 775.082 and 775.083.

Section 5. Subsection (4) of section 196.101, Florida Statutes, is amended to read:

196.101 Exemption for totally and permanently disabled persons.--

(4)(a) A person entitled to the exemption in subsection (2) must be a permanent resident of this state. Submission of an affidavit that the applicant claiming the exemption under subsection (2) is a permanent resident of this state is prima facie proof of such residence. However, the gross income of all persons residing in or upon the homestead for the prior year shall not exceed $12,000. For the purposes of this section, the term "gross income" includes Veterans

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Administration benefits and any social security benefits paid to the persons.

(b) The department shall require by rule that the taxpayer annually submit a sworn statement of gross income, pursuant to paragraph (a). The department shall require that the filing of such statement be accompanied by copies of federal income tax returns for the prior year, wage and earnings statements (W-2 forms), and other documents it deems necessary, for each member of the household. The taxpayer's statement shall attest to the accuracy of such copies. The department shall prescribe and furnish a form to be used for this purpose, which form shall include spaces for a separate listing of Veterans Administration benefits and social security benefits. Notwithstanding s. 119.14, all records produced by the taxpayer under this paragraph are confidential in the hands of the property appraiser, the department, the tax collector, and the Auditor General and shall not be 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. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 6. Section 199.222, Florida Statutes, is amended to read:

199.222 Confidentiality of returns.—Notwithstanding s. 119.14, all annual personal property tax returns filed with the department shall be confidential, as provided in s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 7. Subsection (1) of section 201.022, Florida Statutes, is amended to read:

CODING: Words stricken are deletions; words underlined are additions.
201.022 Consideration for realty; filing of return condition precedent to recordation; failure to file does not impair validity.--

(1) As a condition precedent to the recordation of any deed transferring an interest in real property, the grantor or the grantee or agent for grantee shall execute and file a return with the clerk of the circuit court. The return shall state the actual consideration paid for the interest in real property. Notwithstanding s. 119.14, the return shall not be recorded, or otherwise become a public record, and shall be confidential as provided by s. 193.074. The original return shall be forwarded to the department, and a copy shall be forwarded to the property appraiser. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 8. Subsection (2) of section 206.27, Florida Statutes, is amended to read:

206.27 Records and files as public records.--

(2) Notwithstanding s. 119.14, nothing herein shall be construed as requiring the department to provide as a public record any information concerning audits in progress or those records and files of the department described in this section which are currently the subject of pending investigation by the Department of Revenue or the Florida Department of Law Enforcement. It is specifically provided that the foregoing information shall be exempt from the provisions of chapter 119 and shall be considered confidential pursuant to s. 213.053. Any officer, employee, or former officer or employee of the department who divulges any such information in any manner except for such official purposes or under s. 213.053 is guilty of a misdemeanor of the first degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 9. Subsection (10) 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.--

(10) Notwithstanding s. 119.14, all returns and information filed with the department under this part are confidential, and such returns or information shall be protected from unauthorized disclosure as provided in s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 10. Subsection (5) 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.--

(5) Notwithstanding s. 119.14, the use of information contained in any return filed by a producer under this part or in any books, records, or documents of a producer shall be as provided in s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 11. Paragraph (d) of subsection (3) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.--

(3) APPLICATION; ADMINISTRATION; PENALTIES.--

(d) The department shall keep records showing the amount of taxes collected, which records shall disclose the taxes collected from each county in which a local government
resort tax is levied. Notwithstanding s. 119.14, these records shall be open for inspection during the regular office hours of the department, subject to the provisions of s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 12. Subsections (2), (6), (7), and (9) of section 213.053, Florida Statutes, are amended to read:

213.053 Confidentiality and information sharing.--

(2) Notwithstanding s. 119.14, except as provided in subsections (3), (4), (5), (6), (7), (8), and (9), all information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and including letters of technical advice, is confidential except for official purposes. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), or subsection (9), is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) Any information received by the Department of Revenue in connection with the administration of taxes, including, but not limited to, information contained in returns, reports, accounts, or declarations filed by persons subject to tax, shall be made available by the department to the Auditor General or his authorized agent, the Comptroller or his authorized agent, or a property appraiser or tax collector or their

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authorized agents pursuant to s. 195.084(1), in the
performance of their official duties; however, no information
shall be disclosed to the Auditor General or his authorized
agent, the Comptroller or his authorized agent, or the
Treasurer or his authorized agent, or to a property appraiser,
or tax collector or their authorized agents if such disclosure
is prohibited by federal law. The Auditor General or his
authorized agent, the Comptroller or his authorized agent, and
the Treasurer or his authorized agent, and the property
appraiser or tax collector and their authorized agents, shall
be subject to the same requirements of confidentiality and the
same penalties for violation of the requirements as the
department.

(7) The provisions of this section apply to all
sections of chapter 207, the Florida Special Fuel and Motor
Fuel Use Tax Act of 1981, except for s. 207.025, exchange of
information. However, nothing in this section shall prevent
the department from providing information relative to chapter
211, chapter 376, or chapter 377, or relative to the
commencement of business activities of a taxpayer, to the
proper state agency in the conduct of its official duties or
from providing information relative to chapter 212 to the
Division of Alcoholic Beverages and Tobacco of the Department
of Business Regulation in the conduct of its official duties.
Notwithstanding s. 119.14, such state agencies shall be bound
by the same requirements of confidentiality as the Department
of Revenue. This exemption is subject to the Open Government
Sunset Review Act in accordance with s. 119.14. Breach of
confidentiality is a misdemeanor of the first degree,
punishable as provided by s. 775.082 or s. 775.083.

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(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 a municipality, a the county, or a 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 the taxing boundaries of such municipality, county, or subcounty district when sufficient information is supplied by the municipality, the county, or subcounty district as the department by rule may prescribe, provided such governing bodies are following s. 212.18(3) relative to the denial of an occupational license after the department cancels a dealer's sales tax certificate of registration.

(b) Such information shall be disclosed only if the department receives an authenticated copy of a resolution adopted by the governing body requesting it.

(c) Notwithstanding s. 119.14, after receipt of such information, the governing body and its officers and employees are subject to the same requirements of confidentiality and the same penalties for violating confidentiality as the department and its employees. The resolution requesting such information shall provide assurance that the governing body and its officers and employees are aware of those requirements and of the penalties for their violation of such requirements, and shall describe the measures that will be put into effect to ensure such confidentiality. The officer of the department who is authorized to receive, consider, and act upon such requests shall, if satisfied that the assurances in the

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resolution are adequate to assure confidentiality, grant the request. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(d) Nothing in this subsection authorizes disclosure of any information prohibited by federal law from being disclosed.

Section 13. Subsection (3) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.--

(3) A taxpayer's liability for any tax or interest specified in s. 72.011(1), except taxes imposed under chapter 206, may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. The department shall maintain records of all compromises, and the records shall state the basis for the compromise. Notwithstanding s. 119.14, the records of compromise shall not be subject to disclosure pursuant to chapter 119 and shall be considered confidential information governed by the provisions of s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 14. Subsection (2) of section 213.22, Florida Statutes, is amended to read:

213.22 Technical assistance advisements.--

(2) Notwithstanding s. 119.14, the department may not disclose pursuant to chapter 119, or otherwise, a technical assistance advisement or a request for a technical assistance

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advisement to any person other than the person who requested the advisement, or his authorized representative, or for official departmental purposes, without first deleting the name, address, and other identifying details of the person to whom the technical assistance advisement was issued. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 15. 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.

(6) Notwithstanding s. 119.14, confidential information shared with debt collection or auditing agencies is exempt from chapter 119, and debt collection or auditing agencies shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree.

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punishable as provided by ss. 775.082 and 775.083. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 16. Section 220.242, Florida Statutes, is amended to read:

220.242 Declaration as return.--Notwithstanding 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. 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. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 17. Subsection (1) of section 201.05, Florida Statutes, is amended to read:

201.05 Tax on stock certificates.--

(1) On each original issue, whether organization or reorganization, of certificates of stock or shares however designated issued in the state, or of certificates of profits, or of interest in property or accumulations, by any corporation or by any joint stock company or other association as set forth in s. 201.04, on each $100 of face value, or fraction thereof, the tax shall be 15 cents; provided that when a certificate is issued without face value, the tax shall be 15 cents on each $100 of actual value or fraction thereof. The stamps representing the tax imposed by this section shall be attached to the stock books, and not to the certificates issued. The provisions of this section do not apply to any stock or share, issued in this state, of an open-end or closed-end management company or a unit investment trust.

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registered under open-end-mutual-fund-issued-in-this
state-and-registered-under the Investment Company Act of 1940,
§5-106-8-80a-1-527 as amended.

Section 18. This act shall take effect October 1,

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.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST
1. Keating
2. Beggs
3. 
4. 

STAFF DIRECTOR

REFERENCE
1. FTC
2. 
3. 
4. 

ACTION

SUBJECT:
Open Government Sunset Reviews: Confidentiality of Tax Information

BILL NO. AND SPONSOR:
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. 266.0111, 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.
III. COMMENTS:
   None.

IV. AMENDMENTS:
   None.
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)
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 15, 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) 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 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 statutes 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 on 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 Deratany 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. 301.0117.

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 go into effect 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 96.091, Florida Statutes, is amended to read:

96.091 Limitation on actions to collect taxes.—

(3)(a) 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) 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) Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return,

(c) At any time while the right to a refund or credit of the tax is available to the taxpayer,

(d) 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) In any case in which there has been 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.
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 who maintains and keeps, for a period of 3 years, such record of motor fuel received, used, transferred, sold, and delivered within the 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 such 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 of 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 provided by s 95.091(3), make an assessment with respect to such admission evidenced by such records and accounts for 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 hereinafter 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 delinquency, at the rate of 5 percent per month for each month or fraction of month on which the tax is 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 4 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 any 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 lessee or person granting the use of any hotel, apartment house, rooming-house, 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, 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, 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.
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 5 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 5 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 herebefore 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, 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.

However, if subsection (3) is implemented the meaning of any term shall be taken at the time the term is applied under this code.
Amendment 7—On page 2, between lines 12 and 13, insert—

(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 for property excluded under chapter 40 for which the seller is required to collect the tax. The sale of any motor vehicle or mobile home of a class or type which is required to be registered in the 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, Malchin and Kiser offered the following amendment which was 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., excepting real property transactions and sale of property; creating s. 420.508, F.S., creating the Florida Housing Finance Agency, amending s. 420.507, F.S., providing for acquisition and sale of property; creating the Florida Housing Finance Agency, amending s. 420.507, F.S., providing additional powers of the Florida Housing Finance Agency, creating s. 420.508, F.S., creating the Florida 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. 420.508, F.S., creating the Florida Homeownership Assistance Program; providing loans and grants and specifying eligible activities, providing for repayment of loans; providing for security, providing application procedures, 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. 420.604, F.S., deleting a provision that the Florida Affordable Housing Demonstration Program be a “year pilot program” providing an additional criterion for inclusion of demonstration areas in the demonstration project, amending s. 420.606, F.S., providing loan preference to community development corporations and community-based organizations; establishing a pilot program for housing cooperatives, creating new sections in chapter 420, F.S., enacted as the “State Predevelopment Assistance Act, providing legislative findings and purposes for which infrastructure funds may be expended; creating chapter 420, F.S., the “State Predevelopment Assistance Act of 1988,” providing legislative findings, policy and purpose; providing for the expenditure of infrastructure funds; creating the Florida Housing Services Grant Fund, creating s. 410.504, F.S., creating the “Maintenance of Housing for the Elderly Program” for the Elderly Program; providing for loans, grants and specifying eligible activities, providing for repayment of loans; providing for security, providing application procedures, 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., establishing powers and duties of the Affordable Housing Study Commission; creating part IX of chapter 420, F.S., enacting the “Maintenance of Housing for the Elderly Program of 1988,” providing legislative findings; providing intent; providing definitions, creating the State Housing Trust Fund, providing for the Elderly Program; creating the Maintenance of Housing for the Elderly Program; for the Elderly Program; providing for loans, providing powers and duties of the department, amending s. 420.608, F.S., providing a Training and Technical Assistance Program, enacting the “Maintenance of Housing for the Elderly Program of 1988,” providing legislative findings; providing intent; providing definitions, creating the Maintenance of Housing for the Elderly Program, enacting part II of chapter 420, F.S., and renumbering as s. 420.102, F.S., providing legislative findings, providing purpose, providing definitions, creating the

Vacant—

Vote after roll call:

Yea—Jenne

On motions by Senator Meek, by two-thirds vote SB 1203 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 XI 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. 380.066, F.S., correcting a reference, amending s. 420.502, F.S., providing additional legislative findings under the Florida Housing Finance Agency Act, amending s. 420.505, 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. 420.508, 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. 420.508, F.S., creating the Florida Homeownership Assistance Program; providing loans and grants and specifying eligible activities, providing for repayment of loans; providing for security, providing application procedures, 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., establishing powers and duties of the Affordable Housing Study Commission; creating part IX of chapter 420, F.S., enacting the “Maintenance of Housing for the Elderly Program of 1988,” providing legislative findings; providing intent; providing definitions, creating the State Housing Trust Fund, providing for the Elderly Program; creating the Maintenance of Housing for the Elderly Program; for the Elderly Program; providing for loans, providing powers and duties of the department, amending s. 420.608, F.S., providing a Training and Technical Assistance Program, creating 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
Journals
of the
Florida
House of Representatives
Volume II

Continuation of Regular Session, 1988
May 31 - June 7
June 8, 1988 Special "F"

[Special Sessions are lettered from Organization Session for two-year term of House of Representatives.]
procedure, creating s 392.69, 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 penal­
ties, creating s 392.68, F.S., requiring the board of county commission­
ers 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., creating s 392.60, F.S., providing for
rights to appeal 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 penal­
ties, creating s 392.68, F.S., requiring the board of county commission­
ers 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., providing for rights to appeal
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 penal­
ties, creating s 392.68, F.S., requiring the board of county commission­
ers 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., providing for rights to appeal
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
1064, 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 1 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
Ascheri      Frushe       Langton          Rudd
Bainter      Gardner      Lawson            Rush
Bainter      Glickman     Lewis             Sample
Banqueo      Gonzales-     Liberti           Sanders
Bankhead     Quevedo      Lippman          Sanders
Bass         Goode        Locke             Saunders
Bell         Gordon        Logan             Shelley
Bloom        Grindle      Lombard           Silver
Bronson      Guber        Long              Simon
Brown        Gustafson    MacKenzie         Simone
Burke        Hanson       Mackey            Smith
Burnsed      Harden        Martin            Soto
Canady       Hargrett     Martinez          Starks
Carpenter    Harris        McEwan           Stone
Casas        Hawkins      Messersmith       Thomas
Clark        Healey       Metcalfe          Tiptone
Clements     Hill         Mitchell          Tobin
Cosgrove     Holland      Morse             Tohassen
Crotty       Holzendorf   Morthan           Tobin
Dantzel      Ireland      Nergard           Trammell
Davis        Irvine       Ostau             Truxler
Deutsch      Jamerson     Patchett          Webster
Diaz-Balart  Jennings     Peeples           Wise
Drage        Johnson, B    Press             Woodruff
Dunbar       Johnson, R    Reaves            Young
Figg         Jones, C      Redick           Young
Frankel      Jones, D      Rehr

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 Deratan—
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, 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 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 tax, amending ss 192.105, 193.074, 195.034, 195.084, 196.101, 199.222, 201.022, 202.25, 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 201.051, 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 212.201 and 212.01, in fiscal year 1987-1988 an amount equal to 6 percent of the proceeds remitted pursuant to this part by distributor, or the sum 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 $500 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 118 on the basis of gerrymandering, stating that the subject of the amendment, the infrastructure trust fund, did not relate to other matters contained in the Bill. He cited Opinions 11.841, 11.841 and 11.841 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

Chapter 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 revenue 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 employers 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 166.901 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-cent 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 ss 336.024(3) and 1 Florida Statutes, or the distribution formula pursuant to ss 13h 254(4) Florida Statutes, if applicable (renumber subsequent section).

Rep. Mackey moved the adoption of the amendment, which failed of adoption. The vote was
Amendment 5—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—

(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 excess 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 accruing 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 multiple-purpose 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 accruing 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 accruing may be used.

1 As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith, or

2 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 materials not adding to or becoming a part of the project with the total contract price paid by the contractor on the cost price of incorporated tangible personal property used in the fulfillment of any written contract with a municipality or authority. The refund shall not include tax paid by the contractor on exemptable tools, supplies, and equipment not adding to or becoming a part of the project.

(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—

(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 excess 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 accruing 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 multiple-purpose 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 accruing 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 accruing may be used.

1 As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith, or

2 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 materials not adding to or becoming a part of the project with the total contract price paid by the contractor on the cost price of incorporated tangible personal property used in the fulfillment of any written contract with a municipality or authority. The refund shall not include tax paid by the contractor on exemptable tools, supplies, and equipment not adding to or becoming a part of the project.

(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—

(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 excess 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 accruing 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 multiple-purpose 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 accruing 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 accruing may be used.

1 As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith, or

2 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 materials not adding to or becoming a part of the project with the total contract price paid by the contractor on the cost price of incorporated tangible personal property used in the fulfillment of any written contract with a municipality or authority. The refund shall not include tax paid by the contractor on exemptable tools, supplies, and equipment not adding to or becoming a part of the project.

(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—

(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 excess 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 accruing 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 multiple-purpose 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 accruing 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 accruing may be used.

1 As collateral, pledged, or hypothecated for projects authorized by this paragraph, including bonds issued in connection therewith, or

2 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 materials not adding to or becoming a part of the project with the total contract price paid by the contractor on the cost price of incorporated tangible personal property used in the fulfillment of any written contract with a municipality or authority. The refund shall not include tax paid by the contractor on exemptable tools, supplies, and equipment not adding to or becoming a part of the project.

(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:
component part of the project. In order to receive the refund herein promised 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 principal 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 0.98 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. The vote was

**Yeas-30**

Abrams Dunbar King Reaves
Bass Friedmann Liberti Saunders
Bloom Garcia Lippman Silver
Burke Gonzalez- Locke Soto
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
Bananian Hardin 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 Tobassen
Dantzler Jamerson Patchett Trammell
Drage Jennings Peeples Troxler
Figg Johnson, B. L. Press Upchurch
Frankel Jones, C F Redick Wallace
Gardner Jones, D. L. Rehm Webster
Glickman Langton Renke Wise
Goode Lawson Rochlin Young

Rep. Silver 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.

Rep. 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 118.11, 118.12 and 118.13 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 Tipton
Burnsed Hargrett Mackey Tobin
Carlton Harris Martin Trammell
Carpenter Healey Meffert Upchurch
Clark Hodges Metcalf Wallace
Clements Holzendorf Mitchell Wetherell
Cosgrove Jamerson Ostrau Young
Crotty Johnson, B L Peeples
Dantzler Johnson, R C Press

**Nays-46**

Banter Hanson McEwan Simone
Bananian Hardin Messersmith Souto
Bankhead Hawkins Morse Starks
Casas Hill Mortham Stone
Crotty Holland Nergard Thomas
Diaz-Balart Ireland Patchett Tobassen
Drage Irvine Rehm Troxler
Dunbar Jennings Renke Webster
Frishe Jones, D. L. Sample Wiss
Gardner Lewis Sansom Woodruff
Grindle Lombard Shelley

Rep. Silver offered the following 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 1233, as amended, was read the third time by title. On passage, the vote was
CS/11B 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) 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) "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) "Health maintenance organization" or "HMO" means an entity certified under part II of chapter 641

(e) "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) "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) "State agency" or "agency" means any branch, department, or agency of state government.

(h) "State group health insurance plan, health maintenance organization plans" means the state self-insured the health insurance plan 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) "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) "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) "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 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, 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 which may include the state group health insurance plan, health maintenance organization plans, group life insurance plans, and group accidental death and dismemberment plans. Furthermore, the Department of Administration is additionally au-
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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:


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.
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.