

SPECIAL SESSION

JOURNAL OF THE FLORIDA SENATE

Thursday, November 30, 1972

The Senate was called to order by the President at 11:00 a.m. A quorum present—40:

Mr. President	Gordon	Myers	Stolzenburg
Barron	Graham	Peterson	Sykes
Brantley	Gruber	Pettigrew	Trask
Childers	Henderson	Plante	Vogt
Deeb	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Firestone	Lane (31st)	Saylor	Williams
Gallen	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Sims	Winn
Glisson	McClain	Smathers	Zinkil

The Committee further recommends that no further consideration be given to HB 3-A as it is outside the purview of the call and no emergency is involved.

Sincerely,

*Louis de la Parte, Chairman*  
Select Committee on Legislation

ENGROSSING REPORT

Your Engrossing Clerk to whom was referred SB 5-A reports that the House amendment has been incorporated and the bill is returned herewith.

*ELMER O. FRIDAY, Secretary*

The bill was ordered enrolled.

ENROLLING REPORT

Your Enrolling Clerk to whom was referred SB 5-A reports same has been enrolled, signed by the required Constitutional officers and presented to the Governor on November 30, 1972.

*ELMER O. FRIDAY, Secretary*

On motion by Senator Poston the Senate proceeded to the consideration of—

EXECUTIVE BUSINESS

Senator Poston moved that pursuant to the provisions of Section 112.071(3) the Senate now take up for consideration Executive Appointments subject to confirmation by the Senate. Which was unanimously adopted.

Senator Poston was accorded the privileges of the Well and made the following—

STATEMENT

Section 112.071(3), Florida Statutes, relative to the procedure for confirmation of appointments by the Senate, permits the Senate upon majority vote to consider executive appointments during a special session of the Legislature, rather than await the regular session of the Legislature. Under the statute, the Senate is permitted to consider a part or all of those appointments referred to it for consideration.

Your committee has, acting under this authority, elected to present to the Senate for consideration those appointments covering those appointees about whom the committee felt it had adequate information.

As concerns the remainder of those executive appointments referred to the Senate for consideration about whom the committee does not possess the required information, it is recommended that consideration be postponed to the regular session.

It is pointed out that by deferring action on these remaining appointments, the committee does not manifest any opinion, nor does it intend to prejudice these appointees in any manner. The committee has simply acted on those appointments covering those about whom they felt adequately informed at this time.

By direction of the President, the foregoing statement was ordered spread upon the Journal.

Senator Poston read the following report:

The President introduced to the Senate the senior Chaplain at Eglin Air Force Base, Fort Walton Beach, Colonel Robert E. Mossey, and announced that Father Mossey and his associates at Eglin Air Force Base have recently received the 1972 Terrence P. Finnegan Award which is awarded annually to the chapel team having the best overall religious education program in the Air Force.

Prayer by Father Mossey:

Let us pray—O God of wisdom and justice, assist with your Holy Spirit of counsel and fortitude the Governor and his staff and this illustrious body of the Legislature. May this administration be conducted with your blessed righteousness and guidance. May their deliberations be made with You in mind, for the common good of mankind and the deep respect of and for the rights of each of your children to life and the preservation of human dignity.

May each of us here present reverently use our freedom, employing it in the pursuit of justice, not only for our own gain, but for the benefit of those whose faith has been shown through their votes—that nothing but good can come from this hallowed chamber.

Bless each of these ladies and gentlemen with your special peace, fortitude, integrity and a prayerful spirit so that as they shoulder their great responsibilities each day, they may see their works effecting good. Give them continued health of mind, and body and soul—let their work be a joy to them.

And in each day's deliberations let no one forget our valiant men who are POW/MIA. As remote as we may appear to be from their prison cells—we are responsible for the laws and preservation of rights that affect their families living here in Florida. We will be a part of their reentry into the realities of the home life that makes this such a great nation.

With faith in you and in each other, may we here present, having served you and our country well, know the joys of your blessed happiness here and forever in your heavenly kingdom. Amen.

The Journal of November 29 was corrected and approved.

REPORTS OF COMMITTEE

The Select Committee on Legislation recommends the following pass:

CS for HB 16-A with 1 amendment  
SB 18-A  
CS for HB 17-A

The bills were placed on the calendar.

November 30, 1972

*The Honorable Mallory E. Horne, President*

Dear Mr. President:

The Select Committee on Legislation having met and given due consideration recommends that the following bills be introduced, notwithstanding they are outside the purview of the call as they speak to matters of an emergency nature: SCR 12-A, Senate Bills 15-A, 17-A, 19-A, 20-A.

Senator Mallory E. Horne  
President, The Florida Senate  
The Capitol

November 28, 1972

Dear Mr. President:

Your Select Committee on Executive Appointments to whom was referred for inquiry and recommendation the following appointments subject to confirmation by the Senate:

NAME	OFFICE	FOR TERM ENDING
Walter L. Revell Miami Lakes	Secretary, State of Florida Department of Transportation	Pleasure of the Governor
Albin P. Crutchfield Vero Beach	Member, Citrus Commission, State at Large, State of Florida Department of Citrus	May 31, 1975
Karick A. Price Orlando	Member, Citrus Commission, District Number Four, State of Florida Department of Citrus	May 31, 1975
W. F. Edwards Dade City	Member, Citrus Commission, State at Large, State of Florida Department of Citrus	May 31, 1975
George McClure Apopka	Member, Citrus Commission, State at Large, State of Florida Department of Citrus	May 31, 1975

—having met, and after full inquiry, hereby tenders as the recommendation of this Committee that the Senate do advise and consent, and approve the aforesaid appointments made by the Governor.

Respectfully submitted,

Ralph R. Poston, Sr., Chairman  
Warren S. Henderson  
Alan Trask

Dan Scarborough  
Curtis Peterson

On motions by Senator Poston, the report of the Committee was adopted, and the Senate advised and consented to and approved the appointment by the Governor of Walter L. Revell, Albin P. Crutchfield, Karick A. Price, W. F. Edwards and George McClure as contained and set forth in the foregoing report. The vote was:

Yeas—34

Mr. President	Graham	Plante	Vogt
Brantley	Henderson	Poston	Ware
Childers	Johnson	Saunders	Weber
de la Parte	Lane (31st)	Scarborough	Williams
Firestone	Lane (23rd)	Sims	Wilson
Gallen	Lewis	Smathers	Winn
Gillespie	McClain	Stolzenburg	Zinkil
Glisson	Peterson	Sykes	
Gordon	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Barron, Deeb, Gruber, Myers and Saylor were recorded as voting yea.

Senator Poston then read the following report:

Senator Mallory E. Horne  
President, The Florida Senate  
The Capitol

November 29, 1972

Dear Mr. President:

Your Select Committee on Executive Appointments to whom was referred for inquiry and recommendation the following appointments subject to confirmation by the Senate:

NAME	OFFICE	FOR TERM ENDING
George C. Bender Miami	Member, Board of Pilot Commissioners for the Port of Miami, Dade County, State of Florida Department of Professional and Occupational Regulation	October 25, 1975
Joan Knight Key West	Member, Historic Key West Preservation Board of Trustees	October 12, 1976
Ralph E. Marsicano Tampa	Member, Board of Funeral Directors and Embalmers, District Four, State of Florida Department of Professional and Occupational Regulation	July 25, 1976
Mary M. Smith Daytona Beach	Member, State Board of Cosmetology, District Number Two, State of Florida Department of Professional and Occupational Regulation	June 27, 1976
Ed Duffee, Jr. Tallahassee	Member, Career Service Commission	November 22, 1976

Members of the Board of Trustees of the following: FOR TERM ENDING

<b>Broward Community College:</b> Clem E. Bininger Ft. Lauderdale	May 31, 1974
<b>Edison Junior College:</b> Henry B. Watkins, Jr. Naples	May 31, 1973
<b>Florida Junior College at Jacksonville:</b> Gordon W. Steadman Jacksonville	May 31, 1973
<b>Hillsborough Community College:</b> Jerry N. Harvey Tampa	May 31, 1973
<b>Lake City Community College:</b> Leroy Bowdoin Trenton	May 31, 1974
Marvin H. Pritchett Lake Butler	May 31, 1975
<b>Okaloosa—Walton Junior College:</b> A. N. Anderson Ponce de Leon	May 31, 1974
<b>South Florida Junior College:</b> Hue E. Nunnallee Avon Park	May 31, 1973

—having met, and after full inquiry, hereby tenders as the recommendation of this Committee that the Senate do advise and consent, and approve the aforesaid appointments made by the Governor.

Respectfully submitted,

Ralph R. Poston, Sr. Chairman  
Warren S. Henderson  
Alan Trask

Dan Scarborough  
Curtis Peterson

On motions by Senator Poston, the report of the Committee was adopted, and the Senate advised and consented to and approved the appointment by the Governor of George C. Bender, Joan Knight, Ralph E. Marsicano, Mary M. Smith, Ed Duffee, Jr., Clem E. Bininger, Henry B. Watkins, Jr., Gordon W.

Steadman, Jerry N. Harvey, Leroy Bowdoin, Marvin H. Pritchett, A. N. Anderson, and Hue E. Nunnallee as contained and set forth in the foregoing report. The vote was:

Yeas—34

Mr. President	Graham	Plante	Vogt
Brantley	Henderson	Poston	Ware
Childers	Johnson	Saunders	Weber
de la Parte	Lane (31st)	Scarborough	Williams
Firestone	Lane (23rd)	Sims	Wilson
Gallen	Lewis	Smathers	Winn
Gillespie	McClain	Stolzenburg	Zinkil
Glisson	Peterson	Sykes	
Gordon	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Barron, Deeb, Gruber, Myers and Saylor were recorded as voting yea.

Senator Poston also read the following report:

Senator Mallory E. Horne  
President, The Florida Senate  
The Capitol

November 30, 1972

Dear Mr. President:

Your Select Committee on Executive Appointments to whom was referred for inquiry and recommendation the following appointments subject to confirmation by the Senate:

NAME	OFFICE	FOR TERM ENDING
Dolores M. Vander Meer Clermont	Member, Board of Trustees, South Lake County Hospital District	July 5, 1975
Minnie Viti Clermont	Member, Board of Trustees, South Lake County Hospital District	July 5, 1975
Harold Roberts Clermont	Member, Board of Trustees, South Lake County Hospital District	July 5, 1975
Millard V. Coggshall Minneola	Member, Board of Trustees, South Lake County Hospital District	July 5, 1975
C. D. Anderson Clermont	Member, Board of Trustees, South Lake County Hospital District	July 5, 1975
J. G. Brock Panama City	Member, Board of Pilot Commissioners for the Port of Panama City, Bay County, State of Florida Department of Professional and Occupational Regulation	June 14, 1973
Tom Corley Panama City	Member, Board of Pilot Commissioners for the Port of Panama City, Bay County, State of Florida Department of Professional and Occupational Regulation	June 14, 1973
James E. Shields Key West	Member, Historic Key West Preservation Board of Trustees	October 31, 1974

NAME	OFFICE	FOR TERM ENDING
G. Earl Quattlebaum West Palm Beach	Member, Board of Funeral Directors and Embalmers, District Five, State of Florida Department of Professional and Occupational Regulation	July 22, 1976
James Farquhar Ft. Lauderdale	Member, State Board of Independent Colleges and Universities	August 31, 1975
Orion T. Ayer St. Petersburg	Member, Board of Examiners of Nursing Home Administrators, State of Florida Department of Professional and Occupational Regulation	December 3, 1973

—having met, and after full inquiry, hereby tenders as the recommendation of this Committee that the Senate do advise and consent, and approve the aforesaid appointments made by the Governor.

*Respectfully submitted,*

*Ralph R. Poston, Sr., Chairman  
Warren S. Henderson  
Alan Trask*

*Dan Scarborough  
Curtis Peterson*

On motions by Senator Poston, the report of the committee was adopted, and the Senate advised and consented to and approved the appointment by the Governor of Dolores Vander Meer, Minnie Viti, Harold Roberts, Millard V. Coggshall, C. D. Anderson, J. G. Brock, Tom Corley, James E. Shields, G. Earl Quattlebaum, James Farquhar and Orion T. Ayer as contained and set forth in the foregoing report. The vote was:

Yeas—34

Mr. President	Graham	Plante	Vogt
Brantley	Henderson	Poston	Ware
Childers	Johnson	Saunders	Weber
de la Parte	Lane (31st)	Scarborough	Williams
Firestone	Lane (23rd)	Sims	Wilson
Gallen	Lewis	Smathers	Winn
Gillespie	McClain	Stolzenburg	Zinkil
Glisson	Peterson	Sykes	
Gordon	Pettigrew	Trask	

Nays—None

By unanimous consent Senators Barron, Deeb, Gruber, Myers and Saylor were recorded as voting yea.

#### INTRODUCTION

By Senator Horne—

SB 21-A—A bill to be entitled An act relating to Florida land sales practices; adding a new section to Chapter 478, Florida Statutes, to require registrants who utilize solicitation of sales by telephone to authorize the division of Florida land sales department of business regulation to monitor their telephone communications; requiring division to establish methods of monitoring; prohibiting sales solicitations by telephone unless registrant grants authority to monitor and agrees with division on method; making lawful any interception of communications pursuant to this section and making division's employees so acting investigative or law enforcement officers within terms of specified federal and state laws; making an appropriation to division from land sales trust fund for remainder of fiscal year; providing an effective date.

—was delivered to the Select Committee on Legislation for consideration and advice as to whether same is within the purview of the call of the Governor.

By Senator Horne—

SB 22-A—A bill to be entitled An act relating to Florida land sales practices; amending Section 478.121, Florida Statutes, to

authorize the division of Florida land sales to require a certified copy of the duly approved and recorded plat of lands in this state offered for registration to be filed with the application for registration of such lands; making provisions applicable to previously registered lands ninety (90) days after effective date, when registration becomes invalid if provisions are not met; declaring act to be remedial and to be strictly construed; and providing an effective date.

—was delivered to the Select Committee on Legislation for consideration and advice as to whether same is within the purview of the call of the Governor.

By direction of the President, the Secretary read the following amended Proclamation:

**PROCLAMATION**

WHEREAS, on the 24th day of November, 1972, a Proclamation of the Governor was issued convening a special session of the Florida Legislature commencing on the 28th day of November, 1972, and

WHEREAS, on the 29th day of November, 1972, a Proclamation was issued amending the Proclamation of November 24th, 1972, and

WHEREAS, it is necessary and in the best interest of the State to further amend the Proclamation of the Governor of November 24th, 1972, in order to expand the call of the special session so that the Legislature may consider the important legislative business set forth below.

NOW, THEREFORE, I, REUBIN O'D. ASKEW, Governor of the State of Florida, in obedience to my constitutional duty and by virtue of the power and authority vested in me by Section 3, Article III, Constitution of Florida (1968), do hereby proclaim as follows:

*Section 1.*

“That the Legislature is convened for the sole purpose of considering legislation relating to:

(1) Capital punishment, including the redefinition of capital crimes, providing alternative sanctions for offenses formerly designated capital, providing procedures for sentencing, and other related matters.

(2) Concurrent resolution relating to the ratification of the proposed Equality of Rights Amendment (Proposed 27th Amendment) to the United States Constitution.

(3) Establishment of a revolving fund for loans by the Department of Pollution Control to local governmental agencies for sewer treatment facilities, and providing necessary appropriation.

(4) Supplemental appropriations for fiscal year 1972-73 to the Department of Pollution Control in order to expand the Department's programs for technical assistance to local government agencies.

(5) Supplemental appropriation for fiscal year 1972-73 (in the approximate amount of 9.5 Million Dollars) to fully fund the State Minimum Foundation Program for Schools (K-12).

(6) Supplemental appropriation for fiscal year 1972-73 (in the approximate amount of 9 Million Dollars) to the University of South Florida Medical Center for additional capital outlay funds for the construction of Phase II of the Medical Center.

(7) Flood Control Districts, providing a new statutory provision dealing with the declaration of water shortage and emergency orders and related matters.

(8) Amendment of Section 167.431, Florida Statutes, restoring the exemption for churches from the payment of any municipal utility tax.

(9) Amendments to Chapter 27, Florida Statutes, authorizing public defenders to represent insolvent persons who are under arrest for, or charged with, a misdemeanor or violation of municipal or county ordinance, and authorizing counties and municipalities to contribute funds to public defenders for the purpose of defending misdemeanors and violations of municipal or county ordinances.

(10) Supplemental appropriations for State Attorneys, Public Defenders and Official Court Reporters for fiscal year 1972-73.

*Section 2.*

Except as amended by this Proclamation and the Proclamation of the Governor dated November 29th, 1972, the Proclamation of the Governor dated November 24th, 1972, is ratified and confirmed.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, Florida, this 30th day of November, 1972.

**REUBIN O'D. ASKEW**  
Governor

ATTEST:  
**RICHARD (DICK) STONE**  
Secretary of State

**UNFINISHED BUSINESS**

**HB 11-A**—A bill to be entitled An Act relating to sewage treatment facilities, authorizing the department of pollution control to make loans to local governmental agencies, to plan, design, construct or acquire land therefor; providing for the establishment of a revolving loan fund; providing for disposition of interest earned; providing appropriations; providing an effective date.

—was taken up together with pending Amendment 9, which was deferred.

On motion by Senator Sykes, the Senate reconsidered the vote by which Amendment 8 was adopted on November 28.

On motion by Senator Sykes the following substitute amendment for amendment 8 was adopted:

**Amendment 10**—On page 3, line 2, following the word “regulation” insert: on or before February 1, 1973,

Senators Gallen and Lewis offered the following amendment which was moved by Senator Gallen:

**Amendment 11**—On page 3, after line 31, insert: (8) The provisions of §218.25 shall not apply to the pledge of any revenue for the purpose of planning, designing, constructing, modifying, upgrading and acquiring land for sewage treatment facilities

Senator Stolzenburg moved that the Senate reconsider the vote by which amendment 2 was adopted on November 29. The motion was adopted by the following vote:

**Yeas—25**

Brantley	Graham	Poston	Ware
Childers	Gruber	Saylor	Weber
Deeb	Henderson	Scarborough	Wilson
Firestone	Lane (31st)	Sims	Winn
Gallen	Lane (23rd)	Stolzenburg	
Glisson	McClain	Sykes	
Gordon	Plante	Vogt	

**Nays—11**

Gillespie	Myers	Saunders	Williams
Johnston	Peterson	Smathers	Zinkil
Lewis	Pettigrew	Trask	

The question recurred on amendment 2 which failed. The vote was:

## Yeas—15

Mr. President	Myers	Saunders	Vogt
Gillespie	Peterson	Scarborough	Williams
Johnston	Pettigrew	Smathers	Zinkil
Lewis	Plante	Trask	

## Nays—22

Brantley	Gordon	McClain	Ware
Childers	Graham	Poston	Weber
Deeb	Gruber	Sayler	Wilson
Firestone	Henderson	Sims	Winn
Gallen	Lane (31st)	Stolzenburg	
Glisson	Lane (23rd)	Sykes	

## Explanation of Vote

I voted to cut the \$100,000,000 proposed by the bill to \$50,000,000 because testimony in committee indicated there is no way even \$50,000,000 could be spent before the beginning of the 1973 session of the legislature and further the total situation regarding the problem of sewage will again be reviewed in the 1973 session.

*John W. Vogt, 17th District*

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

**Amendment 12**—On page 4, line 2, strike "\$100,000,000" and insert: \$600,000,000

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

**Amendment 13**—In Section 1, line 28, page 2, after the period insert: In no event shall the department loan to any one governmental agency an amount in excess of Fifteen Million (\$15,000,000.) Dollars.

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

**Amendment 14**—On page 4, line 2 strike \$100,000,000 and insert: \$30,000

By permission, Senator Gallen withdrew Amendment 11.

Senators Gallen and Lewis offered the following amendment which was moved by Senator Gallen and failed:

**Amendment 15**—On page 3, after line 31, insert: (8) The provisions of section 218.25 shall not apply to the pledge of any revenue received prior to July 1, 1972, for the purpose of planning, designing, constructing, modifying, upgrading and acquiring land for sewage treatment facilities.

By permission Senator Lewis withdrew Amendment 9.

On motion by Senator Williams, by two-thirds vote HB 11-A as amended was read the third time by title, passed and certified to the House. The vote was:

## Yeas—37

Mr. President	Graham	Pettigrew	Vogt
Barron	Gruber	Plante	Ware
Brantley	Henderson	Poston	Weber
Childers	Johnson	Saunders	Williams
de la Parte	Johnston	Sayler	Wilson
Firestone	Lane (31st)	Scarborough	Winn
Gallen	Lane (23rd)	Sims	Zinkil
Gillespie	Lewis	Smathers	
Glisson	McClain	Stolzenburg	
Gordon	Myers	Sykes	

## Nays—3

Deeb	Peterson	Trask
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The President appointed Senators Henderson, Gordon, Winn, Trask and Wilson as members of the Bicentennial Commission.

## SECOND READING

SB 18-A—A bill to be entitled An Act relating to public schools; providing a supplemental appropriation for the state's portion of the 1972-73 minimum foundation program K-12; repealing paragraph (b) of item 199, section 1 of chapter 72-409, Laws of Florida; providing a method for allocation; providing an effective date.

—was read the second time by title and deferred.

The President requested Senators de la Parte, Ware and Graham to examine SB 18-A and advise the chair if the bill is within the purview of the call of the Governor.

On motion by Senator Barron, the Senate reverted to—

## INTRODUCTION

By Senators Barron, de la Parte, Saunders, Deeb, Lane (31st), McClain, Horne, Trask, Sykes, Childers, Johnson, Smathers, Poston, Scarborough, Vogt, Brantley, Plante, Winn, Lane (23rd), Stolzenburg and Zinkil—

SB 23-A—A bill to be entitled An act relating to capital punishment; amending §775.081(1), Florida Statutes, providing for a life felony; amending §775.082, Florida Statutes, as amended by chapter 72-118, Laws of Florida, to provide punishment for capital and life felonies; amending §782.04, Florida Statutes, to specify and redefine the crimes constituting murder; amending §779.07, Florida Statutes, to make intentional injury to property a life felony; amending §790.16, Florida Statutes, providing for new penalties for throwing or discharging bombs or discharging machine guns in public places; repealing subsections (3) and (4) of §790.16, Florida Statutes, relating to recommendation of mercy and judicial discretion in sentencing; amending §790.161, Florida Statutes; providing new penalties for throwing, placing, or discharging any destructive device, depending on degree of harm inflicted; amending §794.01, Florida Statutes, providing new penalties for crimes of rape; amending §805.02, Florida Statutes, providing that kidnapping for ransom shall be a life felony; amending §921.141, Florida Statutes, as amended by chapter 72-72, Laws of Florida, providing a separate proceeding to determine sentence in capital cases; providing a severability clause; providing an effective date.

—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 Select Committee on Legislation.

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Mallory E. Horne, President*

I am directed to inform the Senate that the House of Representatives has passed SB 10-A.

*Allen Morris, Clerk*

The bill contained in the above message was ordered enrolled.

*The Honorable Mallory E. Horne, President*

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

By Senator de la Parte—

SB 9-A—A bill to be entitled An act relating to church exemptions from municipal taxes imposed on public services under §167.431, Florida Statutes; providing an effective date.

Which amendment reads as follows—

On page 1, lines 21 & 22, strike "December 1, 1972" and insert: January 1, 1973

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

On motion by Senator de la Parte, the Senate concurred in the House amendment to SB 9-A.

SB 9-A passed as further amended, was ordered engrossed and the action of the Senate was certified to the House. The vote was:

Yeas—40

Mr. President	Gordon	Myers	Stolzenburg
Barron	Graham	Peterson	Sykes
Brantley	Gruber	Pettigrew	Trask
Childers	Henderson	Plante	Vogt
Deeb	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Firestone	Lane (31st)	Sayler	Williams
Gallen	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Sims	Winn
Glisson	McClain	Smathers	Zinkil

Nays—None

*The Honorable Mallory E. Horne, President*

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required two-thirds vote and passed—

By Representative Johnson—

HB 32-A—A bill to be entitled An act relating to county government, repealing section 125.39 of Chapter 125, Florida Statutes, relating to nonapplicability to county lands acquired for delinquent taxes; providing an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

HB 32-A, contained in the above message, was delivered to the Select Committee on Legislation for consideration and advice as to whether same is within the purview of the call of the Governor.

*The Honorable Mallory E. Horne, President*

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

By Representative Gautier and others—

HB 2-A—A bill to be entitled An act relating to limitation of prosecution; amending §932.465, Florida Statutes, to provide that prosecution of an offense punishable by death or one punishable by life imprisonment may be commenced at any time; providing a six year limitation for a felony of the first degree, three years for any other felony, two years for a misdemeanor of the first degree, one year for a misdemeanor of the second degree; providing that the statute of limitations for offenses committed by state, county, or municipal officials during their terms of office shall be two years from their leaving office or as provided for the specific offense committed, whichever is greater; providing an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President*

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

By Representative Gautier and others—

HB 4-A—A bill to be entitled An act relating to parole; amending §947.16(2), (3) and (4), Florida Statutes, to provide that a person who has received a sentence of death and that sentence has been changed to life imprisonment shall not be eligible for parole until he has served at least thirty (30) calendar years of imprisonment; providing that the provisions of this section shall not apply to a person who has been resentenced and the offense for which he was convicted is not a capital offense after the reenactment of capital punishment; providing that the person shall receive credit only for imprisonment under a death sentence; providing a severability clause; providing an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

*The Honorable Mallory E. Horne, President*

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

By Representative Gautier and others—

HB 1-A—A bill to be entitled An act relating to capital punishment, amending section 782.04, Florida Statutes, to specify and redefine the crimes constituting murder; providing for reclassification as certain degrees of felony; amending chapter 782, Florida Statutes, by adding section 782.011; providing definitions; amending subsection (1) of section 775.081, Florida Statutes, providing for a life felony; amending section 775.082, Florida Statutes, to provide punishment for capital and life felonies; amending section 921.141, Florida Statutes, as amended by chapter 72-72, Laws of Florida, providing procedures for a separate proceeding to determine sentence in capital cases; providing for sentence of life imprisonment if capital punishment is ruled unconstitutional; amending section 790.16, Florida Statutes, providing for new penalties for throwing or discharging bombs or discharging machine guns in public places and for the commission of air piracy; repealing subsections (3) and (4) of section 790.16, Florida Statutes, relating to recommendation of mercy and judicial discretion in sentencing; amending section 790.161, Florida Statutes; providing new penalties for throwing, placing, or discharging any destructive device, depending on degree of harm inflicted; amending section 794.01, Florida Statutes; providing new penalties for crimes of rape; amending section 805.02, Florida Statutes; providing that kidnapping for ransom shall be a life felony; providing a severability clause; providing an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

House Bills 2-A, 4-A and 1-A, contained in the above messages, were read the first time by title and referred to the Select Committee on Legislation.

The President announced that the Select Committee on Legislation was also constituted as a Select Committee on Rules and Calendar and would submit a special order for consideration at the afternoon session.

Senator de la Parte announced that HB 1-A would be considered at a meeting of the Select Committee on Legislation during noon recess.

On motion by Senator Barron the Senate reverted to—

## INTRODUCTION

On motion by Senator Childers, SB 19-A was admitted for introduction and consideration by the necessary two-thirds vote of the membership. The vote was:

Yeas—38

Mr. President	Firestone	Gruber	McClain
Barron	Gallen	Henderson	Myers
Brantley	Gillespie	Johnson	Peterson
Childers	Glisson	Lane (31st)	Pettigrew
Deeb	Gordon	Lane (23rd)	Plante
de la Parte	Graham	Lewis	Poston

Saunders	Stolzenburg	Ware	Winn
Scarborough	Sykes	Weber	Zinkil
Sims	Trask	Williams	
Smathers	Vogt	Wilson	

Nays—None

By Senators Childers and Johnston—

**SB 19-A**—A bill to be entitled An act relating to Santa Rosa County; authorizing the acquisition, construction, erection, building, enlarging, improving, furnishing and equipping of capital projects of Santa Rosa County and of the school board of Santa Rosa County; authorizing the issuance of certificates of indebtedness by the county and by the school board to finance the cost of such capital projects; authorizing the pledging to the payment of the principal of, interest on and reserves for such certificates of indebtedness of the race track and jai alai fronton funds allocated to the board of county commissioners or the school board out of such funds accruing annually to the county pursuant to chapters 550 and 551, Florida Statutes, the rentals and royalties derived by the county or the school board under leases or other agreements with respect to the lands or the mineral rights appertaining thereto belonging to the county or the board, the second oil and gas severance taxes accruing to the county pursuant to the provisions of section 211.06(1)(b), Florida Statutes, and other monies of the county or of the school board derived from sources other than ad valorem taxation and legally available for such purposes; providing for the allocation of the county's share of such second oil and gas severance taxes equally between the board of county commissioners and the school board; providing an effective date.

Evidence of notice and publication was established by the Senate as to SB 19-A.

—was read the first time by title and referred to the Select Committee on Legislation.

On motion by Senator Childers, by two-thirds vote, SB 19-A was withdrawn from the Select Committee on Legislation and placed on the calendar.

On motion by Senator Childers, unanimous consent was obtained to take up SB 19-A out of order.

On motions by Senator Childers, by two-thirds vote SB 19-A was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote was:

Yeas—39

Mr. President	Gordon	Myers	Sykes
Barron	Graham	Peterson	Trask
Brantley	Gruber	Pettigrew	Vogt
Childers	Henderson	Plante	Ware
Deeb	Johnson	Poston	Weber
de la Parte	Johnston	Saunders	Williams
Firestone	Lane (31st)	Scarborough	Wilson
Gallen	Lane (23rd)	Sims	Winn
Gillespie	Lewis	Smathers	Zinkil
Glisson	McClain	Stolzenburg	

Nays—None

On motion by Senator Barron, the Senate recessed at 12:37 p.m. to reconvene at 2:30 p.m.

#### AFTERNOON SESSION

The Senate was called to order by the President at 2:30 p.m. A quorum present—40

Mr. President	Gordon	Myers	Stolzenburg
Barron	Graham	Peterson	Sykes
Brantley	Gruber	Pettigrew	Trask
Childers	Henderson	Plante	Vogt
Deeb	Johnson	Poston	Ware
de la Parte	Johnston	Saunders	Weber
Firestone	Lane (31st)	Saylor	Williams
Gallen	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Sims	Winn
Glisson	McClain	Smathers	Zinkil

The President announced the appointment of Senator Scarborough as chairman of the Committee on Judiciary—Civil and stated he would ask that committee to study the proposal relating to the ratification of the Equal Rights Amendment to the United States Constitution.

The President announced that the Attorney General in an informal opinion had advised that there is (1) ample statutory authority for the appointment of a Special Master to conduct Senate hearings in matters of Executive Suspensions, and (2) that in view of long established precedent clothing such executive proceedings of the Senate with secrecy it is highly unlikely that the courts would strike down a Senate Rule clothing such Special Master's Reports incident thereto with a like secrecy. [A formal opinion of the Attorney General on the subject is to be issued and appended to the Journal of this Special Session.]

#### REPORTS OF COMMITTEES

The Select Committee on Rules and Calendar recommends that the following bills be placed on Special Order for Thursday, November 30, 1972 commencing at 3:00 p.m.

HB 1-A	CS for HB 17-A	SB 25-A
CS for HB 16-A	SB 24-A	SB 18-A

*Respectfully submitted,*  
*Louis de la Parte, Jr.*  
*Chairman, Select Committee*  
*on Rules and Calendar*

*The Honorable Mallory Horne, President*

Dear Mr. President:

The Select Committee on Legislation, after due consideration of the following bills found them to be outside of the purview of the call and not of emergency nature:

SB 21-A, SB 22-A, HB 32-A

It is therefore recommended that these bills not be introduced during the special session.

*Respectfully,*  
*Louis de la Parte, Jr.*  
*Chairman, Select Committee*  
*on Legislation*

The Select Committee on Legislation recommends the following pass: HB 1-A with 2 amendments

The bill was placed on the calendar.

On motion by Senator Poston the Senate proceeded to the consideration of—

#### EXECUTIVE BUSINESS

Senator Poston moved that pursuant to the provisions of Section 112.071(3) the Senate now take up for consideration two Executive Appointments subject to confirmation by the Senate. Which was unanimously adopted.

Senator Poston read the following report:

Senator Mallory E. Horne  
 President, The Florida Senate  
 The Capitol

November 30, 1972

Dear Mr. President:

Your Select Committee on Executive Appointments to whom was referred for inquiry and recommendation the following appointments subject to confirmation by the Senate:

NAME	OFFICE	FOR TERM ENDING
R. H. Montney Jacksonville	Member, Jacksonville Port Authority, Duval County	October 1, 1976
Bluette Jenkins Orlando	Member, Family Services Advisory Council	July 2, 1974

Pettigrew Plante Poston Saunders Saylor	Scarborough Sims Smathers Stolzenburg Sykes	Trask Vogt Ware Weber Williams	Wilson Winn
Nays—None			

HB 25-A, contained in the above message, was read the first time by title and referred to the Select Committee on Legislation.

On motion by Senator Brantley, HB 25-A was withdrawn from the Select Committee on Legislation by two-thirds vote and placed on the calendar.

On motion by Senator Brantley, unanimous consent was obtained to take up HB 25-A out of order.

On motions by Senator Brantley, by two-thirds vote HB 25-A was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote was:

Yeas—38

Mr. President Barron Brantley Childers Deeb de la Parte Firestone Gallen Gillespie Glisson	Gordon Graham Gruber Henderson Johnson Johnston Lane (23rd) Lewis McClain Peterson	Pettigrew Plante Poston Saunders Saylor Scarborough Sims Smathers Stolzenburg Sykes	Trask Vogt Ware Weber Williams Wilson Winn Zinkil
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Nays—None

**SPECIAL ORDER CALENDAR**

HB 1-A—A bill to be entitled An act relating to capital punishment, amending section 782.04, Florida Statutes, to specify and redefine the crimes constituting murder; providing for reclassification as certain degrees of felony; amending chapter 782, Florida Statutes, by adding section 782.011; providing definitions; amending subsection (1) of section 775.081, Florida Statutes, providing for a life felony; amending section 775.082, Florida Statutes, to provide punishment for capital and life felonies; amending section 921.141, Florida Statutes, as amended by chapter 72-72, Laws of Florida, providing procedures for a separate proceeding to determine sentence in capital cases; providing for sentence of life imprisonment if capital punishment is ruled unconstitutional; amending section 790.16, Florida Statutes, providing for new penalties for throwing or discharging bombs or discharging machine guns in public places and for the commission of air piracy; repealing subsections (3) and (4) of section 790.16, Florida Statutes, relating to recommendation of mercy and judicial discretion in sentencing; amending section 790.161, Florida Statutes; device, depending on degree of harm inflicted; amending section 794.-01, Florida Statutes; providing new penalties for crimes of rape; amending section 805.02, Florida Statutes; providing that kidnapping for ransom shall be a life felony; providing a severability clause; providing an effective date.

—was read the second time by title by two-thirds vote on motion by Senator Brantley.

The Select Committee on Legislation offered the following amendment which was moved by Senator Barron:

**Amendment 1**—on page 3, line 15, strike everything after the enacting clause and insert the following:

Section 1. Subsection (1) of section 775.081, Florida Statutes, is amended to read:

775.081 Classifications of felonies and misdemeanors.—

(1) Felonies are classified, for the purpose of sentence and for any other purpose specifically provided by statute, into the following categories:

- (a) Capital felony;
- (b) Life felony;
- (c) Felony of the first degree;
- (d) Felony of the second degree; and

—having met, and after full inquiry, hereby tenders as the recommendation of this Committee that the Senate do advise and consent, and approve the aforesaid appointments made by the Governor.

*Respectfully submitted,*

Ralph R. Poston, Sr., Chairman      Dan Scarborough  
Warren S. Henderson                  Curtis Peterson  
Alan Trask

On motions by Senator Poston, the report of the Committee was adopted, and the Senate advised and consented to and approved the appointment by the Governor of R. H. Montney and Bluette Jenkins as contained and set forth in the foregoing report. The vote was:

Yeas—26

Mr. President Brantley Childers Deeb Firestone Gallen Glisson	Gordon Graham Gruber Henderson Johnson Johnston Lane (23rd)	Lewis Peterson Plante Poston Scarborough Sims Stolzenburg	Sykes Trask Weber Wilson Winn
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Nays—None

By unanimous consent Senators Barron and Williams were recorded as voting yea.

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

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

*The Honorable Mallory E. Horne, President*

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required two-thirds vote and passed as amended—

By Representatives Hartnett and Andrews—

HB 25-A—A bill to be entitled An act relating to the department of banking and finance; and banks, holding companies, trust companies and other business organizations; amending §659.141(1) and §659.141(2)(a), Florida Statutes prohibiting the acquisition, retention, or ownership of all or substantially all the assets of or control over banks, trust companies and certain forms of business organizations in this State and certain forms of business organizations furnishing investment advisory services in this state, by certain forms of business organizations the activities of which are conducted principally outside the state; redefining holding company; amending §659.141(2)(c); amending §659.141(3)(e) to provide for certain exemptions; and adding new subsection §659.141(3)(g); and adding new subsection §659.141(3)(h); and adding new subsection §659.141(2)(h); providing for an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

On motion by Senator Brantley, HB 25-A was admitted for introduction and consideration by the necessary two-thirds vote of the membership. The vote was:

Yeas—37

Mr. President Barron Brantley Childers Deeb	de la Parte Firestone Gallen Gillespie Glisson	Gordon Graham Gruber Henderson Johnson	Johnston Lane (23rd) Lewis McClain Peterson
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## (d) (e) Felony of the third degree.

A capital felony and a life felony must be so designated by statute. A non-capital felony. Other felonies are of the particular degree designated by statute. Any crime declared by statute to be a felony without specification of degree is of the third degree, except that this provision shall not affect felonies punishable by life imprisonment for the first offense.

COMMENT: Provides a new category of felony to serve as an additional deterrent to those crimes, while not classified capital, are especially serious in nature.

Section 2. Section 775.082, Florida Statutes, as amended by chapter 72-118, Laws of Florida, is amended to read:

## 775.082 Penalties for felonies and misdemeanors.

(1) A person who has been convicted of a capital felony shall be punished by life imprisonment and shall be required to serve no less than twenty-five (25) calendar years before becoming eligible for parole unless the proceeding held to determine sentence according to the procedure set forth in section 921.141 results in findings by the court that such person shall be punished by death. unless the verdict includes a recommendation to mercy by a majority of the jury, in which case the punishment shall be life imprisonment. A defendant found guilty by the court of a capital felony on a plea of guilty or when a jury is waived shall be sentenced to death or life imprisonment in the discretion of the court.

(2) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, a person who has been convicted of a capital felony shall be punished by life imprisonment as provided in subsection (1).

(3) In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in subsection (1) with no eligibility for parole.

(4) A person who has been convicted of any other designated felony may be punished as follows:

(a) For a life felony, by a term of imprisonment in the state prison for thirty years or more, not exceeding life imprisonment;

(b) For a felony of the first degree, by a term of imprisonment in the state prison penitentiary not exceeding thirty (30) years or, when specifically provided by statute, by imprisonment in the state prison penitentiary for a term of years not exceeding life imprisonment;

(c) For a felony of the second degree, by a term of imprisonment in the state prison penitentiary not exceeding fifteen (15) years;

(d) For a felony of the third degree, by a term of imprisonment in the state prison penitentiary not exceeding five (5) years.

(5) A person who has been convicted of a designated misdemeanor may be sentenced as follows:

(a) For a misdemeanor of the first degree, by a definite term of imprisonment in the county jail not exceeding one (1) year;

(b) For a misdemeanor of the second degree, by a definite term of imprisonment in the county jail not exceeding sixty (60) days.

(6) Nothing in this section shall be construed to alter the operation of any statute of this state authorizing a trial court, in its discretion, to impose a sentence of imprisonment for an indeterminate period within minimum and maximum limits as provided by law, except as provided in subsection (1).

COMMENT: Subsection (1) provides two alternate sentences for capital crimes which will be mandatory according to the findings of fact made in a separate sentencing proceeding. A distinction between life imprisonment under subsection (1) and that contemplated under subsection (4)(a), relating to life felonies should be noted. In the former case,

there is a minimum period to be served on a life sentence before eligibility for parole. In the latter, there is no such minimum but only a minimum term of years which must be imposed if life imprisonment is not the sentence. There is no minimum sentence for felonies of the first degree. Thus, each category contemplates a descending degree of severity according to the classification of the crime.

Section 3. Section 782.04, Florida Statutes, is amended to read:

## 782.04 Murder.—

(1) The unlawful killing of a human being, when perpetrated from a premeditated design to effect the death of the person killed or any human being, or when committed in the perpetration of or in the attempt to perpetrate any arson, rape, robbery, burglary, abominable and detestable crime against nature, or kidnapping, shall be murder in the first degree and shall constitute a capital felony, punishable as provided in section 775.082.

(a) When the unlawful killing occurs while the accused is engaged in, or is an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit any arson, rape, robbery, burglary, kidnapping, or the unlawful throwing, placing or discharging of a destructive device or bomb, and where such killing is effected in the furtherance of such act or acts, it shall be presumed, unless rebutted by the evidence, that the unlawful killing was perpetrated from a premeditated design to effect the death of the person killed or any human being.

(b) In all cases under this section the procedure set forth in section 921.141 shall be followed in order to determine sentence of death or life imprisonment.

(2) The unlawful killing of a human being, when when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, such acts to include the commission of, or an attempt to commit, or flight after committing or attempting to commit any arson, rape, robbery, burglary, kidnapping, or the unlawful throwing, placing or discharging of a destructive device or bomb, it shall be murder in the second degree and shall constitute a life felony of the first degree, punishable as provided in section 775.082, section 775.083, or section 775.084.

(3) The unlawful killing of a human being, when when perpetrated without any design to effect death, by a person engaged in, or an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit any felony, other than arson, rape, robbery, burglary, or kidnapping or the unlawful throwing, placing or discharging of a destructive device or bomb, it shall be murder in the third degree and shall constitute a felony of the second degree, punishable as provided in section 775.082, section 775.083, or section 775.084.

COMMENT: Murder in the first degree has been redefined to reserve as a capital felony only those killings committed with premeditated design. The felony murder rule is used as a rule of evidence to give prosecutors an additional tool to aid in proof of premeditation. Murder in the second degree is essentially the same, except that original felony murder language is added as equating acts "imminently dangerous to another and evincing a depraved mind regardless of human life." Accordingly, where proof of premeditated design by proof of the named felony is successfully rebutted under subsection (1)(a), murder in the second degree becomes a clear lesser included offense as no premeditated design is required. In addition, the section deletes reference to the "abominable and detestable crime against nature" which is not presently a crime in Florida until a new sodomy statute is enacted. The bombing situation has been added. Therefore, a clear intention is manifest to include only serious common law or statutory felonies which are presently made criminal. Should a sodomy statute later be enacted, it could be included.

Section 4. Section 779.07, Florida Statutes, is amended to read:

779.07 Intentional injury to or interference with property.—Whoever intentionally destroys, impairs, injures, interferes or tampers with real or personal property and such act hinders,

delays or interferes with the preparation of the United States or of any country with which the United States shall then maintain friendly relations, or of any of the states for defense or for war, or with the prosecution of war by the United States, is ~~shall be guilty of a life capital felony, punishable as provided in §775.082., provided, if such person so acts with the intent to hinder, delay or interfere with the preparation of the United States or of any country with which the United States shall then maintain friendly relations, or of any of the states for defense or for war, or with the prosecution of war by the United States, the minimum punishment shall be in the state prison for not less than one year.~~

Section 5. Section 790.16, Florida Statutes, is amended to read:

790.16 Throwing bombs; discharging machine guns; penalty.—

(1) It is unlawful for any person to throw any bomb or to shoot or discharge any machine guns upon, across or along any road, street or highway in the state, or upon or across any public park in the state, or in, upon or across any public place where people are accustomed to assemble in the state. The casting of such bomb or the discharge of such machine gun in, upon or across such public street, or in, upon or across such public park, or in, upon or across such public place, whether indoors or outdoors, including all theatres and athletic stadiums, with intent to do bodily harm to any person or with intent to do damage to the property of ~~any person, not resulting in the death of another person,~~ shall be a ~~capital~~ felony of the first degree, punishable as provided in section 775.082. *A sentence not exceeding life imprisonment is specifically authorized where great bodily harm to another or serious disruption of governmental operations results.*

(2) This section shall not apply to the use of such bombs or machine guns by any United States or state militia, or by any ~~sheriff, deputy sheriff, marshals, constables, chief of police or police law enforcement officer~~ while in the discharge of their lawful duty in suppressing riots and disorderly conduct, and in preserving and protecting the public peace or in the preservation of public property, or where said use shall be authorized by law.

(3) ~~A majority of the jurors trying said cause may in their discretion recommend the defendant to the mercy of the court in which event the penalty shall be changed from death to life imprisonment.~~

(4) ~~The circuit judge before whom said cause shall be tried, should he deem the circumstances under which said offense was committed of such nature and character as to justify clemency, may, in his discretion, change the penalty from death to imprisonment in the penitentiary for life.~~

COMMENT: This provision provides rational alternatives in sentencing compatible with existing law, depending on the degree of harm done. It is intended that where a homicide results that such offense be prosecuted under section 782.04, F.S. Deletion of subsections (3) and (4) is required to remove jury discretion to recommend mercy and judicial discretion to lower the sentence. These provisions are unnecessary as the most serious offense under this section is now classified as a felony of the first degree, with specific authorization of a term of imprisonment not exceeding life imprisonment in certain cases.

Section 6. Section 790.161, Florida Statutes, is amended to read:

790.161 Throwing, placing or discharging any destructive device or attempt so to do, felony; penalties.—It is unlawful for any person to throw, place, discharge or attempt to discharge any destructive device, as defined herein, with intent to do bodily harm to any person or with intent to do damage to the property of ~~any person,~~ and any person convicted thereof shall be guilty of a felony and punished in the following manner:

(1) When such action, or attempt at such action, results in the death of ~~the person intended or any~~ another person, the person so convicted shall be guilty of a ~~capital~~ life felony, punishable as provided in section 775.082.

(2) When such action, or attempt at such action, results, not in the death of any person, but does result in personal injury to a person or in damage to the property of ~~any person,~~ the person so convicted shall be guilty of a felony of the first de-

gree, punishable as provided in sections 775.082, 775.083 or 775.084. *A sentence not exceeding life imprisonment is specifically authorized where great bodily harm to another or serious disruption of governmental operations results.*

COMMENT: The intent of the change in subsection (1) is to make this penalty consistent with that imposed for murder in the second degree or a life felony. Where evidence of premeditation exists, the offender could be prosecuted for murder in the first degree, as the throwing of a destructive device or bomb gives rise to a rebuttable presumption of premeditation under this act. The distinction here is that the perpetrator intends only to "do bodily harm" or "damage to property", not necessarily to kill another human being from a "premeditated design." Similar sentencing alternatives appear in subsection (2) as appear in section 5 of this act.

Section 7. Section 794.01, Florida Statutes, is amended to read:

794.01 Rape and forcible carnal knowledge; penalty.—

(1) *Whoever of the age of seventeen years or older unlawfully ravishes or carnally knows a female child of the age of ten years or younger, with force, is guilty of a capital felony, punishable as provided in §775.082.*

(2) *Whoever ravishes or ~~and~~ carnally knows a female of the age of eleven ~~ten~~ years or more, by force and against her will, or unlawfully or carnally knows and abuses a female child under the age of eleven ~~ten~~ years, shall be guilty of a life capital felony, punishable as provided in §775.082.*

(3) It shall not be necessary to prove the actual emission of seed, but the crime shall be deemed complete upon proof of penetration only.

Section 8. Section 805.02, Florida Statutes, is amended to read:

805.02 Kidnapping for ransom.—Whoever, without lawful authority, forcibly or secretly confines, imprisons, inveigles or kidnaps any person, with intent to hold such person for a ransom to be paid for the release of such person, or any person, or any person who aids, abets or in any manner assists such person in the confining, imprisoning, inveigling or kidnapping of such person, shall be guilty of kidnapping a person, which constitutes a ~~capital~~ life felony, punishable as provided in section 775.082.

COMMENT: This section reduces kidnapping for ransom to a life felony, in accordance with the express general policy of taking a life only when a life is taken.

Section 9. Section 921.141, Florida Statutes, as amended by chapter 72-72, Laws of Florida, is amended to read:

*(Substantial rewording of section. See section 921.141, F.S., as amended by chapter 72-72, Laws of Florida, for present text.)*

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(1) Upon conviction or adjudication of guilt of a defendant of a capital felony the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by section 775.082. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentence, and shall include matters relating to any of the aggravating or mitigating circumstances enumerated in subsections (6) and (7) of this section. Any such evidence which the court deems to have probative force may be received, regardless of its admissibility under the exclusionary rules of evidence, provided that the defendant is accorded a fair opportunity to rebut any hearsay statements; and further provided that this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Florida. The prosecuting attorney and the defendant or his counsel shall be permitted to present argument for or against sentence of death.

(2) After hearing all the evidence, the jury shall deliberate and render an advisory opinion to the court concerning the following matters:

(a) Whether sufficient aggravating circumstances exist as enumerated in subsection (6), and

(b) Whether sufficient mitigating circumstances exist as enumerated in subsection (7), which outweigh any aggravating circumstances found to exist, and

(c) Based on these considerations whether the defendant should be sentenced to death.

(3) The court, after conducting such a separate proceeding as set forth in subsection (1) above and after receiving a recommendation of a majority of the jury that the defendant should be sentenced to death, made in accordance with subsection (2) above, shall impose a sentence of death if the court determines and sets forth in writing its findings of fact:

(a) That one or more sufficient aggravating circumstances exist as enumerated in subsection (6), and

(b) That there are no sufficient mitigating circumstances, as enumerated in subsection (7), which outweigh the aggravating circumstances.

In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact based upon the circumstances in subsections (6) and (7) and based upon the records of the trial and the sentencing proceedings.

(4) If the jury does not recommend death or if the court does not make the findings required in subsection (3), the court shall impose sentence of life imprisonment in accordance with section 775.082.

(5) The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court of Florida within thirty (30) days after certification by the sentencing court of the entire record unless time is extended an additional period not to exceed thirty (30) days by the Supreme Court for good cause shown. Such review by the Supreme Court shall have priority over all other cases, and shall be heard on briefs and oral argument only in accordance with rules promulgated by the Supreme Court.

(6) Aggravating circumstances.—Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a person under sentence of imprisonment;

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person;

(c) At the time the capital felony was committed the defendant also committed another capital felony;

(d) The defendant knowingly created a great risk of death to many persons;

(e) The capital felony was committed while the defendant was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit any robbery, rape, arson, burglary, kidnapping, or the unlawful throwing, placing or discharging of a destructive device or bomb;

(f) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

(g) The capital felony was committed for pecuniary gain;

(h) The capital felony was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(7) Mitigating circumstances.—Mitigating circumstances shall be limited to the following:

(a) The defendant has no significant history of prior criminal activity;

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(c) The victim was a participant in the defendant's conduct or consented to the act;

(d) The defendant was an accomplice in the capital felony committed by another person and his participation was relatively minor;

(e) The defendant acted under extreme duress or under the substantial domination of another person;

(f) At the time of the capital felony, the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired as a result of mental capacity, intoxication, or influence of drugs;

(g) The youth of the defendant at the time of the crime.

**COMMENT:** This section provides procedures for a separate proceeding to determine sentence in capital cases. Only two sentences are possible—death or life imprisonment, with a minimum time to be served before eligibility for parole. A sentence of death is mandatory upon the finding of facts set forth in subsection (2). Otherwise, in the event the court finds no aggravating circumstance, or if it finds that one exists but also that there is a substantial mitigating circumstance which warrants leniency, the sentence must be life imprisonment with the conditions before stated. It should be noted that while the exclusionary rules of evidence are relaxed in this proceeding, there is no intent to authorize introduction of evidence excluded because of a constitutional infirmity. Also, matters to be considered are limited only to those aggravating and mitigating circumstances enumerated in subsections (6) and (7). In addition, it should be noted that Chapter 72-72, Laws of Florida, listed an additional ground for mitigation relating to belief of "moral justification or extenuation" that has been deleted. Further, the language of subsection (7)(e) and (f) has been strengthened by a requirement of "substantial" duress, domination, or impairment.

Section 10, It is declared to be the legislative intent that if any section, subsection, paragraph, sentence, clause, provision or word of this act is held to be invalid, the remainder of the act shall not be affected.

Section 11. This act shall take effect upon becoming a law.

The Select Committee on Legislation offered the following amendment to the amendment which was adopted on motion by Senator Barron:

**Amendment 1a**—on page 10, line 21, after the word "practicable," strike "In" and insert: If the trial jury has been waived or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury empaneled for that purpose unless waived by the defendant. In

The Select Committee on Legislation offered the following amendment to the amendment which was adopted on motion by Senator Smathers:

**Amendment 1b**—On page 13, between lines 5 and 6 insert: (h) The capital felony was committed to disrupt or hinder the lawful exercise or enforcement of our laws or disrupt the functions or offices of government. And renumber present (h) and (i).

On motion by Senator Firestone the following amendment to the amendment was adopted:

**Amendment 1c**—on page 10, line 21, strike "as soon as practicable" and insert: within thirty days unless extended by order of the supreme court of Florida

Senator Gillespie moved the adoption of the following amendment to the amendment which failed:

**Amendment 1d**—On page 11, strike line 17 and everything thereafter through page 15, line 11 and insert:

(1) Upon conviction or adjudication of guilt of a defendant of a capital felony the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by section 775.082. The proceeding shall be conducted by the trial judge presiding and two additional judges from another circuit or circuits to be appointed by the Chief Justice of the Supreme Court of Florida as soon as practicable after certification of conviction or adjudication of guilt by the trial judge and shall commence within fifteen (15) days thereafter unless time is extended by the Chief Justice for good cause shown. The jury,

if any, shall be discharged after returning its verdict on the issue of guilt or innocence. In the proceeding, evidence may be presented as to any matter that the sentencing court deems relevant to sentence, relating to any of the aggravating or mitigating circumstances enumerated in subsections (3) and (4) of this section. Any such evidence which the court deems to have probative force may be received, regardless of its admissibility under the exclusionary rules of evidence, provided that the defendant's counsel is accorded a fair opportunity to rebut any hearsay statements; and further provided that this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Florida. The prosecuting attorney and the defendant or his counsel shall be permitted to present argument for or against sentence of death.

(2) The sentencing court, after conducting such a separate proceeding as set forth in subsection (1) above, shall impose a sentence of death if it determines and sets forth by majority vote as findings of fact:

(a) that an aggravating circumstance exists as enumerated in subsection (3), and

(b) that no substantial mitigating circumstances exists as enumerated in subsection (4) which would warrant leniency.

In each case, the determination of the court shall be supported by specific written findings of fact and shall be based on the record of the sentencing proceeding. Otherwise, the court shall impose sentence of life imprisonment in accordance with section 775.082. Each such judgment and sentence of death shall be subject to automatic review by the Supreme Court of Florida within thirty (30) days after certification by the sentencing court of the entire record unless time is extended an additional period not to exceed thirty (30) days by the Supreme Court for good cause shown. Such review by the Supreme Court shall have priority over all other cases, and shall be heard on briefs and oral argument only in accordance with rules promulgated by the Supreme Court.

(3) Aggravating circumstances.—Aggravating circumstances shall be limited to the following:

(a) The capital felony was committed by a convict under sentence of imprisonment;

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person;

(c) At the time the capital felony was committed the defendant also committed another capital felony;

(d) The defendant knowingly created a great risk of death to many persons;

(e) The capital felony was committed while the defendant was engaged or was an accomplice in the commission of, or an attempt to commit, or flight after committing or attempting to commit any robbery, rape, arson, burglary, kidnapping, or the unlawful throwing, placing or discharging of a destructive device or bomb;

(f) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody;

(g) The capital felony was committed for pecuniary gain;

(h) The capital felony was especially heinous, atrocious or cruel, manifesting exceptional depravity.

(4) Mitigating circumstances.—Mitigating circumstances shall be limited to the following:

(a) The defendant has no significant history of prior criminal activity;

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance;

(c) The victim was a participant in the defendant's conduct or consented to the act;

(d) The defendant was an accomplice in the capital felony committed by another person and his participation was relatively minor;

(e) The defendant acted under extreme duress or under the substantial domination of another person;

(f) At the time of the capital felony, the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired as a result of mental disease, intoxication, or influence of drugs;

(g) The youth of the defendant at the time of the crime.

COMMENT: This section provides procedures for a separate proceeding to determine sentence in capital cases. Only two sentences are possible—death or life imprisonment, with a minimum time to be served before eligibility for parole. A sentence of death is mandatory upon the finding of facts set forth in subsection (2). Otherwise, in the event the court finds no aggravating circumstances, or if it finds that one exists but also that there is a substantial mitigating circumstance which warrants leniency, the sentence must be life imprisonment with the conditions before stated. It should be noted that while the exclusionary rules of evidence are relaxed in this proceeding before three circuit judges, on the basis that they are well qualified to distinguish between that evidence which has probative force and that which does not, that there is no intent to authorize introduction of evidence excluded because of a constitutional infirmity. Also, matters to be considered are limited only to those aggravating and mitigating circumstances enumerated in subsections (3) and (4). In addition, it should be noted that Chapter 72-72, Laws of Florida, listed an additional ground for mitigation relating to belief of "moral justification or extenuation" that has been deleted. Further, the language of subsection (4)(e) and (f) has been strengthened by a requirement of "substantial" duress, domination, or impairment.

On motion by Senator Firestone the following amendment to the amendment was adopted:

Amendment 1e—On page 13, line 27, strike "youth" and insert: age

Senators Sykes and Smathers offered the following amendment to the amendment which was adopted on motion by Senator Sykes:

Amendment 1f—on page 4, line 15; page 5, line 3 and on page 12, line 29 after the word "Kidnapping," insert the words aircraft piracy

On motion by Senator Johnson the following amendment to the amendment was adopted:

Amendment 1g—On page 13, line 16 strike "limited to"

On motion by Senator Johnson the following amendment to the amendment was adopted:

Amendment 1h—On page 14, line 9 strike "limited to"

On motion by Senator Johnson the following amendment to the amendment was adopted:

Amendment 1i—On page 14, between lines 28 and 29 insert the following: (h) Any other evidence the court deems relevant to sentence.

On motion by Senator Johnson the following amendment to the amendment was adopted:

Amendment 1j—On page 14, between lines 7 and 8 insert: (i) Any other evidence the court deems relevant to sentence.

Amendment 1 as amended was adopted.

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

Amendment 2—On page 1, strike lines 27 through 29; on page 2, strike lines 1 through 4 and insert: (1) A person who has been convicted of a capital felony and who is not punishable by death as a result of the proceeding set forth in section 921-141, Florida Statutes, shall be punished by life imprisonment and shall be required to serve no less than 25 years before

becoming eligible for parole but in no event shall be required to serve less than 15 calendar years. A person who has been convicted of a capitol felony shall be punished by death in the event the proceeding held to determine sentence according to the procedure set forth in section 921.141 results in findings by the court that such person shall be punished by death.

On motion by Senator Barron the following amendment was adopted:

**Amendment 3**—On page 2, line 4 after the word "death" strike the period and insert: , and in the latter event such person shall be punished by death.

The Select Committee on Legislation offered the following amendment which was adopted on motion by Senator de la Parte:

**Amendment 4**—In title, strike lines 4 through 31 on page 1, and lines 1 through 10 on page 2 and insert the following:

An act relating to capital punishment; amending §775.081(1), Florida Statutes, providing for a life felony; amending §775.082, Florida Statutes, as amended by chapter 72-118, Laws of Florida, to provide punishment for capital and life felonies; amending §782.04, Florida Statutes, to specify and redefine the crimes constituting murder; amending §779.07, Florida Statutes, to make intentional injury to property a life felony; amending §790.16, Florida Statutes, providing for new penalties for throwing or discharging bombs or discharging machine guns in public places; repealing subsections (3) and (4) of §790.16, Florida Statutes, relating to recommendation of mercy and judicial discretion in sentencing; amending §790.161, Florida Statutes; providing new penalties for throwing, placing, or discharging any destructive device, depending on degree of harm inflicted; amending §794.01, Florida Statutes, providing new penalties for crimes of rape; amending §805.02, Florida Statutes, providing that kidnapping for ransom shall be a life felony; amending §921.141, Florida Statutes, as amended by chapter 72-72, Laws of Florida, providing a separate proceeding to determine sentence in capital cases; providing a severability clause; providing an effective date.

On motion by Senator de la Parte, by two-thirds vote HB 1-A as amended was read the third time by title, passed and certified to the House. The vote was:

Yeas—36

Mr. President	Graham	Myers	Sykes
Barron	Gruber	Peterson	Trask
Brantley	Henderson	Pettigrew	Vogt
Deeb	Johnson	Plante	Ware
de la Parte	Johnston	Poston	Weber
Firestone	Lane (31st)	Sayler	Williams
Gallen	Lane (23rd)	Scarborough	Wilson
Gillespie	Lewis	Smathers	Winn
Glisson	McClain	Stolzenburg	Zinkil

Nays—1

Gordon

By unanimous consent Senators Childers, Saunders and Sims were recorded as voting yea.

Senator Barron presiding.

## HOUSE BILLS ON SECOND READING

CS for HB 16-A—A bill to be entitled An act relating to the department of pollution control; providing an appropriation; providing an effective date.

—was read the second time by title.

On motion by Senator Firestone, the rules were waived and time of adjournment was extended until completion of the Special Order Calendar.

The Select Committee on Legislation offered the following amendment which was moved by Senator Williams:

**Amendment 1**—On page 1, line 16, after the words "sum of" strike remainder of bill and insert: six hundred thousand dollars (\$600,000) for the furtherance of basin planning, grant and loan administration, and technical assistance to local governments.

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

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

**Amendment 1a**—Strike lines 2 and 3 and insert: Following purposes:

(1) Assisting local governmental agencies and regional planning agencies, established pursuant to Chapter 160, Florida Statutes, in the preparation, submission, and processing of applications for federal and state financial assistance for the development of sewage treatment facilities, furtherance of basin planning, grant and loan administration, and

(2) Assisting local governmental agencies in the planning and design of sewage treatment facilities, and the development of financing plans therefore, technical assistance to local governments.

(3) Develop and assist in the development of river basin plans; and

(4) Administer federal and state grant and loan programs for the planning, design, and construction of sewage treatment facilities.

Amendment 1 as amended was adopted.

Senators Graham and Sayler offered the following amendment:

**Amendment 2**—Insert: Section 2. Section 403.1827, Florida Statutes, is hereby amended to read:

403.1827 Planning Grants.—The Department of Pollution Control may administer grants to local governmental agencies or regional planning agencies, established pursuant to Chapter 160, Florida Statutes, to assist them in planning, design, and the preparation of environmental assessments. Such grants shall be made from appropriations made for such purpose; provided, the state grant shall not exceed fifty percent of the local governmental agencies contribution for participation in Public Law 89-753, as amended, or other applicable federal law or fifty percent of the eligible cost of such planning, design, and preparation of environmental assessment as determined by the Department of Pollution Control.

Section 3. There is hereby appropriated to the Department of Pollution Control, in addition to any other moneys heretofore appropriated from the General Revenue Fund for the fiscal year 1972-73, for the purposes authorized in Section 403.1827, Florida Statutes, the sum of Seven Hundred Thousand Dollars (\$700,000) & renumber.

Senator Graham moved that amendment 2 be considered notwithstanding the fact it was not within the purview of the Governor's call and the motion failed.

Senator Weber offered the following amendment which failed:

**Amendment 3**—On page 2, line 18 strike Section 2 and renumber and insert: Section 2. First priority for employees to be hired by the department of pollution control under this bill shall be granted to those qualified persons who were formerly employed in those industries directly and adversely affected by the sewer moratorium, if any, in the area in which the employees are to be employed.

Senator Graham moved that the Senate reconsider the vote by which amendment 2 failed to be admitted for consideration notwithstanding the fact it was not within the purview of the Governor's call and the Senate refused to reconsider.

On motion by Senator Williams, by two-thirds vote CS for HB 16-A as amended was read the third time by title.

On motion by Senator Lane (31st), by two-thirds vote, debate on final passage was limited to 5 minutes per side.

CS for HB 16-A as amended passed and was certified to the House. The vote was:

Yeas—29

Barron	Graham	Plante	Weber
Brantley	Gruber	Poston	Williams
Childers	Johnston	Saunders	Wilson
Deeb	Lane (31st)	Scarborough	Winn
de la Parte	Lane (23rd)	Smathers	Zinkil
Firestone	McClain	Sykes	
Gillespie	Myers	Vogt	
Gordon	Pettigrew	Ware	

Nays—8

Gallen	Lewis	Sayler	Stolzenburg
Glisson	Peterson	Sims	Trask

CS for HB 17-A—A bill to be entitled An Act relating to flood control districts; amending chapter 378, Florida Statutes, to create a new section dealing with the declaration of water shortage and emergency orders; providing an effective date.

—was read the second time by title. On motion by Senator Saunders, by two-thirds vote CS for HB 17-A was read the third time by title, passed and certified to the House. The vote was:

Yeas—31

Barron	Graham	Myers	Sykes
Brantley	Gruber	Pettigrew	Trask
Childers	Johnson	Plante	Weber
de la Parte	Johnston	Poston	Williams
Firestone	Lane (31st)	Saunders	Wilson
Gallen	Lane (23rd)	Scarborough	Winn
Gillespie	Lewis	Sims	Zinkil
Glisson	McClain	Smathers	

Nays—3

Henderson	Stolzenburg	Ware
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By unanimous consent Senators Peterson, Deeb and Vogt were recorded as voting yea.

The President presiding.

On motion by Senator Myers, the Senate reverted to the order of—

## INTRODUCTION

By Senators Myers, Gillespie, Ware, Johnson and Smathers—

SB 24-A—A bill to be entitled An act relating to the judiciary; providing for supplementary services of court reporters; providing for a supplementary appropriation; and providing for an effective date.

—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 Select Committee on Legislation.

On motion by Senator de la Parte, SB 24-A was withdrawn from the Select Committee on Legislation by two-thirds vote and placed on the calendar.

Senator Myers moved that SB 25-A be introduced notwithstanding the fact it was not within the purview of the Governor's call.

Pending consideration of the motion, by direction of the President, the Secretary read the following amended Proclamation:

## PROCLAMATION OF THE GOVERNOR

WHEREAS, on the 24th day of November, 1972, a Proclamation of the Governor was issued convening a special session of the Florida Legislature commencing on the 28th day of November, 1972, and

WHEREAS, on the 29th day of November, 1972, and on the 30th day of November, 1972, Proclamations of the Governor were issued amending the Proclamation of November 24th, 1972, and

WHEREAS, it is necessary and in the best interest of the State to further amend the Proclamation of the Governor of November 24th, 1972, in order to expand the call of the special session so that the Legislature may consider the important legislative business set forth below.

NOW, THEREFORE, I, REUBIN O'D. ASKEW, Governor of the State of Florida, in obedience to my constitutional duty and by virtue of the power and authority vested in me by Section 3, Article III, Constitution of Florida (1968), do hereby proclaim as follows:

### Section 1.

That the Legislature is convened for the sole purpose of considering legislation relating to:

(1) Capital punishment, including the redefinition of capital crimes, providing alternative sanctions for offenses formerly designated capital, providing procedures for sentencing, and other related matters.

(2) Concurrent resolution relating to the ratification of the proposed Equality of Rights Amendment (Proposed 27th Amendment) to the United States Constitution.

(3) Establishment of a revolving fund for loans by the Department of Pollution Control to local governmental agencies for sewer treatment facilities, and providing necessary appropriation.

(4) Supplemental appropriations for fiscal year 1972-73 to the Department of Pollution Control in order to expand the Department's programs for technical assistance to local government agencies.

(5) Supplemental appropriation for fiscal year 1972-73 (in the approximate amount of 9.5 Million Dollars) to fully fund the State Minimum Foundation Program for Schools (K-12).

(6) Supplemental appropriation for fiscal year 1972-73 (in the approximate amount of 9 Million Dollars) to the University of South Florida Medical Center for additional capital outlay funds for the construction of Phase II of the Medical Center.

(7) Flood Control Districts, providing a new statutory provision dealing with the declaration of water shortage and emergency orders and related matters.

(8) Amendment of Section 167.431, Florida Statutes, restoring the exemption for churches from the payment of any municipal utility tax.

(9) Amendments to Chapter 27, Florida Statutes, authorizing public defenders to represent insolvent persons who are under arrest for, or charged with, a misdemeanor or violation of municipal or county ordinance, and authorizing counties and municipalities to contribute funds to public defenders for the purpose of defending misdemeanors and violations of municipal or county ordinances.

(10) Supplemental appropriations for Public Defenders, Official Court Reporters and State Attorneys and for legislation to assure adequate funding of the Office of State Attorney by counties.

### Section 2.

Except as amended by this Proclamation and the Proclamations of the Governor dated November 29th, 1972, and November

30th, 1972 (filed with Department of State at 11:21 a.m.), the Proclamation of the Governor dated November 24th, 1972, is ratified and confirmed.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 30th day of November, 1972.

REUBIN O'D. ASKEW  
Governor

ATTEST:  
RICHARD (DICK) STONE  
Secretary of State

By Senators Myers, Gillespie, Johnson, Ware and Smathers—

SB 25-A—A bill to be entitled An act relating to state attorneys and public defenders; amending subsection 27.34 (1) to provide for municipal and county supplemental funding of staff salaries and related costs for prosecution in the county courts; amending subsection 27.34 (2) to require counties to provide certain services due to combining prosecutorial functions; providing a supplemental appropriation to state attorneys for funding criminal intake and juvenile prosecution; providing for a supplemental appropriation to public defenders for funding the defense of insolvent persons charged with misdemeanors or violations of municipal or county ordinances in the county courts; providing that these supplemental appropriations may not be used to increase the salaries of existing full time positions; and providing an effective date.

—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 Select Committee on Legislation.

On motion by Senator de la Parte, SB 25-A was withdrawn from the Select Committee on Legislation by two-thirds vote and placed on the calendar.

SB 24-A—A bill to be entitled An act relating to the judiciary; providing for supplementary services of court reporters; providing for a supplementary appropriation; and providing for an effective date.

—was read the second time by title by two-thirds vote on motion by Senator Myers.

Senator Myers moved that the rules be waived and SB 24-A be read the third time by title. The motion was adopted by the following vote:

Yeas—24

Mr. President	Gordon	McClain	Smathers
Brantley	Graham	Myers	Vogt
Childers	Gruber	Pettigrew	Ware
de la Parte	Johnson	Poston	Williams
Firestone	Lane (31st)	Saunders	Winn
Gillespie	Lane (23rd)	Scarborough	Zinkil

Nays—12

Barron	Henderson	Plante	Sykes
Gallen	Lewis	Sayler	Trask
Glisson	Peterson	Sims	Weber

By unanimous consent Senator Sykes changed his vote from nay to yea.

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

Amendment 1—On page 1, line 23 strike the period (.) after word "Florida" and insert: , and records of any excess services and the amount paid therefor shall be kept by the official court reporters and shall be filed monthly with the auditor general.

SB 24-A passed and was certified to the House. The vote was:

Yeas—24

Mr. President	Gordon	McClain	Sykes
Brantley	Graham	Myers	Trask
Childers	Gruber	Pettigrew	Vogt
de la Parte	Johnson	Poston	Ware
Firestone	Johnston	Saunders	Williams
Gillespie	Lewis	Smathers	Winn

Nays—14

Barron	Henderson	Scarborough	Wilson
Deeb	Lane (23rd)	Sims	Zinkil
Gallen	Plante	Stolzenburg	
Glisson	Sayler	Weber	

By unanimous consent Senator Peterson was recorded as voting nay; Senator Trask changed his vote from yea to nay.

On motion by Senator Barron, by two-thirds vote, time of adjournment was extended until receipt and reading of the Governor's message or messages from the House of Representatives, whichever was later.

SB 25-A—A bill to be entitled An act relating to state attorneys and public defenders; amending subsection 27.34 (1) to provide for municipal and county supplemental funding of staff salaries and related costs for prosecution in the county courts; amending subsection 27.34 (2) to require counties to provide certain services due to combining prosecutorial functions; providing a supplemental appropriation to state attorneys for funding criminal intake and juvenile prosecution; providing for a supplemental appropriation to public defenders for funding the defense of insolvent persons charged with misdemeanors or violations of municipal or county ordinances in the county courts; providing that these supplemental appropriations may not be used to increase the salaries of existing full time positions; and providing an effective date.

—was read the second time by title by two-thirds vote on motion by Senator Myers.

On motion by Senator Gallen the following amendment was adopted:

Amendment 1—On page 2, line 9, strike the comma after "1972" and insert: a period and strike the remainder of the paragraph.

On motion by Senator McClain the following amendment was adopted:

Amendment 2—On page 6, line 9 renumber Section 5 and insert: Section 5. State Attorneys and public defenders shall keep detailed records of the additional services and case loads created by Revised Article V and an itemization of the cost thereof, and copies of these records shall be filed monthly with the auditor general.

Senator Myers moved that the rules be waived and SB 25-A as amended be read the third time by title. The motion failed by the following vote:

Yeas—22

Mr. President	Gordon	Pettigrew	Vogt
Brantley	Graham	Poston	Ware
Deeb	Gruber	Saunders	Williams
de la Parte	Lane (23rd)	Scarborough	Winn
Firestone	McClain	Smathers	
Gillespie	Myers		

Nays—16

Barron	Johnson	Plante	Trask
Childers	Johnston	Sayler	Weber
Gallen	Lewis	Sims	Wilson
Glisson	Peterson	Stolzenburg	Zinkil

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

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable Mallory E. Horne, President*

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments to—

By Representative Gautier and others—

**HB 1-A**—A bill to be entitled An act relating to capital punishment, amending section 782.04, Florida Statutes, to specify and redefine the crimes constituting murder; providing for reclassification as certain degrees of felony; amending chapter 782, Florida Statutes, by adding section 782.011; providing definitions; amending subsection (1) of section 775.081, Florida Statutes, providing for a life felony; amending section 775.082, Florida Statutes, to provide punishment for capital and life felonies; amending section 921.141, Florida Statutes, as amended by chapter 72-72, Laws of Florida, providing procedures for a separate proceeding to determine sentence in capital cases; providing for sentence of life imprisonment if capital punishment is ruled unconstitutional; amending section 790.16, Florida Statutes, providing for new penalties for throwing or discharging bombs or discharging machine guns in public places and for the commission of air piracy; repealing subsections (3) and (4) of section 790.16, Florida Statutes, relating to recommendation of mercy and judicial discretion in sentencing; amending section 790.161, Florida Statutes; providing new penalties for throwing, placing, or discharging any destructive device, depending on degree of harm inflicted; amending section 794.01, Florida Statutes; providing new penalties for crimes of rape; amending section 805.02, Florida Statutes; providing that kidnapping for ransom shall be a life felony; providing a severability clause; providing an effective date.

—and requests the Senate to recede therefrom; in the event the Senate refuses to recede, that the President of the Senate appoint a conference committee on the part of the Senate to confer with a like committee on the part of the House to adjust the differences; and that the Speaker has appointed Representatives Gautier, Shreve, Martinez, Johnson, Savage, Rish and Blackburn as the conference committee on the part of the House.

*Allen Morris, Clerk*

On motion by Senator Barron, the Senate refused to recede from the Senate amendments and the President was requested to appoint a conference committee to meet with the like committee appointed by the Speaker to adjust the differences on the Senate amendments.

The President appointed as conferees on the part of the Senate, Senators Barron, Childers, de la Parte, Johnson, Myers, Plante and Smathers.

*The Honorable Mallory E. Horne, President*

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required two-thirds vote and passed as amended—

By the Select Committee on Appropriations and Representative Martinez—

**HB 28-A**—A bill to be entitled An act relating to public schools; providing a supplemental appropriation for the state's portion of the 1972-73 minimum foundation program K-12; repealing paragraph (b) of item 199, section 1 of chapter 72-409, Laws of Florida; providing a method for allocation; providing an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

HB 28-A, 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 Select Committee on Legislation.

On motion by Senator Graham, HB 28-A was withdrawn from the Select Committee on Legislation by two-thirds vote and placed on the calendar.

*The Honorable Mallory E. Horne, President*

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required two-thirds vote and passed as amended—

By Representative Forbes and others—

**HB 35-A**—A bill to be entitled An act relating to the regulation of narcotic drugs; amending §398.22(1)(d), Florida Statutes; increasing the penalty for the sale of heroin; providing an effective date.

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

HB 35-A, contained in the above message, was delivered to the Select Committee on Legislation for consideration and advice as to whether same is within the purview of the call of the Governor.

*The Honorable Mallory E. Horne, President*

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

By Senators de la Parte and Williams—

**SB 8-A**—A bill to be entitled An act relating to public schools; providing a supplemental appropriation for the state's portion of the 1972-73 minimum foundation program K-12; providing an effective date.

which amendment reads as follows—

On page 1, line 11, insert the following:

Section 1. Statement of Intent.—It was the intent of the legislature during the last session to fully fund the minimum foundation program and to continue to equalize educational funding and the move toward equality of assessment levels. Since certain facts were not known at the time of the last regular session this above legislative intent was not fully achieved and the changes in the 1972 appropriations act in section 2 is necessary to fully meet this continuing legislative intent. (Renumber subsequent sections.)

—and requests the concurrence of the Senate therein.

*Allen Morris, Clerk*

On motion by Senator Williams, the Senate refused to concur in the House amendment to SB 8-A, and the House was requested to recede therefrom. The action of the Senate was certified to the House.

Senator Barron announced that the Conference Committee on HB 1-A would meet in Room 31 at 8:15 p.m.

By direction of the President, the Secretary read the following amended Proclamation:

#### PROCLAMATION

WHEREAS, on the 24th day of November, 1972, a Proclamation was issued convening a special session of the Florida Legislature commencing on the 28th day of November, 1972, and

WHEREAS, on the 29th day of November, 1972, and on the 30th day of November, 1972, Proclamations of the Governor were issued amending the Proclamation of the Governor dated November 24th, 1972, and

WHEREAS, it is necessary and in the best interest of the State of Florida to further amend the Proclamation dated the 24th day of November, 1972, in order to extend the period of the call of the special session;

NOW, THEREFORE, I, REUBIN O'D. ASKEW, Governor of the State of Florida, in obedience to my constitutional duty and by virtue of the power and authority vested in me by Section 3, Article III, Constitution of Florida (1968), do hereby proclaim as follows:

*Section 1.*

That Section 1 of the Proclamation of the Governor dated the 24th day of November, 1972, is amended to read:

*"Section 1.*

That the Third Legislature of the State of Florida under the Constitution, 1968 Revision, be and is hereby convened in Special Session pursuant to Section 3(c) of Article III of the Constitution, at the Capitol, Tallahassee, Florida, commencing on Tuesday, November 28th, 1972 (at a time to be determined by the presiding officer of each house) for a period of four (4) consecutive days, ending on December 1, 1972."

*Section 2.*

Except as amended by this Proclamation and prior amendments, the Proclamation of the Governor dated the 24th day of November, 1972, is ratified and confirmed.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 30th day of November, 1972.

REUBIN O'D. ASKEW  
Governor

ATTEST:  
RICHARD (DICK) STONE  
Secretary of State

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

EXECUTIVE BUSINESS

By direction of the President, the Secretary read the following report:

Senator Jerry Thomas  
President, The Florida Senate  
The Capitol

April 19, 1972

Dear President Thomas:

This report is for the information of the Senate concerning the Executive Order of Suspension directed to Laura (Mrs. Roy) Jones, Member, District School Board, Broward County.

It has been brought to the attention of the Select Committee on Executive Suspensions that an Executive Order Dated April 18, 1972, has been entered by the Governor withdrawing the Order of Suspension and reinstating Mrs. Jones.

In view of the above, no Senate action is necessary.

Respectfully submitted,  
FRÉDERICK B. KARL  
Chairman, Select Committee  
on Executive Suspensions

On motion by Senator Barron, the foregoing report of the Select Committee was adopted.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 7:28 p.m. to reconvene at 9:00 a.m., December 1, 1972.