

SPECIAL SESSION

JOURNAL OF THE FLORIDA SENATE

Friday, December 3, 1971

The Senate was called to order by the President at 9:30 a.m.  
A quorum present—48:

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

Prayer by Senator Karl:

Almighty God, great trust has been given to us to take heavy responsibilities in the government of your people.

Great burdens require much strength and we cannot work alone. Bind us together, Father, in a unity of purpose for the common good that our work this day may be a benefit and not a hindrance to those we serve.

Heal our division, forgive our errors, enlighten our vision that we may clearly see your will for us. Amen.

The Journal of December 2 was corrected and approved.

REPORT OF COMMITTEE

The Committee on Natural Resources and Conservation recommends the following pass: SB 2-D with 2 amendments

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

MESSAGE FROM THE GOVERNOR

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

December 3, 1971

Dear Mr. President:

It has come to my attention that a question has been raised concerning the interpretation of Subsection 2 (m) of the Proclamation dated November 24, 1971, as amended. The purpose of this letter is to clarify my intention with regard to that subsection.

By the use of the word "repeal" in that subsection, I did not intend to exclude from the call of the Special Session, legislation relating to the *amendment* of the Florida law relating to the ad valorem tax exemption of property leased from governmental units by non-governmental lessees. It is my request, therefore, that subsection 2(m) be interpreted as if it read: "legislation relating to . . . (m) Repeal or amendment of ad valorem tax exemption of property leased from governmental units by non-governmental lessees."

Sincerely,  
**REUBIN ASKEW**  
Governor

INTRODUCTION

By Senator Horne—

SB 34-D—A bill to be entitled An act relating to the division of commercial development of the department of commerce; providing for a supplemental appropriation to the division of

commercial development for the 1971-1972 fiscal year to provide certain vital services to the rural, undeveloped, economically depressed, and underemployed metropolitan areas of the state relative to selectively attracting compatible and environmentally clean new industries to said areas; providing that a certain amount of said appropriation shall be used by the bureau of business development of said division for regional research studies and reports while the balance of said appropriation shall be used for travel, printing, telephone, and direct mail expenses; providing an effective date.

—was delivered to the Committee on Rules, Calendar, Privileged Business and Ethics for consideration and advice as to whether same is within the purview of the call of the Governor.

On motion by Senator Karl, unanimous consent was obtained to take up out of order—

HB 29-D—A bill to be entitled An act relating to insurance and claims against insolvent insurers; setting forth a purpose and scope; providing definitions; requiring certain insurers to establish and be members of the Florida Property and Casualty Insurance Guaranty Association; providing duties, functions, obligations, and rights of the association; providing four guaranty accounts; providing for assessments of member insurers; providing a governing committee; providing the membership, powers, duties, and functions of the governing committee; providing duties of the department of insurance relating to the association; providing for payment of certain claims; barring the payment of claims previously paid; providing a method to prevent insolvencies of insurers; providing immunity from certain suits; providing a time limitation for the filing of suits against the association; amending section 627.0851(4), Florida Statutes, providing a method for payment of claims against insolvent insurers arising under the uninsured motorists statute; providing a severability clause; and providing an effective date for the expiration of this act.

—which was read the second time by title. On motion by Senator Karl, by two-thirds vote, HB 29-D was read the third time by title, passed and certified to the House. The vote was:

Yeas—44

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

Nays—None

By unanimous consent Senators Gunter, Reuter and Ware were recorded as voting yea.

SB 33-D was laid on the table.

Senator Barrow, following a brief comment concerning the matter of the charges against him, moved that the same be directed to the Committee on Rules, Calendar, Privileged Business and Ethics pursuant to Rule 1.39 for their evaluation and recommendation to the Senate.

The President referred the motion to the Committee on Rules, Calendar, Privileged Business and Ethics pursuant to Rule 1.39.

Senator Hollahan, Chairman of the Committee on Rules, Calendar, Privileged Business and Ethics, announced that with the concurrence of the Senate President, he has appointed a

select subcommittee under the authority of Senate Rule 2.1 consisting of Senator Frederick B. Karl, Chairman, and Senators Mallory E. Horne, Verle A. Pope, Dempsey J. Barron and Warren S. Henderson.

The select subcommittee is authorized and directed to take all appropriate action to secure factual and legal information that will permit the subcommittee to report to the full committee as to what action, if any, should be taken as to Senator Bob Brannen of the 28th District.

Further, the proceedings pursuant to the motion by Senator Barrow are likewise referred to a select subcommittee consisting of Senator Karl, Chairman, and Senators Wilson, Pope, Knopke and Henderson, with the same charge.

The President announced that the Senate committee hearings would be held as scheduled in Hillsborough County, commencing on December 13.

#### UNFINISHED BUSINESS

CS for HB 16-D—A bill to be entitled An act relating to taxation and finance; amending Title XIII, Florida Statutes, to provide for the imposition, collection and administration of an income tax on corporations and other artificial persons; amending subsection 323.15(6), Florida Statutes, to remove the income tax exemption of motor carriers; amending sections 624.0307 and 624.0308, Florida Statutes, to provide a credit for insurers against insurance premium taxes for an amount of income taxes paid; providing an appropriation and procedures for competitive bidding; providing an effective date.

—was taken up, together with a pending amendment which was withdrawn by Senator Plante.

On motion by Senator Poston the following amendment was adopted:

Amendment 19—On page 34, line 17 following the comma after the word "filing" insert: including payment to such depository institutions throughout the state as the department may by regulations designate.

Senators Weissenborn, de la Parte, Horne, Graham, Haverfield and Trask offered the following amendment which was adopted on motion by Senator Weissenborn:

Amendment 20—On page 25, line 12 strike the period (.) and insert:

; and

(3) the term "everywhere" in Part IV of said act which is used in the computation of apportionment factor denominators shall mean "in all other states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any political subdivision of the foregoing;" and

(4) in lieu of the equally weighted three factor apportionment fraction based on property, payroll and sales which is described in section 214.71, there shall be used for purposes of the tax imposed by this Code an apportionment fraction composed of a sales factor representing 50% of the fraction, a property factor representing 25% of this fraction, and a payroll factor representing 25% of the fraction.

Senators Graham and Weissenborn offered the following amendment which was adopted on motion by Senator Weissenborn:

Amendment 21—On page 13, line 16 strike the period (.) and insert: ; and

(iv) The amount of ad valorem taxes paid in the taxable year by any taxpayer for which and to the extent that a credit is granted under paragraph 624.0312 (1)(b), Florida Statutes.

Senator Lewis (33rd) offered the following amendment which failed:

Amendment 22—Line 21, page 1, strike everything after the enacting clause and insert: Section 1. There is hereby imposed upon all corporations doing business in the State of Florida an

income tax equal to 5% of that amount of the corporation's net taxable income as shown on the corporation's Federal income tax form in excess of \$5,000.00. Section 2. This act shall take effect on January 1, 1972.

The vote was:

Yeas—12

Mr. President	Bishop	Henderson	Lewis (33rd)
Barrow	Daniel	Hollahan	Ott
Bell	Deeb	Johnson (34th)	Stolzenburg

Nays—27

Arnold	Ducker	Lane	Scarborough
Beaufort	Fincher	Lewis (43rd)	Trask
Boyd	Gong	McClain	Ware
Brannen	Graham	Myers	Weissenborn
Brantley	Gunter	Plante	Williams
Childers	Haverfield	Pope	Wilson
de la Parte	Johnson (29th)	Saunders	

Senator Lane offered the following amendment which failed:

Amendment 23—On page 10, line 28 insert:

(4) Municipal corporations providing electric, water and gas generation, transmission or distribution services shall be subject to the tax imposed by this chapter in an amount equal to 2½ percent (2½%) of the income transferred by such municipal corporations to any fund, including the general revenue fund of such municipal corporations, other than the utility operating fund.

Senator Williams moved the adoption of the following amendment which failed:

Amendment 24—On page 20, line 15 strike the period (.) and insert the following: ; and

(j) taxable income in the case of a national banking association, or any other organization receiving tax immunity comparable to that of national banking associations under sections 196.27 or 665.521, Florida Statutes, shall mean taxable income as defined in section 63 of the Internal Revenue Code, increased by the amount of interest derived from obligations of the State of Florida or any of its political subdivisions but excluded from said taxable income under section 103(a)(1) of the Internal Revenue Code, and without the amount which would, in the absence of this provision, be subtracted from such taxable income under subparagraph 220.13(1)(b)(iii) of this Code.

#### Explanation of Vote on Amendment 24

The amendment failed by a voice vote and I voted yea. Had I intended to vote nay, I would have disqualified myself because of being a director of a bank but since my vote would have resulted in banks paying more taxes I did not disqualify myself.

Verle A. Pope, District 12

#### Abstentions from Voting on Amendment 24

Pursuant to Rule 1.35, the undersigned discloses he has a possible conflict of interest as it relates to Amendment 24. Accordingly, the undersigned recuses himself from voting on this amendment as provided in Rule 1.36.

Jerry Thomas, District 35

I recuse myself from voting on Amendment 24 for the reason that I am a member of the Board of Directors of a Florida bank.

Mallory E. Horne, District 5

Senators Daniel, Boyd and Plante offered the following amendment which was moved by Senator Daniel:

Amendment 25—On page 17b, line 25 strike all of subparagraph (iv) and insert the following: (iv) If an election is made under subparagraph (ii), the taxpayer shall adjust taxable income (as defined in subsection (2)), by excluding therefrom all installment sale income reported in the taxable year under section 453 of the Internal Revenue Code with respect to long

term sales contracts executed prior to January 1, 1972. For purposes of the preceding sentence, the term "long term sales contract" means a contract for the sale of property which provides for payment of the purchase price at periodic intervals over a period extending 5 years or more from the date of execution of such contract.

Senator Pope offered the following amendment to the amendment which was adopted:

**Amendment 25a**—On the 5th line of the amendment, insert a comma after "January 1, 1972" and insert: but there shall be added to taxable income all expenses deducted on the return for the taxable year with respect to such excluded installment sale income, including collection costs and expenses attributable to servicing such prior sales.

The question recurred on the adoption of Amendment 25 as amended which was adopted.

#### Abstention from Voting on Amendment 25

I recuse myself from voting on amendment 25 for the reason of my membership on the Board of a company specifically affected.

Mallory E. Horne, District 5

Senators Broxson, Wilson, Boyd and Gunter offered the following amendment which was adopted on motion by Senator Broxson:

**Amendment 26**—On page 45, after line 11 insert the following: Section 3. Section 624.0312(1), Florida Statutes, is amended to read:

624.0312 Regional home offices of foreign insurers; credits on premium tax liability.—

(1) A foreign insurer formed by or under the laws of any other state or foreign country, which is subject to the taxes imposed by sections 624.0307 and 624.0308, and which owns and substantially occupies any building in this state as a regional home office, as hereinafter defined, shall be entitled to the following credits and deductions against such tax:

(a) An amount equal to fifty per cent of the amount of the tax as determined under said sections; and

(b) An amount equal to the full amount of all ad valorem taxes paid by such a foreign insurer during the year next preceding the filing of the return required by section 624.0300+

1. Upon any building and the land on which it stands in this state owned and substantially occupied by such foreign insurer in the said tax year as a regional home office, together with any adjacent land as may be required for the convenient use and occupation thereof; and

2. Upon any property used in connection with the operation and maintenance of such regional home office; provided, however, that in no event shall such credits and deductions reduce the amount of tax payable to less than twenty per cent of the amount of the tax as determined under section 624.0307 and 624.0308; and, provided further, that as to a foreign insurer issuing policies insuring against loss or damage from the risks of fire, tornado, and certain casualty lines, the tax imposed by sections 624.0307 and 624.0308, as intended and contemplated by the above provisions of this subsection, shall be construed to mean the net amount of said tax remaining after there has been credited thereon such gross premium receipts tax as may be payable by such insurer in pursuance of the imposition of such tax by any incorporated cities or towns in the state for firemen's relief and pension funds and policemen's retirement funds maintained in such cities or towns, as provided in and by relevant provisions of Florida Statutes.

and renumber subsequent sections of the bill

On motion by Senator Graham, the Senate reconsidered the vote by which Amendment 21 was adopted. The question recurred on the adoption of the amendment which failed.

Senator Daniel offered the following amendment:

**Amendment 27**—On page 17c, line 5 insert:

(e) Real property

(i) At the election of any taxpayer, and upon compliance with all of the requirements of sub-paragraph (ii), the gain or loss to be taken into account in the computation of gross income or taxable income for any taxable year with respect to any real property which has been acquired before January 1, 1972, shall be limited

a. to an amount which shall bear the same ratio to the gain or loss so taken into account as the number of months (or any fraction thereof) after December 31, 1971 shall bear to the number of months (or any fraction thereof) included in the taxpayer's holding period for such real property, or

b. to the gain or loss which would have been taken into account if the taxpayer's basis for such real property, as determined for federal income tax purposes, had been the fair market value of the real property on December 31, 1971.

(ii) An election under sub-paragraph (i) for any taxable year shall be made not later than the due date (including any extensions thereof) for filing the taxpayer's return for the taxable year, in such manner as the department may by regulation prescribe, and, if the election is made under sub-paragraph b., shall be accompanied by appropriate market quotations, appraisals or other valuation data which reliably establish the fair market values of the real property to which the election applies.

On motion by Senator Graham, the following substitute amendment was adopted:

**Amendment 28**—On pages 16 and 17, page 16, lines 13-26; page 17, lines 1-27 strike section 220.13(1)(c): page 16, lines 13-26; page 17, lines 1-27

Senators Johnson (34th) and Fincher offered the following amendment which was moved by Senator Fincher and failed:

**Amendment 29**—On pages 15 and 44, lines 5 and 7, respectively, strike all of lines 5-14 on page 15 and insert: 1. page 15—after line 4: 31, 1971.

2. Between lines 7 and 8 on page 44, add the following new subparagraph:

"(4) regulations providing for tentative carryback adjustments in the same manner as set forth in section 6411 of the Internal Revenue Code and the regulations under that section."

Senators Daniel and Plante offered the following amendment which was moved by Senator Daniel:

**Amendment 30**—On page 25, line 14 insert the following:  
(1) The gross receipts tax imposed by section 203.01, Florida Statutes, which is paid by any public service corporation in the taxable year shall be credited against and, subject to the limitation described in subsection (2), discharge not in excess of fifty percent (50%) of the taxpayer's liability for the tax under this Code. In the event that the taxpayer is a member of an affiliated group which has filed a consolidated return under section 220.131 for the taxable year, the gross receipts tax paid by the taxpayer shall be credited against and, subject to the limitation described in subsection (2), discharge only that portion of the affiliated group's income tax liability under this Code (not in excess of fifty percent (50%) thereof) which is in the same proportion to the group's liability as said taxpayer's income tax liability would have been to the aggregate liability of all members of the group if the taxpayer and all other members of the group had separately computed their taxable income for the taxable year.

(2) No credit under subsection (1) shall discharge that portion of the taxpayer's liability for tax which is attributable to such amounts included in the taxpayer's gross income as are not subject to the tax on gross receipts imposed by section 203.01, Florida Statutes. The department may by regulation prescribe methods or procedures for limiting the gross receipts tax credit in accordance with this subsection (2).

On motion by Senator Wilson, debate on the foregoing amendment was limited to 5 minutes per side.

The amendment failed by the following vote:

Yeas—21

Arnold	Brantley	Johnson (29th)	Trask
Barrow	Daniel	Lane	Ware
Beaufort	Deeb	McClain	Weber
Bishop	Ducker	Ott	
Boyd	Henderson	Plante	
Brannen	Horne	Stolzenburg	

Nays—27

Mr. President	Gong	Knopke	Saunders
Barron	Graham	Lewis (33rd)	Saylor
Bell	Gunter	Lewis (43rd)	Scarborough
Broxson	Haverfield	Myers	Weissenborn
Childers	Hollahan	Pope	Williams
de la Parte	Johnson (34th)	Poston	Wilson
Fincher	Karl	Reuter	

On motion by Senator Broxson the following amendment was adopted:

Amendment 31—On page 1 following line 15 insert the following: amending subsection 624.0312(1), Florida Statutes, to limit credits against insurance premium taxes;

The Committee on Ways and Means offered the following amendment which was adopted on motion by Senator de la Parte:

Amendment 32—On page 49, line 30 strike "It is expressly" and all of lines 1 through 13 on page 50.

On motion by Senator de la Parte, CS for HB 16-D as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—46

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

Nays—1

Bell

By unanimous consent Senator Daniel was recorded as voting yea.

**EXPLANATIONS OF VOTE ON CS FOR HB 16-D AS AMENDED**

While I oppose the principle of income tax, I recognize the 70-30 vote accorded the Constitutional Amendments authorizing Florida to impose such a tax on nearly all business entities, as prescribed by law.

Since the Governor's original proposal has been modified by the Senate in many ways to overcome some of the objections expressed to their legislators by the 30 per cent of the voters who opposed the referendum, and others, I supported this bill on final Senate passage.

However, I will reserve final judgment on the bill until the differences between the Senate and House version are resolved by the Conference Committee.

**Charles H. Weber, District 37**

I voted "Yes" on final passage of the income tax bill. This was not a reversal of my opposition to the tax but an expression of support for some Senate amendments that I felt were more

in keeping with the November 2nd vote of the people. I feel that the House was far more liberal in their interpretation and realizing that the bill must go to Conference Committee, it was the only means afforded me to express my support of modifying amendments by the Senate to the Conference Committee.

The end product of that Committee will determine my final vote. My next vote on the income tax bill will accurately reflect my opposition or support of the entire bill.

**Beth Johnson, District 29**

On motion by Senator Poston, the rules were waived and the Senate reverted to—

**MESSAGE FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Jerry Thomas* December 3, 1971  
*President of the Senate*

Sir:

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

By the Committee on Transportation—

HB 8-D—A bill to be entitled An act relating to the control of junkyards or scrap metal processing facilities adjacent to public highways; providing definitions; prohibiting the operation of junkyards or scrap metal processing facilities within one thousand (1,000) feet of the right-of-way, unless screened from public view; providing exceptions; providing for requirements for fences; providing the department of transportation shall have powers of eminent domain over certain lands; providing for enforcement by the department; providing a penalty; repealing §§861.13, 861.14, 861.15, 861.16, 861.17, and 861.18, Florida Statutes, and chapter 71-338, Laws of Florida, relating to control of junkyards and scrap metal processing plants adjacent to public highways; providing an effective date.

—and requests the concurrence of the Senate therein.

*Respectfully,*  
**ALLEN MORRIS**  
*Clerk, House of Representatives*

HB 8-D, contained in the above message, was determined by the President to be within the purview of the Governor's call, read the first time by title and referred to the Committee on Transportation.

On motion by Senator Poston, by two-thirds vote, HB 8-D was withdrawn from the Committee on Transportation and placed on the Calendar.

On motion by Senator Poston, unanimous consent was obtained to take up HB 8-D out of order.

On motions by Senator Poston, by two-thirds vote, HB 8-D was read the second time by title, and by two-thirds vote was read the third time by title.

Senator Bishop moved the adoption of the following amendment which failed:

Amendment 1—On page 5, line 13 strike In addition to the powers of eminent domain

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

Amendment 2—On page 5, line 16 before "Any public official" insert the following: "The department or"

On motion by Senator Poston, HB 8-D as amended was read by title, passed and certified to the House. The vote was:

## Yeas—44

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

## Nays—2

Bishop	Weber
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By unanimous consent Senator Fincher was recorded as voting yea.

SB 18-D was laid on the table.

On motion by Senator Hollahan, it was agreed by two-thirds vote that when the Senate adjourns it adjourn to reconvene at 11:00 a.m., December 6, 1971.

Upon suggestion by the President, the Senate accorded a standing vote of thanks to the staff of the Senate Committee on Ways and Means and to Arthur J. England, Jr. for the exemplary assistance rendered the Senate in the consideration of CS for HB 16-D and other finance and taxation matters.

Senator Karl announced that the Committee on Commerce would meet immediately upon adjournment for the purpose of concluding deliberations on SB 7-D.

On motion by Senator Weissenborn, the rules were waived and the Senate reverted to—

## INTRODUCTION

Unanimous consent was granted Senator Weissenborn to introduce the following bill out of order:

By Senators Weissenborn, Lewis (33rd) and Lane—

**SB 37-D**—A bill to be entitled An act relating to farm labor; amending sub-section (3) of section 5, chapter 71-234, Laws of Florida, providing that the payment of the required twenty-five dollar (\$25.00) registration fee from the farm labor contractor to the farm labor and rural manpower service shall be deposited in a trust fund in the state treasury and utilized for administration of the act.

—was delivered to the Committee on Rules, Calendar, Privileged Business and Ethics for consideration and advice as to whether same is within the purview of the call of the Governor.

Senator de la Parte announced that the Committee on Ways and Means would meet at 9:00 a. m., December 6 in Room 331, Holland Building for the purpose of considering Senate Bills 2-D and 19-D.

On motion by Senator Hollahan, the Senate adjourned at 2:00 p.m. to reconvene at 11:00 a.m., December 6, 1971.