

JOURNAL OF THE FLORIDA SENATE

Wednesday, May 19, 1971

The Senate was called to order by the President at 8:30 a.m. for the purpose of conducting the order of business of Introduction and reference of Resolutions, Memorials, Bills and Joint Resolutions, pursuant to Rule 4.3.

CS for HB's 1041, 1042 and 1044, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jerry Thomas
President of the Senate

May 18, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Appropriations—

CS for HB 237—A bill to be entitled An act relating to the division of building construction and maintenance of the department of general services; amending §272.16, Florida Statutes; providing for the assignment and rental of reserved parking spaces for state officers and employees throughout the state; providing a penalty for illegal parking; authorizing the division to tow away illegally or wrongfully parked vehicles; providing for collection of fees; creating the capitol center parking trust fund; providing exceptions; repealing §1 of chapter 70-249, Laws of Florida, appearing as §272.161, Florida Statutes, 1970 Supplement, relating to rental of reserved parking spaces; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

CS for HB 237, contained in the above message, was read the first time by title and referred to the Committees on Governmental Efficiency and Ways and Means.

The Honorable Jerry Thomas
President of the Senate

May 18, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By the Committee on Business Regulation and Representative Firestone—

CS for HB's 1041, 1042 & 1044—A bill to be entitled An act relating to mobile homes; providing grounds for which a mobile home park owner or operator may evict a mobile home owner; providing for posting of regulations; providing for additional eviction proceedings in leases; authorizing tenant to raise affirmative defenses; providing that no mobile home park owner or operator shall require a resident of the park to purchase certain equipment from the park, or charge an additional fee for certain interior installations and improvements in mobile homes; providing that mobile home park owners or operators shall disclose all fees, charges, assessments, rules and regulations to tenants; providing that undisclosed fees, charges, and assessments shall not be collectible; providing that mobile home park owners or operators shall not unreasonably restrict the sale of mobile homes within the park, require that removal of a mobile home solely on the basis of such sale, or exact a fee for such sale unless the park owner or operator acted as agent for the mobile home owner in the sale pursuant to a written contract; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The Honorable Jerry Thomas
President of the Senate

May 17, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed as amended—

By Representatives Firestone and Whitson—

HB 1043—A bill to be entitled An act relating to landlords and tenants; amending §83.261(2), Florida Statutes, as amended by chapter 70-360, Laws of Florida, which relates to the duty of landlords with respect to security deposits; providing that said section be applicable to mobile home parks; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

HB 1043, contained in the above message, was read the first time by title and referred to the Committee on Commerce.

The Honorable Jerry Thomas
President of the Senate

May 18, 1971

Sir:

I am directed to inform the Senate that the House of Representatives has passed—

By Representative D'Alemberte—

HB 1406—A bill to be entitled An act relating to establishing the boundary of the State of Florida along the Atlantic Ocean and the Florida straits; repealing section 6.11, Florida Statutes; providing an effective date.

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

HB 1406, contained in the above message, was read the first time by title and referred to the Committee on Judiciary—Civil A.

The Senate recessed at 8:35 a.m.

The Senate was called to order by the President at 9:00 a.m. A quorum present—47:

Mr. President	Deeb	Johnson (34th)	Reuter
Arnold	de la Parte	Karl	Saunders
Barron	Ducker	Knopke	Saylor
Barrow	Fincher	Lane	Scarborough
Beaufort	Gong	Lewis (33rd)	Stolzenburg
Bell	Graham	Lewis (43rd)	Trask
Bishop	Gunter	McClain	Ware
Boyd	Haverfield	Myers	Weber
Brantley	Henderson	Ott	Weissenborn
Broxson	Hollahan	Plante	Williams
Childers	Horne	Pope	Wilson
Daniel	Johnson (29th)	Poston	

Excused: Senator Brannen.

Prayer by Senator Poston:

Our Heavenly Father, we are nearing the end of a very arduous but meaningful legislative session. Like on a journey, we start full of spirit with appropriate goals in mind. Even though we have not or may not accomplish all of our goals, please direct us to continue striving with renewed energy provided by our faith in thee and to give the best that we have. Your help is desired and requested. Amen.

The Journal of May 18 was corrected and approved as follows:

Page 426, counting from the bottom of column 2, line 5, strike "393" and insert: 392

Page 426, counting from the bottom of column 2, line 3, strike "certified to the House" and insert: engrossed.

Page 428, column 2, between lines 7 and 8 insert: The Senate was called to order by the President at 2:00 p.m. A quorum present—46:

Mr. President	Deeb	Karl	Saunders
Arnold	de la Parte	Knopke	Sayler
Barron	Ducker	Lane	Scarborough
Barrow	Fincher	Lewis (33rd)	Stolzenburg
Beaufort	Gong	Lewis (43rd)	Trask
Bell	Graham	McClain	Ware
Bishop	Gunter	Myers	Weber
Boyd	Haverfield	Ott	Weissenborn
Brantley	Hollahan	Plante	Williams
Broxson	Horne	Pope	Wilson
Childers	Johnson (29th)	Poston	
Daniel	Johnson (34th)	Reuter	

REPORTS OF COMMITTEES

The Committee on Rules, Calendar, Privileged Business and Ethics respectfully submits the following Special Order Calendar for Wednesday, May 19, 1971:

SB 643	HB 1008	SB 1162
CS for HB 117	SB 1194	HB 891
SB 644	SB 760	SB 1132
SB 1580	CS for HB 119	SB 745
SB 1581	SB 938	SB 1043
SB 754	SB 768	SB 1490

George L. Hollahan, Jr.
Chairman, Committee on Rules,
Calendar, Privileged Business
and Ethics

The Committee on Natural Resources and Conservation recommends the following pass:

HB 360 with 1 amendment	SB 1192 with 1 amendment
HB 1078 with 1 amendment	SB 1193 with 2 amendments
SB 1187 with 1 amendment	SB 1241 with 2 amendments
SB 1191 with 1 amendment	

The Committee on Ways and Means recommends the following pass:

SB 789 with 1 amendment SB 304 with 1 amendment

The Committee on Personnel, Retirement and Claims recommends the following pass: SB 821

The Committee on Governmental Efficiency recommends the following pass:

SB 1212 with 1 amendment	SB 954 with 1 amendment
SB 1186 with 1 amendment	HB 1258 with 1 amendment
SB 587 with 2 amendments	SB 1394 with 1 amendment
SB 677 with 1 amendment	SB 1133 with 1 amendment

The Committee on Ways and Means recommends the following pass:

SB 99	SB 487
SB 100	SB 640 with 4 amendments
SB 163 with 1 amendment	SB 1070 with 3 amendments
SB 272 with 1 amendment	SB 1260
SB 404	SB 1543 with 1 amendment
SB 406 with 1 amendment	HB 800
SB 412	

The bills contained in the foregoing reports were placed on the Calendar.

The Committee on Personnel, Retirement and Claims recommends the following pass: SB 1350 with 13 amendments

The bill was referred to the Committee on Governmental Efficiency under the original reference.

The Committee on Personnel, Retirement and Claims recommends the following pass: SB 785 with 1 amendment

The bill was referred to the Committee on Ways and Means under the original reference.

The Committee on Personnel, Retirement and Claims recommends a Committee Substitute for SB 238.

The Committee on Ways and Means recommends a Committee Substitute as recommended by the Committee on Public Schools for SB 921 with 1 amendment.

The Committee on Ways and Means recommends a Committee Substitute as recommended by the Committee on Agriculture for SB 417.

The Committee on Ways and Means recommends a Committee Substitute for HB 753.

The bills with Committee Substitutes attached contained in the foregoing reports were placed on the Calendar.

The Committee on Ways and Means recommends the following not pass: SB 173, SB 268, SB 369

The Committee on Natural Resources and Conservation recommends the following not pass: SB 1209

The Committee on Rules, Calendar, Privileged Business and Ethics recommends the following not pass: HB 328

The Committee on Ways and Means recommends the following not pass: SB 651

The bills contained in the foregoing reports were laid on the table.

ENGROSSING REPORTS

Your Engrossing Clerk to whom was referred—

SB 392 with 1 amendment
SB 647 with 2 amendments
CS for SB 1266 with 4 amendments

—reports that the Senate amendments have been incorporated and the bills are returned herewith.

ELMER O. FRIDAY
Secretary of the Senate

The bills were certified to the House.

On motion by Senator Hollahan, the Senate proceeded to the consideration of—

EXECUTIVE BUSINESS

Senator Karl, Chairman of the Select Committee charged by the President on May 18 with further study of the Advisory

opinion of the Supreme Court rendered on May 7, was recognized and reported as follows:

SENATOR KARL: Mr. President, last week when the Supreme Court issued its opinion you appointed a select committee to report to you on the effect of the opinion on the Governor's request to withdraw some 14 names of people who had been appointed by the Governor's predecessor and among the recommendations that the committee made was that the Senate was not obligated to return the certificates or other evidence of appointments of the Governor but *may* do so, and we moved that his request be granted. Before we acted on that the Court recalled its opinion and reissued the opinion with a change in it. I would like to call your attention to the change. The Court first says, "However, you have the executive power to initiate new appointments for the unexpired term and submit the same to the Florida Senate during this regular session." (And here is the change.) "Upon your doing so, the only appointments over which the Senate has confirmation jurisdiction are those submitted by you and those made by your predecessor and not recalled by you. Upon your recalling any of the appointments the confirmation jurisdiction of the Senate ceases and that body is under a lawful obligation to return them to you." In view of the new language inserted in the opinion, making it quite clear, Mr. President, it is our report to you that the Senate has no jurisdiction . . . that the certificates and other evidence of appointments of the fourteen appointees should be forthwith returned to the Governor.

MR. PRESIDENT: The Secretary is instructed to forthwith return those names that have been recalled by the Governor. The Chair requests the same select committee to review further the advisory opinion of the Supreme Court and recommend to the Chair the prospects of legislation, if the committee feels same is necessary. The Committee should consider the merit of continuing the availability to a Governor of recalling such names. Otherwise, every four years or every eight years, as the case might be, the Senate will be in the same dilemma and it is unfair to those who are appointed to do a job for the State, it is unfair to this Body, indeed it is unfair to a new Governor to be faced with the prospects to recall or not to recall. Therefore the select committee should work on this question and report its findings as quickly as possible.

SENATOR KARL: Mr. President, there is another problem that I assume goes with your instruction and that is, if this opinion stands and we do not make any changes in the law, the ultimate effect could be that a Governor could completely circumvent the statutory requirement of confirmation or advise and consent of the Senate by simply withdrawing these names at the beginning of each session, holding them out until the terms have expired, and then appointing the same people at the end of the session for another year. Conceivably, the whole system of confirmation, advise and consent could be circumvented, and so we will consider that question as well as the one you suggested.

MR. PRESIDENT: Does everyone understand the thrust of the last point made by the Senator from the 14th: if appointments are made and it appears, for example, the appointments may be in trouble in the Senate, a Governor need only to recall—and then when the Senate is no longer in session, reappoint. We are not reflecting on any Governor but unless this is cleared up, there might be created by this advisory opinion a possible hiatus that would fly in the face of the traditional and historical constitutional mandate of the Senate to advise and consent.

SENATOR KARL: There is also some language in the very last paragraph of this opinion, just for your information . . . it seems, by implication at least, to say that there may be some question about the power of the Senate to confirm the appointments made by Governor Kirk. That unless Governor Askew reappoints those people we may not have the power to confirm any of those. So we are going to explore all of those questions, Mr. President.

By direction of the President, the Secretary read the following communications—

Honorable Jerry Thomas
President, The Florida Senate
The Capitol
Tallahassee, Florida

May 18, 1971

Dear Mr. President:

I have on this date appointed Robert C. Davidge as a member of the Board of Examiners of Nursing Home Administrators for a term of four years.

This appointment is being forwarded to you according to the provisions of Chapter 112.071, Florida Statutes.

Sincerely,
REUBIN ASKEW
Governor

[Referred to Committee on Health, Welfare and Institutions]

Honorable Jerry Thomas
President, The Florida Senate
The Capitol
Tallahassee, Florida

May 17, 1971

Dear Mr. President:

I have on this date appointed Mr. J. L. Taylor as a member of the Civil Service Board, Escambia County to a term ending February 15, 1975.

This appointment is being forwarded to you according to the provisions of Chapter 112.071, Florida Statutes.

Sincerely,
REUBIN ASKEW
Governor

[Referred to Committee on Executive Suspensions]

The President referred each appointment to the Committee shown.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Poston, the Committee on Transportation was granted an additional 10 days for the consideration of Senate Bills 357, 391, 869, 1118, 1200 and 1214.

On motion by Senator Knopke, the Committee on Natural Resources and Conservation was granted an additional 5 days for the consideration of Senate Bills 291, 259, 342, 453, 483, 515, 527, 689, 828, 241 and 1213 SF.

On motion by Senator Hollahan, the Committee on Rules, Calendar, Privileged Business and Ethics was granted an additional 15 days for the consideration of Senate Concurrent Resolutions 1195 and 1202.

Senator de la Parte moved that the Committee on Ways and Means be granted an additional 7 days for the consideration of Senate Bills 28, 48, 116, 131, 163, 149, 152, 153, 181, 185, 188, 190, 191, 192, 193, 197, 213, 214, 217, 218, 263, 312, 324, 352, 137, 162, 171, 209, 262, 289, 293, 379, 441, 444, 465, 524, 642, 646, 650, 652, 653, 654, 655, 656, 405, 605, 610, 338, 507, 452, 475, 569, 721, 736, 741, 488, 529, 743, 673, 479, 775, 520, 519, 629, 251, 661, 499, 852, 97, 136, 180, 407, 506, 510, 599, 660, 665, 756, 872, 718, 719, 891, 895, 906, 926, 934, 936, 937, 307, 669, 830, 925, 528, 84, 94, 622, 1045, 1073, 1126, 1121, 1127, 1165, 1166, 1175, 819, 626, 285, 873, 385, 1188, 1210, 962, 1036, 971, 600, 829, 1226, 1227, 1228, 1230, 1233, 1237, 1238, 1252, 1255, 1256, 1257, 1258, 1259, 1261, 1262, 1263, 1264, 1265, 1267, 1268, 1269, 1270, 1271, 1272, 40, 964, 943, 1122, 1433, 1437, 1473, 1502, 1520, 1310, 1315, 1318, 1375, 1425, 1034, 773, 848, 945, 955, 862, 922, 1174, 1274, 970, 627 and Senate Joint Resolutions 4, 77, 232, 253, 1253, SR 430, and House Bills 472, 1011, 937, 723, 192, 996, 500, 1068 and 1243.

Upon request of Senator Brantley the question was divided and SB 873 was excepted from the motion by Senator de la Parte.

The Committee on Ways and Means was granted an additional 7 days for the consideration of the foregoing bills with the exception of SB 873.

Senator de la Parte moved that the Committee on Ways and Means be granted an additional 7 days for the consideration of SB 873. The motion was adopted.

On motion by Senator Barrow, the Committee on Judiciary—Criminal was granted an additional 10 days for the consideration of Senate Bills 1088, 975, 1411, 1512 and CS for HB 989.

On motions by Senator Poston, by two-thirds vote, Senate Bills 1576 and 1577 were withdrawn from the Committee on Transportation and placed on the Calendar.

On motion by Senator Johnson (34th), by two-thirds vote, SB 998 was withdrawn from the Committee on Governmental Efficiency and from further consideration of the Senate.

On motion by Senator Plante, by two-thirds vote, SJR 744 was withdrawn from the Committee on Governmental Efficiency and from further consideration of the Senate.

On motion by Senator Henderson, by two-thirds vote, SB 1246 was withdrawn from the Committee on Judiciary—Civil B and from further consideration of the Senate.

Senator Deeb moved that Senate Bills 584 and 581 be removed from the Calendar and referred to an appropriate committee. The motion was adopted and the bills were recommitted to the Committee on Commerce.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Jerry Thomas May 18, 1971
President of the Senate
Sir:

I am directed to inform the Senate that the House of Representatives has passed SB 1008.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The bill, contained in the above message, was ordered enrolled.

The Honorable Jerry Thomas May 19, 1971
President of the Senate
Sir:

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and has passed as amended—

HB 1015

HB 1018

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

The Honorable Jerry Thomas May 18, 1971
President of the Senate
Sir:

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By Senator Gunter—

SB 156—A bill to be entitled An act relating to the unauthorized copying of recorded sounds; amending chapter 543, Florida Statutes, by adding section 543.041; making unlawful

the unauthorized copying of sounds from any phonograph record, disc, wire, tape, film, or other article on which sounds are recorded and providing a penalty; providing an effective date.

Amendment 1:

On page 2, line 2, insert the following: Provided, however, that if the manufacturer of such sound recordings has paid all copyright royalties due under the Federal Copyright Statute for the use of copyrighted musical compositions embodied on such sound recordings, then it shall not be unlawful to manufacture or sell such sound recordings within this state.

Amendment 2:

On page 2, after line 22, insert the following: Section 1A. Paragraph (b) of subsection (1) of section 543.041, Florida Statutes, as published in Section 1 of this act, is created to read:

543.041 unauthorized copying of phonograph records, disc, wire, tape, film or other article on which sounds are recorded.—

(1) (b) Any person violating any provision of paragraph (a) shall be guilty of a misdemeanor of the second degree, punishable as provided in sections 775.082 or 775.083.

Section 1B. In the event CS for HB 935, introduced in the 1971 regular session of the legislature, is enacted into law, paragraph (b) of subsection (1) of section 543.041, Florida Statutes, as published in section 1 of this act will stand repealed and be omitted from the Florida Statutes. In the event CS for HB 935 is not enacted into law, section 1A of this act will stand repealed and be omitted from the Florida Statutes.

Amendment 3:

In the title, on page 1, lines 11 & 12, strike "sounds are recorded and providing a penalty" and insert the following: sounds are recorded with intent to sell or sale thereof and providing a penalty

—and requests the concurrence of the Senate therein.

Respectfully,
ALLEN MORRIS
Clerk, House of Representatives

On motion by Senator Gunter, the Senate refused to concur in House amendment 1 to SB 156, and the House was requested to recede therefrom.

On motions by Senator Gunter, the Senate concurred in House amendments 2 and 3.

The action of the Senate was certified to the House.

On motion by Senator de la Parte, the rules were waived and the Senate proceeded to the consideration of—

SPECIAL ORDER

Consideration of SB 643 was deferred, the bill retaining its place on the Calendar.

CS for HB 117—A bill to be entitled An act relating to taxation; imposing an excise tax on the severance of solid minerals; providing the rate, basis and distribution of tax; providing for credits and refunds; providing for certain exclusions; providing a land reclamation trust fund; providing for administration, penalties and procedures; amending section 193.481, Florida Statutes, to provide for separate assessment of minerals; providing reduced rate for implementation period; providing a severability clause; providing an effective date.

Was taken up, together with a pending amendment by Senator Haverfield. The amendment failed.

Senators Saunders and Boyd offered the following amendment which was moved by Senator Saunders:

On page 9, between lines 25 and 26 add Section 5. Subsection (a) of section 211.31 F.S., shall become inoperative on the effective date of a tax imposed by the state on the net income of corporations, and shall remain inoperative so long as such tax remains in effect.

(Renumber subsequent Section)

Senator Myers raised a point of order that the subject matter of the amendment was not related to the subject matter of the bill. He stated the subject matter of the amendment relates to the corporate income tax while the subject matter of the bill is a severance tax . . . totally different sections, totally different parts of the Statutes. He further stated there was debate on an amendment to the sales tax in 1963 in the House and an amendment was offered to it to invoke a severance tax. Senator Horne, Speaker of the House in 1963, ruled that the point of order was well taken on the basis that the severance tax had no relationship to the tax that was before the House at the time and based on precedent, the point now raised is well taken.

Senator Graham raised an additional point of order that the amendment speaks to amending Subsection A of Section 211.31, Florida Statutes. There isn't a section 211.31, Florida Statutes.

The President appointed Senators Hollahan, Horne and Boyd as a select committee to research and advise the chair with respect to the points of order. The committee withdrew from the chamber.

SB 644—A bill to be entitled An act relating to taxation; providing for revision of the state, county and municipal license taxes on dealers in alcoholic beverages; repealing section 561.36 and subsection 561.26(2), Florida Statutes; amending subsections 561.34(1), (2), (3), (6) and (7), Florida Statutes; amending section 561.35, Florida Statutes; adding new section 561.342, Florida Statutes, to provide for county and municipal licenses; providing an effective date.

Was read the second time by title.

Senators de la Parte and Trask offered the following amendment which was adopted on motion by Senator Trask:

On page 7, lines 10 and 11, section 4, strike "a place of business within its county or corporate limits, not to exceed one-half of the state license tax." and insert: a place of business within its county or corporate limits. The total tax imposed by this section shall not exceed the state license tax. The county tax allowed by this section relating to licenses taxed by subsection 561.34(1) shall not exceed two-fifths of the state license tax. The county license tax allowed by this section relating to licenses taxed by subsection 561.34(2) shall not exceed one-third of the state license tax. The county license tax allowed by this section relating to licenses taxed by subsection 561.34(6) and (7) shall not exceed three-eighths of the state license tax. The incorporated municipalities license tax allowed by this section relating to licenses taxed by subsection 561.34(1) shall not exceed three-fifths of the state license tax. The incorporated municipalities license tax allowed by this section relating to licenses taxed by subsection 561.34(2) shall not exceed two-thirds of the state license tax. The incorporated municipalities license tax allowed by this section relating to licenses taxed by subsection 561.34(6) and (7) shall not exceed five-eighths of the state license tax.

Senators de la Parte and Trask offered the following amendment which was adopted on motion by Senator Trask:

On page 7, lines 16 and 17, section 4, strike "corporate limits, not to exceed three-fourteenths of the state license tax." and insert: corporate limits. The county license tax shall not exceed three-eighths of the state license tax. The incorporated municipality license tax shall not exceed three-fourths of the state license tax.

On motion by Senator Arnold the following amendment was adopted:

On page 7, line 28, section 4, after the period (.) insert: If the entire county is incorporated, the county may levy an addi-

tional license tax on all dealers in alcoholic beverages within the county, not to exceed the levy granted municipalities under this section.

On motion by Senator Trask, by two-thirds vote, SB 644 as amended was read the third time by title.

On motion by Senator Trask the following amendment was adopted by two-thirds vote:

On page 3, line 9, section 3, strike "seven hundred fifty"

Senator Pope moved that the Senate reconsider the vote by which SB 644 was placed on third reading and the bill be temporarily deferred. The motion failed.

Senator Broxson presiding.

The select committee previously appointed returned to the chamber.

SB 644 as amended passed by the following vote:

Yeas—22

Mr. President	Gong	Lewis (33rd)	Sayler
Brantley	Graham	Lewis (43rd)	Trask
Broxson	Gunter	McClain	Weissenborn
Childers	Haverfield	Plante	Wilson
Deeb	Hollahan	Poston	
de la Parte	Lane	Reuter	

Nays—18

Arnold	Boyd	Johnson (34th)	Ware
Barron	Daniel	Pope	Weber
Barrow	Fincher	Saunders	Williams
Beaufort	Horne	Scarborough	
Bell	Johnson (29th)	Stolzenburg	

By unanimous consent, Senators Myers and Bishop were recorded as voting yea; Senators Pope, Boyd and Beaufort changed their votes from nay to yea.

Senator Brantley moved that the Senate reconsider the vote by which SB 644 passed.

The President presiding.

The President recognized Senator Horne for the purpose of reporting the recommendations of the select committee relative to the amendment offered by Senators Saunders and Boyd to CS for HB 117. Senator Horne reported as follows:

The select committee reports on the two points of order—one raised by the Senator from the 45th and the other by the Senator from the 48th. Dealing first with the point raised by the Senator from the 48th, the point was that the amendment by Senators Saunders and Boyd, in section 5 of the bill, refers to section 211.31, Florida Statutes. Senator Graham pointed out that the statutes do not currently have a section 211.31. In reading the bill, however, its effect is to amend 211 and part of that amendatory process is to add a .31. For that reason, we would suggest the amendment is not out of order. The diligence of the Senator who raised it is appreciated. To the second point, and the more significant; the committee would like to advise the President that as far as the Senate is concerned the decision that you now make is precedent for the Senate. The Senator from the 45th raised a point that the amendment by Senators Saunders and Boyd is out of order for the reason that it is not germane to the bill. He recites the rules of the House and of the Senate that both are replete with rulings going to that general question but the particular precedent to which the Senator from the 45th addressed himself involved the case where the substance of another general subject matter was tacked on to the bill and under those circumstances the question of germanity is clearly pointed out and the precedents are replete in support of that proposition.

The committee notes and advises the President that this particular amendment involves a reference to another subsection of the same chapter. The only rule that touches on the question of germanity is 7.4 and it, ironically enough, tracks the same language of the constitution and that is the same general subject as stated in the original title. However, the question of germanity really isn't presented here because this is a procedural and not a substantive amendment. It uses another subsection as a catalyst to a repealer. In effect the amendment is only a repealer directing itself to this rather unique type of repealer. The committee remembers and recalls to the attention of the President that the committee itself used yesterday this same kind of repealer using another subsection as a catalyst to either the effectiveness or the repeal of the bill under consideration. It's the unanimous opinion for these reasons that the point of order by the Senator from the 45th is not well taken.

The President: The Chair recognizes that on May 18 in the deliberations of the Senate a similar amendment was offered, a repealer amendment tied in to the perspectiveness of the corporate income tax. A point was not raised. We also recognize there are different chapters of statutes that deal with the same subject matter, in that the legislature is very cognizant of the necessity of germanity as to a point—unlike the United States Congress which allows the system known as riders attached to a bill when there is no semblance of any germanity and they still accept it—which to me destroys some of the deliberativeness of a legislative body. The Chair accepts the recommendations of the committee and rules that the points are not well taken.

The Senate resumed consideration of—

CS for HB 117—A bill to be entitled An act relating to taxation; imposing an excise tax on the severance of solid minerals; providing the rate, basis and distribution of tax; providing for credits and refunds; providing for certain exclusions; providing a land reclamation trust fund; providing for administration, penalties and procedures; amending section 193.481, Florida Statutes, to provide for separate assessment of minerals; providing reduced rate for implementation period; providing a severability clause; providing an effective date.

—together with the following pending amendment by Senators Saunders and Boyd:

On page 9, between lines 25 and 26 add Section 5. Subsection (a) of section 211.31 F.S., shall become inoperative on the effective date of a tax imposed by the state on the net income of corporations, and shall remain inoperative so long as such tax remains in effect.

(Re-number subsequent Section)

The question recurred on the amendment by Senators Saunders and Boyd and the amendment failed.

Senator Barrow presiding.

On motion by Senator Saunders, by two-thirds vote, CS for HB 117 as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—41

Mr. President	Deeb	Johnson (34th)	Saunders
Arnold	de la Parte	Knopke	Sayler
Barron	Ducker	Lane	Scarborough
Beaufort	Fincher	Lewis (33rd)	Trask
Bell	Gong	Lewis (43rd)	Ware
Bishop	Graham	McClain	Weissenborn
Boyd	Gunter	Myers	Williams
Brantley	Haverfield	Plante	Wilson
Broxson	Henderson	Pope	
Childers	Hollahan	Poston	
Daniel	Horne	Reuter	

Nays—4

Barrow	Johnson (29th)	Ott	Weber
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Senator Barron presiding.

RECONSIDERATION

The motion by Senator Horne to reconsider the vote by which CS for SB 1353 failed to pass May 18 was taken up.

On motion by Senator Thomas, the rules were waived and time of adjournment was extended until final action on the foregoing motion.

The motion was adopted by the following vote:

Yeas—25

Mr. President	Fincher	Lewis (33rd)	Trask
Beaufort	Gong	Lewis (43rd)	Weissenborn
Bell	Graham	Myers	Williams
Boyd	Haverfield	Pope	Wilson
Broxson	Karl	Saunders	
Childers	Knopke	Sayler	
de la Parte	Lane	Scarborough	

Nays—22

Arnold	Deeb	Johnson (29th)	Reuter
Barron	Ducker	Johnson (34th)	Stolzenburg
Barrow	Gunter	McClain	Ware
Bishop	Henderson	Ott	Weber
Brantley	Hollahan	Plante	
Daniel	Horne	Poston	

The hour of adjournment having arrived, a point of order was called and the Senate recessed at 12:10 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—47:

Mr. President	Deeb	Johnson (34th)	Reuter
Arnold	de la Parte	Karl	Saunders
Barron	Ducker	Knopke	Sayler
Barrow	Fincher	Lane	Scarborough
Beaufort	Gong	Lewis (33rd)	Stolzenburg
Bell	Graham	Lewis (43rd)	Trask
Bishop	Gunter	McClain	Ware
Boyd	Haverfield	Myers	Weber
Brantley	Henderson	Ott	Weissenborn
Broxson	Hollahan	Plante	Williams
Childers	Horne	Pope	Wilson
Daniel	Johnson (29th)	Poston	

The Senate resumed consideration of—

CS for SB 1353—A bill to be entitled An act relating to corporations, defining corporations; amending section 608.32, Florida Statutes, prescribing the contents of annual reports required to be filed by corporations; creating sections 608.321 and 608.3211, Florida Statutes, prescribing the taxable period for corporation reports and setting a due date for filing and a delinquency date; creating sections 608.322 and 608.3221, Florida Statutes, prescribing dates for the valuation of net worth and the determination of other information for all taxable periods; amending section 608.33, Florida Statutes, removing exemptions for railroad, pullman, telephone, telegraph, insurance, banking and trust companies, building and loan associations and cooperative marketing associations, providing for imposition of an annual corporate privilege tax on corporate net worth, setting a due date and a delinquency date for payments; creating sections 608.331 and 608.3311, Florida Statutes, prescribing taxes and tax rates; creating section 608.332, Florida Statutes, prescribing special rules for corporations in existence less than twelve months, for bankrupt, dissolved and withdrawing corporations, for consolidated returns by controlled groups of corporations, and adjutant powers of the department of revenue; creating section 608.333, Florida Statutes, providing for an apportionment of net worth to ascertain the

portion attributable to Florida; creating section 608.334, Florida Statutes, providing for a credit of intangible personal property taxes against the corporate privilege tax attributable to subsidiary corporations, providing for a credit of insurance premium tax paid under chapter 624; creating section 608.335, Florida Statutes, providing for refund, hearing and appeal procedures, establishing a general three year statute of limitations for refunds and for assessments, and providing for the issuance of tax warrants for the collections of delinquent taxes; creating section 608.336, Florida Statutes, conforming references in the Florida Statutes; amending section 608.35, Florida Statutes, providing penalties for delinquent reports and payments and providing for interest on delinquent and overpaid taxes; creating section 608.311, Florida Statutes, defining corporations to include mutual insurers and other non-stock business associations subject to state regulation; amending section 608.05 and subsection (1) of section 613.02, Florida Statutes, providing for payment of the corporate privilege tax upon incorporation and qualification to do business in Florida; requiring the department of revenue to provide information regarding this act; providing for effective dates; providing for excision of certain sections of this act when no longer needed; providing for sections 2 through 18 of this act to become inoperative if and so long as a tax is imposed by the state on the net income of corporations.

Senator de la Parte moved that the Senate reconsider the vote by which CS for SB 1353 was placed on third reading and the motion failed by the following vote:

Yeas—21

Mr. President	Gong	Lewis (43rd)	Trask
Beaufort	Graham	Myers	Weissenborn
Broxson	Gunter	Pope	Williams
Childers	Haverfield	Saunders	
de la Parte	Knopke	Sayler	
Fincher	Lane	Scarborough	

Nays—22

Arnold	Deeb	Johnson (34th)	Stolzenburg
Barrow	Ducker	Lewis (33rd)	Ware
Bell	Henderson	McClain	Weber
Bishop	Hollahan	Plante	Wilson
Brantley	Horne	Poston	
Daniel	Johnson (29th)	Reuter	

Senator de la Parte moved that further consideration of CS for SB 1353 be temporarily deferred.

Senator Horne moved as a substitute motion that CS for SB 1353 be removed from the calendar and referred to an appropriate committee. The substitute motion was adopted and CS for SB 1353 was recommitted to the Committee on Ways and Means.

Senator Barrow presiding.

Senator Brantley moved that the rules be waived and the Senate do now consider the motion to reconsider the vote by which SB 644 as amended passed this day. The motion was adopted by two-thirds vote.

The motion was taken up and the Senate reconsidered the vote by which—

SB 644—A bill to be entitled An act relating to taxation; providing for revision of the state, county and municipal license taxes on dealers in alcoholic beverages; repealing section 561.36 and subsection 561.26 (2), Florida Statutes; amending subsections 561.34(1), (2), (3), (6) and (7), Florida Statutes; amending section 561.35, Florida Statutes; adding new section 561.342, Florida Statutes, to provide for county and municipal licenses; providing an effective date.

—as amended passed this day.

SB 644 as amended was read by title, passed and ordered engrossed. The vote was:

Yeas—31

Mr. President	Childers	Karl	Pope
Arnold	Deeb	Knopke	Poston
Beaufort	de la Parte	Lane	Reuter
Bell	Ducker	Lewis (33rd)	Sayler
Bishop	Graham	Lewis (43rd)	Trask
Boyd	Gunter	McClain	Weissenborn
Brantley	Haverfield	Myers	Wilson
Broxson	Hollahan	Plante	

Nays—14

Barron	Henderson	Ott	Weber
Barrow	Horne	Saunders	Williams
Daniel	Johnson (29th)	Stolzenburg	
Fincher	Johnson (34th)	Ware	

By unanimous consent Senator Scarborough was recorded as voting yea.

The Senate resumed—

SPECIAL ORDER

SB 1580—A bill to be entitled An act making an appropriation; providing moneys for the annual period beginning July 1, 1971, and ending June 30, 1972, for the minimum foundation program for kindergarten and grades one through twelve; providing that the same shall be in lieu of certain other appropriations; providing an effective date.

Was read the second time by title.

Senator Ducker moved the adoption of the following amendment:

On page 1, line 16, section 1, strike "\$41,455,530" and insert: \$33,300,000

The President presiding.

Senator Daniel moved that the rules be waived and that the Senate adjourn this day at 5:01 p.m. The motion was adopted.

On motion by Senator Broxson, the rules were waived and further consideration of SB 1580 with pending amendment was deferred, the bill retaining its place on the special order calendar.

Pursuant to Rule 4.14 Senator Hollahan gave 15 minutes notice of intention to move to take up CS for HB 976 out of order.

On motion by Senator Broxson, the rules were waived and consideration of SB 1581 was deferred, the bill retaining its place on the Special Order Calendar.

Notice having been given pursuant to Rule 4.14, on motion by Senator Hollahan, consent was obtained to take up out of order—

CS for HB 976—A bill to be entitled An act relating to witnesses; providing that no person shall be prosecuted for any offense concerning which he was compelled to testify; amending section 914.04, Florida Statutes; providing an effective date.

Was read the second time by title.

The Committee on Judiciary—Criminal offered the following amendment which was adopted on motion by Senator Hollahan:

On page 2, lines 3 and 4, section 2, strike all of Section 2 and insert: Section 2. This act shall take effect immediately upon becoming law.

On motion by Senator Hollahan, by two-thirds vote, CS for HB 976 as amended was read the third time by title, passed and certified to the House. The vote was: Yeas—44 Nays—None

Mr. President	Daniel	Karl	Reuter
Arnold	Ducker	Knopke	Saunders
Barron	Fincher	Lane	Sayler
Barrow	Gong	Lewis (33rd)	Scarborough
Beaufort	Graham	Lewis (43rd)	Stolzenburg
Bell	Haverfield	McClain	Trask
Bishop	Henderson	Myers	Ware
Boyd	Hollahan	Ott	Weber
Brantley	Horne	Plante	Weissenborn
Broxson	Johnson (29th)	Pope	Williams
Childers	Johnson (34th)	Poston	Wilson

On motion by Senator Ware the following amendment was adopted:

In Section 1, line 22, page 1, after "buildings" insert: other than dormitories

On motion by Senator Ducker the following amendment was adopted:

On page 1, line 22, section 1, after "purposes" insert: other than dormitories

On motion by Senator Lewis (33rd), SB 754 as amended was read by title, passed and ordered engrossed. The vote was: Yeas—41 Nays—None

SB 1083 was laid on the table.

On motion by Senator Barrow, the rules were waived and CS for HB 976 was immediately certified to the House.

SB 754—A bill to be entitled An act relating to junior colleges; adding paragraph (g) to section 230.754(2), Florida Statutes, authorizing junior college district board of trustees to enter lease-purchase arrangements; providing an effective date.

Was read the second time by title. On motion by Senator Lewis (33rd), by two-thirds vote SB 754 was read the third time by title.

On motion by Senator Ware, the Senate reconsidered the vote by which SB 754 was placed on third reading.

Mr. President	Ducker	Karl	Sayler
Arnold	Fincher	Lane	Scarborough
Barron	Gong	Lewis (33rd)	Stolzenburg
Beaufort	Graham	Lewis (43rd)	Trask
Bell	Gunter	McClain	Ware
Bishop	Haverfield	Myers	Weissenborn
Boyd	Henderson	Ott	Williams
Brantley	Hollahan	Plante	Wilson
Broxson	Horne	Poston	
Childers	Johnson (29th)	Reuter	
Daniel	Johnson (34th)	Saunders	

By unanimous consent Senator Pope was recorded as voting yea.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 5:02 p.m. to convene at 8:30 a.m., May 20 for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions and thereafter to reconvene at 9:00 a.m., May 20, 1971.