



Journal of the Senate

Number 38

Wednesday, June 1, 1977

The Senate was called to order by the President at 9:00 a.m.
A quorum present—39:

Mr. President	Gorman	Peterson	Thomas, Pat
Barron	Graham	Plante	Tobiassen
Castor	Hair	Poston	Trask
Chamberlin	Henderson	Renick	Vogt
Childers, Don	Holloway	Sayler	Ware
Childers, W. D.	Johnston	Scarborough	Williamson
Dunn	Lewis	Scott	Wilson
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	Zinkil
Glisson	Myers	Thomas, Jon	

Excused: Senators Lewis, W. D. Childers, Peterson, Plante, Hair, Myers, Barron, Sayler, Gallen, Spicola and Poston periodically for the purpose of working on conference committee reports; Senator Gordon.

Prayer by the Rev. Al Vaught, District Superintendent, Tallahassee District United Methodist Church:

Eternal God may we be reminded that it is meet and right at all times and in all places to give thanks to Thee for the blessings of life and seek direction for all of our endeavors.

We pray that our religion may not be kept in water-tight compartments but related to the moral and ethical issues of life.

We pray that our Hebraic Christian faith with emphasis on integrity and discipline of character, may permeate our lives in our desires for a better tomorrow.

This we ask in the name of Him who is exalted above all names, whose ways are higher than our ways, and thoughts are higher than our thoughts. To thee be all Glory and honor. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following bills be placed on Special Order Calendar for Wednesday, June 1, 1977:

Consideration of the report by the Committee on Executive Business to be heard at 9:00.

SB 1340	SB 1287	HB 671
SB 1365	SB 1069	CS for HB 1159
CS for SB 1212	SB 1151	HB 35
SB 1433	SB 1227	HB 126
CS for SB 1385	CS for SB 1247	SB 923
CS for SB 1285	CS for CS for	SB 395
SB 511	SB 669	SB 613
CS for SB 513	SB 1364	SB 616
SB 654	SB 368	SB 413
SB 512	SB 392	HB 2202
SB 1065	HB 196	SB 1426
CS for SB 915		

Respectfully submitted,
Tom Gallen, Chairman

The Special Master for Claim Bills recommends the following pass: HB 619, HB 620

The bills were referred to the Committee on Finance, Taxation and Claims under the original reference.

EXECUTIVE BUSINESS

On motion by Senator Poston, staff members of the Committee on Executive Business were granted privileges of the floor during consideration of the committee's reports on Executive Suspensions and Appointments.

Senator Poston presented the following reports:

The Honorable Lew Brantley
President, the Florida Senate
The Capitol
May 30, 1977

Dear Mr. President:

Your Committee on Executive Business submits the attached final report in the matter of the suspension of Jimmy Dan Josey.

By Executive Order Number 74-18, filed with the Secretary of State on March 2, 1974, His Excellency Reubin O'D. Askew, as Governor, suspended Jimmy Dan Josey from the office of County Commissioner, Board of County Commissioners, Holmes County, Florida.

The Executive Order of Suspension charged that Jimmy Dan Josey, while holding the aforesaid county office, committed the crimes of conspiracy to commit and the commitment of two felonies and conspiracy to commit and the commitment of ten misdemeanors. The Executive Order further charges that the said offenses constitute malfeasance, misfeasance, neglect of duty, commission of a felony or incompetence as such offenses are used in Art. IV, §7(a), Fla. Const.

Based upon the investigation conducted by this Committee, and testimony and evidence received before the Committee, the Committee submits its findings, conclusions and recommendations in the attached final report.

It is the recommendation of your Committee on Executive Business, based upon a careful examination of the relevant, competent evidence, and for the reasons set forth in the final report, including the summary of the testimony attached as Appendix A, that Jimmy Dan Josey not be removed and that he be reinstated nunc pro tunc to his office of County Commissioner, Holmes County, Florida, and that the Board of County Commissioners, Holmes County, be authorized and directed to pay to Jimmy Dan Josey the sum of \$6500 as and for reimbursement for reasonable attorney's fees and costs incurred in his defense in these proceedings.

Respectfully submitted,
Ralph R. Poston, Chairman
Don C. Childers, Vice Chairman
Jim Glisson
Sherrill Pete Skinner
Lori Wilson

I do not concur with the report nor the recommendation.

Henry Sayler

FINAL REPORT

Jimmy Dan Josey was a duly elected member of the Board of County Commissioners of Holmes County, Florida and was serving in that capacity on March 2, 1974 when Executive Order of Suspension, EXO 74-18, was issued by Governor Reubin O'D. Askew suspending him from that office.

The Executive Order followed and was predicated upon six informations filed by Leo C. Jones, State Attorney for the Fourteenth Judicial Circuit of the State of Florida, charging

Jimmy Dan Josey with two felony counts and ten misdemeanor counts, which were filed with the Clerk of the Circuit Court in and for Holmes County, Florida on February 28, 1974 and which were attached to the Executive Order.

The matter was duly referred by the Senate President to the Select Committee on Executive Suspensions on March 4, 1974. A pre-hearing conference was held on April 23, 1976 by the Select Committee on Executive Suspensions. A hearing date for May 11, 1976 was postponed.

A second pre-hearing conference was held on January 11, 1977 by the Committee on Executive Business, the members of which the President designated as a Select Committee to hear suspensions on December 13, 1976, pursuant to s. 112.41, F.S. A hearing, at which testimony and other evidence were presented, was held in Tallahassee on March 7, 8, 23 and 24, 1977. Reasonable notice of the time and place of the hearings was given to the Governor and to Mr. Josey. Mr. Josey attended all of the hearings, except the April 23, 1976 pre-hearing conference, testified on his own behalf, and was represented throughout the proceedings by his attorney, W. Paul Thompson, Esq. The Governor was represented by an Assistant Attorney General as a designated attorney.

Counsel for both parties entered into a stipulation at the pre-hearing conference held on January 11, 1977. It was agreed to limit the presentation of the evidence to the one charge contained in the information, that charge constituting malfeasance, misfeasance and neglect of duty or incompetence (malicious injury to the property of another), as those offenses are used in s. 7(a), Art. IV of the Florida Constitution and upon which the Executive Order of Suspension was predicated.

Twenty-five witness subpoenas were issued at the request of the parties, and 24 witnesses testified before the Committee. The proceedings were recorded by a court reporter employed on behalf of the Committee, and transcripts totaling in excess of 2100 pages were made available for review by Senators on May 16, 1977.

In the case of *State ex rel. Meyerson v. Askew*, 269 So.2d 671 (Fla. 1972), the Supreme Court indicated the evidence in each suspension case might be subjected to review by the court. It should be noted here, therefore, that this report is not a complete restatement of all the evidence, but it is an advisory summary only. Let the record reflect that the final decision of the Senate will be based on a review of all evidence, the discussion and debate on the floor of the Senate, and the content of this advisory report. Should any judicial review of the evidence be undertaken to determine whether it is sufficient to support the final decision of the Senate, the review should include the entire record made before the Executive Business Committee as well as the debate of the entire Senate.

THE CHARGES

The information, upon which the Executive Order of Suspension is based, set forth two felony and ten misdemeanor charges against Jimmy Dan Josey for conspiracy to commit and the commitment of damage to property belonging to Holmes County, Florida.

The essence of the charges is that Jimmy Dan Josey, in concert with Glen Dyson Riley and Eddie Sewell, did conspire to and did willfully, maliciously and intentionally damage certain road maintenance equipment belonging to Holmes County, by pouring into the oil spouts of the equipment engines a mixture of valve grinding compound and diesel fuel in an effort to damage the equipment. The charges centered around damage to four roadgraders referred to herein as: (1) the first new Caterpillar roadgrader; (2) the second new Caterpillar roadgrader; (3) a used Cleveland roadgrader; and (4) a used Caterpillar roadgrader. The damage to the roadgraders was alleged to have occurred between June 1 and July 1, 1973 in and about the county of Holmes. Damage to the Cleveland roadgrader was alleged to have been in the approximate amount of \$277.80, which would constitute a felony under the laws of Florida; damage to the remaining pieces of equipment was alleged to be within those monetary amounts, which would constitute a misdemeanor.

STATEMENT OF THE CASE

Jimmy Dan Josey was elected to the Board of County Commissioners of Holmes County, Florida in November, 1972, along

with two other new Board members. In the campaign that preceded that election, both Mr. Josey and one of the other newly elected commissioners had raised the issue of control of county government and had campaigned on something of a reform platform. After elected, they formed a majority on the Board, which majority included one of the two holdover members on the Board, and began to institute changes in Board procedures and in the county government, much to the consternation of county officers who formerly had been in a majority position before the election and who did not approve of the reform-changes instituted by the new majority, therefore resulting in political turmoil. Certain county officers and their relatives instituted efforts, by writing to the Governor and by instituting a petition drive, to have the newly constituted Board investigated and the commissioners suspended in early 1973.

A grand jury was impaneled in Holmes County in March and April, 1973, which investigated the tumultuous political situation in Holmes County government, culminating in presentments issued on April 11 and May 9, 1973, finding Jimmy Josey, the other newly elected commissioner, and the holdover commissioner, which constituted the new majority on the Board, guilty of misfeasance, malfeasance, neglect of duty and incompetence.

Governor Reubin O'D. Askew issued an Executive Order, which was predicated upon the grand jury presentments, suspending the three county commissioners as of June 21, 1973.

It was about this time, on July 1, that certain road maintenance equipment, including the four roadgraders belonging to the Holmes County Road Department, was found to have been sabotaged. The Florida Department of Criminal Law Enforcement (FDCLE) was immediately called upon for assistance in the investigation, which soon focused upon Jimmy Dan Josey as a prime suspect in damaging the equipment.

Meanwhile, the Executive Order of June 21, 1973, suspending the three county commissioners, was referred to the Senate for a hearing by a Special Master, The Honorable Frederick B. Karl. The Florida Senate, upon recommendation of the Special Master, found that the Governor failed to prove the three county commissioners guilty as charged and reinstated the three commissioners by a Senate Order dated February 26, 1974.

Two days later, on February 28, 1974, the State Attorney for the Fourteenth Judicial Circuit filed informations in the Holmes County Circuit Court charging Jimmy Dan Josey and Glen Dyson Riley with conspiracy to commit damage and damaging the Holmes County road equipment.

Thereafter, on March 4, 1974, Governor Reubin O'D. Askew suspended Jimmy Josey from the Board of County Commissioners for a second time by Executive Order Number 74-18, which followed and was predicated upon the State Attorney's presentments.

The second order of suspension was referred on March 4, 1974 to the Senate Select Committee on Executive Suspensions, which deferred consideration on the matter pending the outcome of the criminal charges.

An unusual change of venue to the Circuit Court of Bay County, Florida was requested by the State and was granted in August of 1974 on the allegation that a fair trial could not be carried out in Holmes County on behalf of the State.

A jury trial was held in Panama City, Bay County, Florida on September 22, 24 and 25, 1975 on the one charge that Defendants Jimmy Dan Josey and Glen Dyson Riley damaged one of the pieces of road maintenance equipment belonging to Holmes County, specifically, the used Cleveland roadgrader, by pouring a mixture of valve grinding compound and diesel fuel into the oil spout of the used Cleveland roadgrader. Motive, which was of paramount importance, was supplied by introducing, over defense counsel's objection, the two grand jury presentments (dated April 11 and May 9, 1973) describing the political turmoil in Holmes County which existed during the first portion of 1973. The grand jury report helped describe the two political camps vying for political control in the county government. The two camps consisted of the new county commission Board majority on one side and the two minority Board members, the Clerk of the Circuit Court, and the Tax Assessor on the other side. The State's case mainly consisted of the partially corroborated testimony by an accomplice who, in turn for immunity from prosecution, testified against the defendants on behalf of the State.

The jury found the defendants guilty of damaging the used Cleveland roadgrader in an amount less than \$200, constituting a misdemeanor. The court sentenced the defendants to six months in the Bay County Jail, which term was served from December 17, 1975 to January 7, 1976 and from February 6, 1976 to June 11, 1976. The defendants were denied bond pending appeal to the First District Court of Appeal which affirmed the order of the trial court (see *Josey v. State*, 336 So. 2d 119 [1DCA, 1976], reh. den. 8/30/76).

The remaining criminal charges were not pressed.

At a pre-hearing conference on April 23, 1976 before the Select Committee on Executive Suspensions, Jimmy Josey's attorney requested that the hearing not be held until Jimmy Josey had completed his sentence and had been released from the Bay County Jail. On May 18, 1976, by letter to the Senate President and in consideration for postponing the hearing until he could be released from the Bay County Jail, Jimmy Josey waived any salary which may be entitled to him from May 18 until the date of the hearing, should the Senate reinstate him as a county commissioner.

Jimmy Josey's term as county commissioner expired on November 15, 1976 prior to the time the Senate acted on his suspension.

A second pre-hearing conference was held on January 11, 1977, at which counsel for the Governor and Jimmy Josey stipulated to limit the charges contained in the Executive Order of Suspension, EXO 74-18, to malicious and intentional injury or damage to the used Cleveland roadgrader.

Hearings were held by the Executive Business Committee on March 7, 8, 23 and 24, 1977.

To develop a complete understanding of the Executive Order suspending Jimmy Josey for the second time, it is necessary to set forth a detailed discussion (see summary of testimony attached hereto as Appendix A), based upon the evidence and testimony presented at the hearings, of the circumstances in Holmes County beginning at the time Jimmy Josey was elected to the Board of County Commissioners in Holmes County in November, 1972.

SUMMARY OF THE FACTS

In March and April, 1973 a grand jury investigated the operation of the Holmes County Board of County Commissioners. On April 11 the grand jury issued a presentment stating Commissioners Josey, Messer and King violated the public trust, constituting misconduct in office in that: they held several meetings in violation of the Sunshine Law; they dismissed, without authority, the county attorney, an official elected under a special act; and the said county commissioners did not cooperate with other governmental officials while in office. On May 9, 1973 the grand jury issued a second presentment stating that Commissioners Josey, Messer and King had engaged in acts constituting misfeasance, malfeasance, neglect of duty and incompetence.

Based upon the grand jury presentments, the Governor, by Executive Order Number 73-32, suspended Commissioners Josey, Messer and King from office as of June 21, 1973. The suspension was referred by the Senate President to a Special Master who found that the Governor failed to prove the suspension charges and who recommended reinstatement in a report dated January 27, 1974. The Florida Senate voted to reinstate Commissioners Josey, Messer and King on February 26, 1974.

Shortly after the suspension of the commissioners, on the afternoon of Friday, June 29, 1973, according to the testimony of Commissioner Padget, the Board of County Commissioners (absent the suspended members) was having a meeting (it is not clear whether that was a regular meeting day). A commissioner entered the meeting and stated that he had just come from the county road equipment barn where he was informed by some Holmes County Road Department employees that Glen Riley, Eddie Sewell (county road department employees) and perhaps another employee were plotting to sabotage Holmes County road equipment. (Eddie Sewell, Glen Riley and Wayne Phillips denied to the Committee, under oath, making any such statements to the commissioner.) Upon adjournment of the Board meeting, about 5:00 p.m., the Board members advised the Holmes County Sheriff of the commissioner's

warning. The Sheriff agreed to have someone guard the county road equipment.

Commissioner Padget was concerned over the safety of three roadgraders which would be routinely left parked along the side of the county roads at three separate locations upon completion of the day's work. One of these roadgraders was the new Caterpillar which was purchased by the former Board of County Commissioners, which purchase the present Board (on which Jimmy Josey served) had voted and filed suit to rescind, under strong protest by Commissioner Padget. The other two roadgraders were the used Cleveland and the used Caterpillar. On Friday afternoon, June 29, 1973, after advising the Sheriff, Commissioner Padget drove alone to each of the above-mentioned graders and, pursuant to previous training at Tyndall Air Force Base to detect sabotage, took a rag and wiped clean the oil spout, oil cap and immediate areas on each of the roadgraders. He replaced the oil filler caps on the machines in such a manner that he could detect at a subsequent time whether they had been tampered with.

Commissioner Padget, on the morning of Sunday, July 1, checked the new Caterpillar roadgrader which he had wiped clean the previous Friday afternoon. Upon removing the oil filler cap he noticed, in the early morning sun, the glitter of steel shavings in a thick mixture about the inside surface of the oil filler spout. Commissioner Padget gave conflicting testimony as to why he checked the new Caterpillar grader on that particular morning: (1) he had a hunch the equipment was sabotaged; (2) he had to pass on that road on his routine Sunday morning examination of cows which he had located in a pasture, and upon passing by the new Caterpillar roadgrader, he noticed car tracks which indicated an automobile had pulled off the paved road and onto the shoulder near the roadgrader, which alerted him; and (3) he made a special return trip to check the equipment.

Upon discovering the apparent sabotage, Mr. Padget proceeded to a nearby store to telephone the Sheriff's office who then dispatched a deputy. Another Holmes County Road Department employee coincidentally had seen Commissioner Padget by the roadgrader and stopped to assist. This led to inspection of all Holmes County Road Department equipment, much of which was discovered to have been sabotaged in the same manner. Commissioner Padget himself checked the used Cleveland roadgrader and the used Caterpillar and observed evidence of the same type sabotage, that is, steel shavings and valve grinding compound mixture in and about the oil filler spout and, in the instance of the used Cleveland roadgrader, valve grinding compound spilled and puddled in the cleats of the tires.

The Sheriff's Department called upon the FDCLE for assistance in the investigation and agents arrived on the scene on Monday, July 2. The agents made inquiry of county road department employees who suggested that Glen Riley, Eddie Sewell and another employee may have sabotaged the equipment.

The three implicated employees were offered polygraph examinations, two of whom refused. However, Eddie Sewell submitted voluntarily thereto and, upon responding to questions relating to the sabotage, proved to be answering deceptively. Upon being confronted with the polygraph results, Mr. Sewell volunteered a statement of his involvement in sabotaging the equipment, together with Glen Riley and Jimmy Dan Josey. It was at this point the FDCLE agents focused their investigation on Jimmy Dan Josey and Glen Riley as the primary suspects in having sabotaged the Holmes County Road Department equipment. Mr. Sewell was granted immunity from prosecution in exchange for his cooperation and testimony.

Jimmy Josey approached the chief investigator and volunteered to submit to a polygraph examination if Commissioner Padget, the Clerk of the Circuit Court, and the salesman for the equipment company which had sold the two new Caterpillar roadgraders to the county also submitted to the polygraph examination. The request was refused, because the other individuals were not suspects in the investigation.

The FDCLE agents were only partially successful in corroborating Mr. Sewell's testimony and tried unsuccessfully several times to locate physical evidence referred to by Mr. Sewell. The only person located who partially corroborated Mr. Sewell's testimony in a pre-trial statement, denied that statement at the trial of Commissioner Josey and Glen Riley. The FDCLE agents encouraged Mr. Sewell to attempt to engage

Glen Riley and Jimmy Josey in conversation which were to be recorded by hidden recording devices, during which conversations Mr. Riley and Mr. Josey would incriminate themselves in the sabotage. One recording was obtained of a conversation between Mr. Sewell and Glen Riley, and one recording was obtained of a telephone conversation between Jimmy Josey and Mr. Sewell. (The recordings were used as corroborating evidence to Mr. Sewell's testimony at the trial of Jimmy Josey.)

As a State's witness, the FDCLE provided Mr. Sewell with gas, oil and cash in the amount of approximately \$840 over a three-year period.

Eddie Sewell testified to the following: Jimmy Dan Josey, during the early part of June, 1973, was concerned that the two newly purchased Caterpillar roadgraders (the purchase of which the Board wanted to rescind and had voted not to operate) were going to be put in operation contrary to the Board's desires and asked Eddie Sewell and Glen Riley to maintain alertness in such a happenstance. About June 12 Eddie Sewell was invited to what he thought was a night hunting trip with Jimmy Josey, Glen Riley and Zen Riley. Eddie Sewell drove his automobile but was instructed to drop Jimmy Josey and Glen Riley off by the new Caterpillar roadgrader which Commissioner Padget had operated (contrary to the Board's vote) and left parked beside the road. Eddie Sewell further testified that Glen Riley had with him a mixture of valve grinding compound and diesel fuel. Several minutes later, Eddie Sewell picked up Glen Riley and Jimmy Josey and was informed that they had poured the valve grinding compound mixture into the oil spout of the new Caterpillar roadgrader. Two days later, on or about June 14 or 15, pursuant to Jimmy Josey's instructions, Eddie Sewell, by himself, poured a mixture of valve grinding compound, diesel fuel and steel shavings into the other new Caterpillar roadgrader which was parked in the county road barn.

Eddie Sewell also testified that he was instructed to pick up Jimmy Josey, Glen Riley and Zen Riley at their respective homes on the evening of Friday, June 29, for the purpose of sabotaging the used Cleveland roadgrader and the used Caterpillar roadgrader. According to Eddie Sewell's testimony, he picked up the aforementioned individuals about sundown and dropped them off at each respective roadgrader and picked them up several minutes later. He was told that they had poured a mixture of valve grinding compound and diesel fuel into the oil spouts of the used Cleveland and the used Caterpillar roadgraders.

Eddie Sewell's testimony conflicts with Commissioner Padget's testimony, in that Commissioner Padget testified he had wiped clean the oil spouts of the new Caterpillar, the used Cleveland, and the used Caterpillar roadgraders on the afternoon of Friday, June 29, and had not observed any evidence of sabotage at that time. Eddie Sewell testified that the new Caterpillar roadgrader had been sabotaged two weeks prior to June 29 and that he had not pulled off the road onto the shoulder adjacent to the roadgrader. Commissioner Padget, however, testified that he had not observed any indication of sabotage on any of the roadgraders on the afternoon of Friday, June 29, but had observed the evidence of sabotage the following Sunday morning. No explanation was submitted for this discrepancy. Furthermore, Eddie Sewell testified that steel shavings were not used in the sabotage of either the new Caterpillar, the used Cleveland, or the used Caterpillar roadgraders.

Eddie Sewell testified that at no time did he ever actually observe Glen Riley or Jimmy Josey pour any substance into the roadgraders or sabotage the roadgraders in any other way.

Furthermore, six witnesses testified to the Committee that, on the evening of Friday, June 29, 1973, Jimmy Josey was at his father's house from approximately 6:30 p.m. until the next morning assisting his father in processing honey from beehives. The testimony of the six witnesses corroborate each other.

Two witnesses, in addition to Glen Riley, testified to the Committee that Glen Riley was at his sister's house all evening Friday, June 29, 1973 performing mechanical repairs on an automobile.

Johnny Wayne Phillips, a mechanic for the Holmes County Road Department, testified to the Committee that, about the first part of June, 1973, Eddie Sewell approached him and offered him \$150 to assist Mr. Sewell in sabotaging the roadgraders. Eddie Sewell told Mr. Phillips that the money was to be paid by "Mr. P." whom Mr. Phillips understood to be

Commissioner Padget and whom the road department employees referred to as "Mr. P." Mr. Phillips refused and decided to take his vacation the last two weeks of June, 1973. (Eddie Sewell denied making such an offer to Johnnie Wayne Phillips.)

FINDINGS OF FACT

Upon a careful examination of the relevant, competent evidence, the following findings of fact are submitted:

1. Holmes County suffered political turmoil and agony between November 21, 1972 and the date of the suspension order:

- A. There were delays in the approval of vouchers;
- B. The Tax Assessor had trouble maintaining current tax rolls and approval thereof;
- C. The new and controversial Caterpillar roadgraders purchased by the outgoing Board of County Commissioners in November, 1972 were not placed in service by the newly constituted Board which took office the day following the purchase;
- D. Changes were instituted in the mode of operation of the Board; for example, the Clerk was prohibited from using facsimile signatures and from opening Board mail, Board meetings were changed to Saturdays to allow citizens a more convenient opportunity to attend, and there were other changes which caused the county government to become practically paralyzed.

2. The record disclosed that there was some justification for the new majority on the Board of County Commissioners to exercise their discretion in the manner in which they did to effectuate changes in the county government and, to that end, they met resistance at every turn by county officers who, prior to the November, 1972 election and formation of the new majority faction on the Board, had enjoyed a majority status without significant resistance for a number of years.

3. Communications and cooperation among county officials hit an all-time low during the first half of 1973.

4. Pursuant to the Special Master's recommendation, the Florida Senate found, in its consideration of the first suspension of Jimmy Josey from the Board of County Commissioners, which finding still remains accurate, that the total record does not prove any unlawful act was committed by the three county commissioners, including Jimmy Josey, between November, 1972 and June, 1973; that they were not the sole cause of the political turmoil created in Holmes County; and that there is no doubt they could have avoided the unpleasant county government crisis by conforming to custom, accepting established routines, withholding innovation, and generally not rocking the boat. However, they chose the opposite course, and the establishment could not or would not conform to their methods. After the suspension of the three county commissioners on June 21, 1973, including Jimmy Josey, and after their replacements had been appointed temporarily to the Board, pending final determination of the suspension, the Board of County Commissioners returned to the method of operation which generally existed prior to the November, 1972 election.

5. There existed political forces in Holmes County which desired, and would benefit from, the removal of Jimmy Josey from the Board of County Commissioners.

6. Jimmy Josey had been suspended from the office of County Commissioner of Holmes County by the Governor on June 21, 1973 and was, therefore, not in office when the damage to the used Cleveland roadgrader occurred on June 29, 1973.

7. There was insufficient evidence presented to prove that Jimmy Josey participated in the damage of, or damaged, the used Cleveland roadgrader on June 29, 1973 or any other Holmes County Road Department equipment.

8. Testimony was taken which revealed that Jimmy Dan Josey was the only elected official of Holmes County who was questioned or suspected regarding the sabotage of the roadgraders. The chief investigator of the FDCLE assigned to the investigation of the sabotage testified to the Committee that, in retrospect, he should have suspected other persons, including other elected officials.

9. There existed unusual circumstances surrounding the change of venue (from Holmes County to Bay County) of the

trial of Jimmy Josey on the criminal charge of damaging the used Cleveland roadgrader which were supported by certain county officers who opposed Jimmy Josey politically.

10. The term to which Jimmy Josey was elected to the Holmes County Board of County Commissioners expired on November 15, 1976 before the Florida Senate had an opportunity to act upon the Executive Order suspending him from office.

11. A jury trial was held in Panama City, Bay County, Florida in September, 1975 on the one charge that Jimmy Josey and Glen Riley damaged the used Cleveland roadgrader. Messrs. Josey and Riley were found guilty of a misdemeanor in damaging the roadgrader and were sentenced on November 3, 1975 to serve a term of six months in the Bay County Jail. Appeal bond was denied, and Jimmy Josey was required to begin serving his sentence on December 17 while the appeal of the misdemeanor conviction was pursued. However, Mr. Josey was allowed to leave the jail for three weeks in December and January to tend to his farm and personal affairs.

12. Jimmy Dan Josey was incarcerated in the Bay County Jail from December 17, 1975 to January 7, 1976 and from February 6, 1976 to June 11, 1976, during which time the Senate Select Committee on Executive Suspensions considered setting the matter for final hearing. In an effort to persuade the members of the Committee to withhold the hearing until such time as Mr. Josey could be released from the Bay County Jail to be present at the hearing to assist in and testify in his own defense, he wrote the President of the Senate and waived any salary to which he may be entitled from the date of the letter (May 18, 1976) to the date of the hearing or the end of his term (November 15, 1976), should he be reinstated by the Senate.

CONCLUSIONS OF LAW

The terms malfeasance, misfeasance, neglect of duty and incompetency as grounds for suspension and removal of an officer have been defined by the Florida Supreme Court, in *State ex rel. Hardie v. Coleman*, 155 So. 129 (Fla. 1934), to mean:

Malfeasance—has reference to evil conduct or an illegal deed, the doing of that which one ought not to do, the performance of an act by an officer in his official capacity that is wholly illegal and wrongful, which he has no right to perform or which he has contracted not to do.

Misfeasance—is sometimes loosely applied in the sense of malfeasance. Appropriately used, misfeasance has reference to the performance by an officer in his official capacity of a legal act in an improper or illegal manner, while malfeasance is the doing of an official act in an unlawful manner. Misfeasance is literally a misdeed or a trespass, while nonfeasance has reference to the neglect or refusal without sufficient excuse to do that which was an officer's legal duty to do.

Neglect of duty—has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law.

Incompetency—has reference to any physical, moral, or intellectual quality, the lack of which incapacitates one to perform the duties of his office.

Jimmy Dan Josey was suspended by the Governor of the State of Florida from the office on the Board of County Commissioners, Holmes County, Florida on June 21, 1973. The acts which are alleged to have been committed by Jimmy Josey constituting malfeasance, misfeasance, neglect of duty and incompetency occurred on June 29, 1973 after he had been suspended. Upon suspension by the Governor, an official temporarily ceases to be vested with the authority to exercise any of the powers and duties relating to the office from which he was suspended, pending reinstatement by the Florida Senate, the suspended official is temporarily out of office during the period of suspension until action by the Senate and is, therefore, not in office. Compare *State ex rel. Hardie v. Coleman*, supra, with *State ex rel. Hatton v. Joughin*, 138 So. 392 (Fla. 1931); *State ex rel. Kelly v. Sullivan*, 52 So.2d 422 (Fla. 1951); and *State ex rel. Hardee v. Allen*, 172 So. 222 (Fla. 1937).

Therefore, assuming arguendo that the allegations contained in the Executive Order of Suspension were true, to wit: that Jimmy Josey did willfully, intentionally and maliciously damage the used Cleveland roadgrader on June 29, 1973, such acts would

not constitute malfeasance, misfeasance, neglect of duty or incompetency in that he was not serving in the office of County Commissioner, Holmes County, Florida.

The Florida Senate is not bound to accept the verdict of the Fourteenth Judicial Circuit Court, in and for Bay County, Florida, finding Jimmy Dan Josey guilty of maliciously, intentionally and willfully damaging the used Cleveland roadgrader (see *State ex rel. Myerson v. Askeu*, 269 So.2d 671 [Fla. 1972]), but has the solemn duty to afford due process to Jimmy Josey as a suspended official to determine, by the relevant and competent evidence presented, whether he is guilty of any of the specific acts charged and, if he is guilty as charged, in the opinion of the Senate, whether any of those specific acts constitute malfeasance, misfeasance, neglect of duty and incompetence (See *State ex rel. Hardee v. Allen*, supra; *State ex rel. Hardie v. Coleman*, supra; and *State ex rel. Myerson v. Askeu*, supra).

RECOMMENDATIONS

Accordingly, it is recommended that Jimmy Dan Josey not be removed and that he be reinstated nunc pro tunc to his office of County Commissioner, Holmes County, Florida.

It is further recommended that, pursuant to § 112.44, F.S., the Board of County Commissioners, Holmes County, Florida be authorized and directed to pay to Jimmy Dan Josey the sum of \$6500 as and for reimbursement for reasonable attorney's fees and costs incurred in his defense in these proceedings (See attached affidavits marked Appendix C in support thereof.).

Furthermore, it is recommended that the offer of waiver of salary submitted in the letter from Jimmy Josey dated May 18, 1976 not be accepted and that Jimmy Josey shall be entitled to reimbursement for such pay and emoluments of office from the date of his suspension to the date on which his term as member of the Holmes County Board of County Commissioners would have expired, as if he had never been suspended, pursuant to §112.45(2), F.S.

Respectfully submitted,

Ralph R. Poston, Chairman
Don C. Childers, Vice Chairman
Jim Glisson
Sherrill Skinner
Lori Wilson

APPENDIX A

SUMMARY OF THE TESTIMONY

In June of 1972 Jimmy Dan Josey qualified to run for the Board of County Commissioners, Holmes County, Florida. He was elected subsequently to the Board from District V for a term beginning November 21, 1972 and ending November 15, 1976 with two additional new members, Paul Messer and Kinsey Harris. Neither Messrs. Josey, Messer or Harris had served on the Board prior to their election in 1972.

Messrs. Josey and Messer campaigned on a reform platform which included: (1) the control of county government; (2) the manner of expenditure of Holmes County tax dollars; (3) the questioning of equipment purchases by bid; and (4) the removal of the county attorney.

Prior to the election, the "old" Board of County Commissioners, consisting of Charles Q. Padget, Chairman, Mr. Hulon King, and the three commissioners (whose terms were subject to reelection), considered four bids in October, 1972 for two roadgraders to be purchased by Holmes County, but final action was deferred until meetings were held on November 6 and 20, 1972 (days on which the Board did not meet regularly). At the November 6 meeting, a motion was made by Commissioner King (who frequently found himself at odds with the majority of the Board) to accept the low bid, but that motion died for lack of a second in favor of a motion which was adopted, to disqualify the low bidder on the basis that the county had poor maintenance and repair experience with the type roadgraders offered in the low bid. The Board was cognizant that the November 20 meeting (at which final action on the bids was taken) was the last meeting of the Board before the three newly elected Board members were to assume office on November 21.

During the November 6 and 20 meetings at which the bids were discussed and accepted, Commissioner-elect Jimmy Josey, speaking from the audience, urged the Board to accept the low bid, or in the alternative, defer action to allow the three newly elected commissioners an opportunity to act on the

bids upon taking office the following day. However, in view of the fact that the present fiscal year of the Board was beginning, and in view of the strong desire of the old Board to purchase the equipment, they approved acceptance of the next low bid for two Caterpillar roadgraders, by a vote of 4-1, with Commissioner King casting the dissenting vote.

Jimmy Josey testified to the Committee that, immediately after the November 20 Board meeting, he and Commissioner-elect Messer, while walking around the back of the courthouse, observed the salesman for the successfully bidding equipment company, an outgoing commissioner, Commissioner C. Q. Padgett, and the Clerk of the Circuit Court (who serves as secretary and auditor to the Board of County Commissioners) standing outside the courthouse talking and handing envelopes between them. Mr. Josey testified that, upon noticing Jimmy Josey and Mr. Messer, the commissioners, the Clerk and the salesman ceased their activity and entered the Clerk's office behind locked doors. Mr. Josey suspected he was observing the passage of a kickback. (The Clerk of the Circuit Court denied the allegations in testimony before the Committee.)

Upon assuming office, on or about November 21, 1972, the newly elected commissioners called a meeting of the newly constituted Board. At this time Jimmy Josey suspected: the Caterpillar roadgraders were not new, but used and repainted; the bid price violated the then-existing price freeze imposed by President Nixon; and that unusual circumstances surrounded the acceptance of the second-low bid. It appeared that the two newly purchased Caterpillar roadgraders had been delivered either the day before or the day of the bid opening. Therefore, the newly constituted Board of County Commissioners (consisting of holdovers C. Q. Padgett, Hulon King, and the three newly elected commissioners Jimmy Josey, Paul Messer and Kinsey Harris) voted to rescind the acceptance of the bid for the Caterpillar roadgraders and directed the Clerk of the Circuit Court, acting as secretary to the Board, to prepare a letter addressed to the second-low bidding equipment company requesting that the roadgraders be picked up from Holmes County. The vote was 4-1, with Commissioner C. Q. Padgett dissenting.

The Clerk prepared the letter; Commissioners Josey and Harris hand delivered the letter to the equipment company salesman who became agitated and upset over the letter and the action of the Board.

Notwithstanding the action of the Board, the Clerk began issuing payments for the Caterpillar roadgraders pursuant to the lease-purchase agreement, and the equipment company did not abide by the Board's request to pick up the two Caterpillar roadgraders. Accordingly, the Board directed the newly appointed county attorney to file suit against the equipment company to rescind the lease-purchase agreement.

It soon became apparent that a new political makeup had formed on the Board: the majority consisting of new Commissioners Josey and Messer and holdover Commissioner King; the minority consisting of holdover Commissioner Padgett and new Commissioner Harris.

Disputes, personality clashes and friction began to develop between the new majority and the Clerk of the Circuit Court. The Board of County Commissioners in Holmes County was required to look to the Clerk of the Circuit Court, an elected official, for information and guidance in all fiscal and procedural matters. The Clerk of the Circuit Court played a dominant role in the drama in Holmes County. He is a strong-willed, experienced public official who apparently conducted his office on a "tight-ship" basis. His wife was his key employee, having been grandfathered under the terms of the anti-nepotism statute. Traditionally, he set the agenda for Board meetings, opened most of the mail directed to the Board, prepared the budget, advised the Board on fiscal matters, exercised control over county purchasing, and was recognized as the liaison between the public, county employees and the commissioners. He was accustomed to his instructions and advice being followed, almost without question. It became apparent that he did not approve of the new order of things and, in many subtle ways, attempted to thwart it. The Clerk testified he had good relations with the old Board but had no cooperation with the new Board. The Clerk complained of conflicts developing in relation to signing checks on behalf of the Board. The Clerk also felt that Commissioner Josey was trying to run over him and was upset over the kickback allegations of Commissioner Josey. Commissioner C. Q. Padgett, however, testi-

fied he felt that the Clerk was negligent in his duties and cantankerous.

The newly constituted Board of County Commissioners, in turn, felt that the Clerk and the Tax Assessor were harassing the new majority faction of the Board, in that the Clerk would not record Board meeting minutes accurately; would not follow the Board's directions and instructions, such as providing the Board a current statement of road tax funds available for the county; and would open sealed bids before the Board could entertain them at open meetings. The Clerk and the Board also disputed over the methods used in preparing and submitting vouchers, especially payroll vouchers, for Board approval; in some instances, the Clerk would submit blank vouchers to the Board for approval, to be filled in by the Clerk at a later time.

The new majority of commissioners complained that the tax assessment rolls were not current and questioned the tax rolls, alleging that some property of influential people was under-assessed. In turn, the Tax Assessor (who had been tax assessor for 12 years, succeeding his father who had been tax assessor for 28 years) complained to the Board of inadequate staff and requested more money in the budget to correct the tax rolls but, according to his testimony, the Board was not helpful.

Other testimony confirmed that prior to 1974 the Holmes County tax rolls were not in good condition and that the Department of Revenue turned down the 1973 tax rolls, suggesting that the Board obtain an outside appraisal of Holmes County property, which was done in 1974. Many Holmes County citizens who owned farms complained of unequal assessments on their farmland as compared to other similar property. However, since revaluation of the property in Holmes County in 1974, the property appears to be fairly and equally assessed.

Conflicts existed between the Clerk and the Tax Assessor, in that the Clerk did not feel the Tax Assessor was properly doing his job.

Considerable hostility developed between Commissioner Padgett and new Commissioners Josey and Messer and holdover Commissioner King. Upon assuming office, the newly elected commissioners, together with Commissioner King, abolished the practice wherein Holmes County was divided into five road districts with a leaderman in each district, the leaderman being answerable to the commissioner who would determine which roads would receive grading and repair, which culverts would be installed and which driveways would be improved within that district. Furthermore, the commissioner in charge of each district would have control over persons working for the county road department within his respective district. The new board instituted a new system, abolishing the districts in favor of one county road foreman who would hire and supervise road department employees and who would determine which roads should be improved, repaired or graded according to need. This removed direct control by Board members over the operation of the county road department. Commissioner Padgett testified he did not like the new system and preferred the districting system. (Commissioner Padgett testified that after Commissioners Josey, Messer and King were suspended and after new members were appointed in their places, the Board voted to return to the five leaderman district system which he preferred.)

Commissioner Padgett, who is good friends with the Clerk, testified that he felt that the newly elected commissioners wanted to give the Clerk a difficult time, and he resented this. Commissioner Padgett now found himself in the minority and at odds with the new majority, which he did not like. He strongly desired that county road taxes be utilized to build an interstate cloverleaf in his district, but the Board majority would not concur. Commissioner Padgett became "worse than angry" because his motions were being continually defeated.

Commissioner Padgett felt that, as a result of the lack of cooperation by the majority of the Board members and the conflicts that had developed, the operation of county government had come to a halt. However, notwithstanding the political turmoil, county government continued to function satisfactorily except for the grading of county roads.

Commissioner King wrote to the Governor and the Auditor General requesting an investigation of methods used in assessing Holmes County property, but he received no answer. Commissioner Josey called the Governor on two occasions requesting an investigation of the suspected kickbacks in late 1972 or early 1973.

Commissioner Padgett desired to get the Board of County Commissioners back to a smooth operation and wrote a letter to the Governor about January, 1973 asking the Governor to suspend the Board of County Commissioners. The Governor responded that he would investigate the situation. Shortly thereafter, Commissioner Padgett's mother, with his knowledge, requested the Clerk to assist in preparing a petition requesting the Governor to investigate the actions of the Board of County Commissioners.

In December of 1972 the Board dismissed the county attorney because it felt he had a conflict of interest by being the attorney for the Holmes County School Board and because of his previous action of having sold 40 acres of land to the school board for \$40,000 to build a new school.

In March and April, 1973 a grand jury investigated the operation of the Holmes County Board of County Commissioners. On April 11 the grand jury issued a presentment, stating that Commissioners Josey, Messer and King violated the public trust, constituting misconduct in office in that: they held several meetings in violation of the Sunshine Law; they dismissed, without authority, the county attorney, an official elected under a special act; and, the said commissioners did not cooperate with other governmental officials while in office. On May 9, 1973 the grand jury issued a second presentment stating that Commissioners Josey, Messer and King had engaged in acts constituting misfeasance, malfeasance, neglect of duty and incompetence.

Shortly thereafter, even though the Board of County Commissioners had voted not to operate the newly purchased Caterpillar roadgraders pending the outcome of the litigation relating to the validity of their purchase, Commissioner Padgett decided, on his own, to operate one of the newly purchased Caterpillar roadgraders. Commissioner Padgett felt that, because the two new Caterpillar roadgraders were not being used, there was insufficient equipment to provide roadgrading service for county roads. People living in the county were complaining to him of the need to grade many roads. Commissioner Padgett strongly disagreed with the Board's action relating to rescission of the contract to purchase the Caterpillar roadgraders, and not to operate them, pending outcome of the litigation. The night before he operated the new Caterpillar roadgrader, he called the salesman for the equipment company who handled the bid transaction with the county and advised him of his intent to operate the roadgrader, to which the salesman responded "okay." Commissioner Padgett also checked with unidentified attorneys who felt the contract to purchase the two Caterpillar roadgraders was valid. Therefore, Mr. Padgett took it upon himself to use one of the new Caterpillar roadgraders to grade some roads. The incident received favorable press coverage in the Pensacola Journal. Thereafter, the Board voted to maintain the keys to the two new Caterpillar roadgraders under security with the Clerk.

Based upon the grand jury presentments, the Governor, by Executive Order Number 73-32, suspended Commissioners Josey, Messer and King from office as of June 21, 1973. The suspension was referred by the Senate President to a Special Master, who found that the Governor failed to prove the suspension charges in a report dated January 27, 1974 and who recommended reinstatement. The Florida Senate voted to reinstate Commissioners Josey, Messer and King on February 26, 1974.

Shortly after the suspension of the commissioners, on the afternoon of Friday, June 29, 1973, according to the testimony of Commissioner Padgett, the Board of County Commissioners was having a meeting (it is not clear whether that was a regular meeting day). Commissioner Harris entered the meeting and stated that he had just come from the county road equipment barn where he was informed by some Holmes County Road Department employees that Glen Riley, Eddie Sewell and perhaps another employee were plotting to sabotage Holmes County road equipment. (Eddie Sewell, Glen Riley and Wayne Phillips denied to the Committee, under oath, making any such statements to Commissioner Harris.) Upon adjournment of the Board meeting, about 5:00 p.m., the Board members advised the Holmes County Sheriff of Commissioner Harris' warning. The Sheriff agreed to have someone guard the county road equipment.

Commissioner Padgett was concerned over the safety of three roadgraders which would be routinely left parked along the side of the county roads at three separate locations upon completion of the day's work. One of these roadgraders was the new Caterpillar which Commissioner Padgett had operated pre-

viously, contrary to the Board's ruling. The other two roadgraders were the used Cleveland and the used Caterpillar. On Friday afternoon, June 29, 1973, after advising the Sheriff, Commissioner Padgett drove alone to each of the above-mentioned graders and, pursuant to previous training at Tyndall Air Force Base on how to detect sabotage, took a rag and wiped clean the oil spout, oil cap and immediate areas on each of the roadgraders. He replaced the oil filler caps on the machines in such a manner that he could detect at a subsequent time whether they had been tampered with.

Commissioner Padgett, on the morning of Sunday, July 1, checked the new Caterpillar roadgrader which he had wiped clean the previous Friday afternoon. Upon removing the oil filler cap, he noticed, by the light of the early morning sun, the glitter of steel shavings in a thick mixture about the inside surface of the oil filler spout. Commissioner Padgett gave conflicting testimony as to why he checked the new Caterpillar roadgrader on that particular morning: (1) he had a hunch the equipment was sabotaged; (2) he had to pass on that road on his routine Sunday morning examination of cows which he had located in a pasture and, upon passing by the new Caterpillar roadgrader, he noticed car tracks which indicated an automobile had pulled off the paved road and onto the shoulder near the roadgrader, which alerted him; and, (3) he made a special return trip to check the equipment.

Upon discovering the apparent sabotage, Mr. Padgett proceeded to a nearby store to telephone the Sheriff's office which then dispatched a deputy. Another Holmes County Road Department employee coincidentally had seen Commissioner Padgett by the roadgrader and stopped to assist. This led to inspection of all Holmes County Road Department equipment, much of which was discovered to have been sabotaged in the same manner. Commissioner Padgett himself checked the used Cleveland roadgrader and the used Caterpillar and observed evidence of the same type sabotage, that is, steel shavings and valve grinding compound mixture in and about the oil filler spout and, in the instance of the used Cleveland roadgrader, valve grinding compound spilled and puddled in the cleats of the tires.

The Sheriff's Department called upon the FDCLE for assistance in the investigation, and agents arrived on the scene on Monday, July 2. The agents made inquiry of county road department employees who suggested that Glen Riley, Eddie Sewell and another employee may have sabotaged the equipment.

The three implicated employees were offered polygraph examinations, two of whom refused. However, Eddie Sewell submitted voluntarily thereto and, upon responding to questions relating to the sabotage, proved to be answering deceptively. Upon being confronted with the polygraph results, Mr. Sewell volunteered a statement of his involvement in sabotaging the equipment, together with Glen Riley and Jimmy Dan Josey. It was at this point the FDCLE agents focused their investigation on Jimmy Dan Josey and Glen Riley as the primary suspects in having sabotaged the Holmes County Road Department equipment. Mr. Sewell was granted immunity from prosecution, in exchange for his cooperation and testimony.

Jimmy Josey approached the chief investigator and volunteered to submit to a polygraph examination if Commissioner Padgett, the Clerk of the Circuit Court, and the salesman for the equipment company which had sold the two Caterpillar roadgraders to the county also submitted to the polygraph examination. The request was refused, because the other individuals were not suspects in the investigation.

The FDCLE agents were only partially successful in corroborating Mr. Sewell's testimony and tried unsuccessfully several times to locate physical evidence referred to by Mr. Sewell. The only person located who partially corroborated Mr. Sewell's testimony in a pre-trial statement, denied that statement at the trial of Commissioner Josey and Glen Riley. The FDCLE agents encouraged Mr. Sewell to attempt to engage Glen Riley and Jimmy Josey in conversations which were to be recorded by hidden recording devices, during which conversations Mr. Riley and Mr. Josey would incriminate themselves in the sabotage. One recording was obtained of a conversation between Mr. Sewell and Glen Riley, and one recording was obtained of a telephone conversation between Jimmy Josey and Mr. Sewell. (The recordings were used as corroborating evidence to Mr. Sewell's testimony at the trial of Jimmy Josey.)

As a State's witness, the FDCLE provided Mr. Sewell with gas, oil and cash in the amount of approximately \$840 over a three-year period.

Eddie Sewell testified to the following: Jimmy Dan Josey, during the early part of June, 1973, was concerned that the two newly purchased Caterpillar roadgraders were going to be put in operation contrary to the Board's desires and asked Eddie Sewell and Glen Riley to maintain alertness in such a happenstance. About June 12 Eddie Sewell was invited to what he thought was a night hunting trip with Jimmy Josey, Glen Riley and Zen Riley. Eddie Sewell drove his automobile but was instructed to drop off Jimmy Josey and Glen Riley by the new Caterpillar roadgrader which Commissioner Padget had operated and left parked beside the road. Eddie Sewell further testified that Glen Riley had with him a mixture of valve grinding compound and diesel fuel. Several minutes later, Eddie Sewell picked up Glen Riley and Jimmy Josey and was informed that they had poured the valve grinding compound mixture into the oil spout of the new Caterpillar roadgrader. Two days later, on or about June 14 or 15, pursuant to Jimmy Josey's instructions, Eddie Sewell, by himself, poured a mixture of valve grinding compound, diesel fuel and steel shavings into the other new Caterpillar roadgrader, which was parked in the county road barn.

Eddie Sewell also testified that he was instructed to pick up Jimmy Josey, Glen Riley and Zen Riley at their respective homes on the evening of Friday, June 29 for the purpose of sabotaging the used Cleveland roadgrader and the used Caterpillar roadgrader. According to Eddie Sewell's testimony, he picked up the aforementioned individuals about sundown and dropped them off at each respective roadgrader and picked them up several minutes later. He was told that they had poured a mixture of valve grinding compound and diesel fuel into the oil spouts of the used Cleveland and the used Caterpillar roadgraders.

Eddie Sewell's testimony conflicts with Commissioner Padget's testimony, in that Commissioner Padget testified he had wiped clean the oil spouts of the new Caterpillar, the used Cleveland, and the used Caterpillar roadgraders on the afternoon of Friday, June 29 and had not observed any evidence of sabotage at that time. Eddie Sewell testified that the new Caterpillar roadgrader had been sabotaged two weeks prior to June 29 and that he had not pulled off the road onto the shoulder adjacent to the roadgrader. Commissioner Padget, however, testified that he had not observed any indication of sabotage on any of the roadgraders on the afternoon of Friday, June 29 but had observed the evidence of sabotage the following Sunday morning. No explanation was submitted for this discrepancy. Furthermore, Eddie Sewell testified that steel shavings were not used in the sabotage of either the new Caterpillar, the used Cleveland, or the used Caterpillar roadgraders.

Eddie Sewell testified that at no time did he ever observe Glen Riley or Jimmy Josey pour any substance into the roadgraders or sabotage the roadgraders in any other way.

Furthermore, six witnesses testified to the Committee that, on the evening of Friday, June 29, 1973, Jimmy Josey was at his father's house from approximately 6:30 p.m. until the next morning assisting his father in processing honey from beehives. The testimony of the six witnesses corroborate each other.

Two witnesses, in addition to Glen Riley, testified to the Committee that Glen Riley was at his sister's house all evening Friday, June 29, 1973, performing mechanical repairs on an automobile.

Johnny Wayne Phillips, a mechanic for the Holmes County Road Department, testified to the Committee that about the first part of June, 1973 Eddie Sewell approached him and offered him \$150 to assist Mr. Sewell in sabotaging the roadgraders. Eddie Sewell told Mr. Phillips that the money was to be paid by "Mr. P." whom Mr. Phillips understood to be Commissioner Padget and whom the road department employees referred to as "Mr. P." Mr. Phillips refused and decided to take his vacation the last two weeks in June, 1973. (Eddie Sewell denied making such an offer to Johnny Wayne Phillips.)

On motion by Senator Poston, the foregoing Report of the Committee on Executive Business in the matter of the Suspension of Jimmy Dan Josey was accepted.

Senator Poston moved that Jimmy Dan Josey not be removed from the Office of County Commissioner, Holmes County, Florida, that he be reinstated nunc pro tunc to said office, and that the Board of County Commissioners, Holmes County, be authorized and directed to pay to Jimmy Dan

Josey the sum of \$6,500 as reimbursement for attorney's fees and costs incurred in his defense in these proceedings. The motion was adopted by the following vote:

Yeas—26

Mr. President	Glisson	Poston	Ware
Castor	Gorman	Renick	Williamson
Chamberlin	Johnston	Scott	Wilson
Childers, Don	Lewis	Thomas, Jon	Winn
Dunn	McClain	Thomas, Pat	Zinkil
Firestone	Myers	Trask	
Gallen	Peterson	Vogt	

Nays—None

Votes after roll call:

Yeas—W. D. Childers, Hair, Spicola, Tobiassen

Nay—Saylor

Yeas to Nays—Zinkil

Abstained from Voting

I recused myself from voting on the report relating to Jimmy Dan Josey. Mr. Paul Thompson, attorney for Mr. Josey, is my first cousin.

D. Robert Graham, 33rd District

The Honorable Lew Brantley
President, The Florida Senate
The Capitol

May 27, 1977

Dear Mr. President:

The following executive appointments were referred to the Committee on Executive Business as "an appropriate committee" for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

	<i>For Term Ending</i>
(1) Board of Business Regulation, Members Appointees: McLin, Walter S., III Ravenell, Mildred Wigfall	Pleasure of Governor Pleasure of Governor
(2) Career Service Commission, Members Appointees: Chapin, Catherine W. Copenhaver, L. L. Fraser, Edwin G.	11/22/80 11/22/79 11/22/78
(3) Citrus County Hospital Board, Board of Trustees, Member Appointee: Valenti, Anthony	7/7/80
(4) Florida Citrus Commission, Members Appointees: Hancock, W. R. Jumper, Arlen N. Kahn, Marvin David Phillips, R. V.	5/31/79 5/31/79 5/31/79 5/31/79
(5) Daytona Beach Community College, Board of Trustees, Member Appointee: Mercer, Ray L.	5/31/78
(6) Gulf Coast Community College, Board of Trustees, Members Appointees: Griffin, Frank C. Whitehead, Charles A.	5/31/77 5/31/78
(7) Indian River Community College, Board of Trustees, Member Appointee: Hazel, Robert H.	5/31/78
(8) Lake City Community College, Board of Trustees, Member Appointee: Levy, Alfonso	5/31/78
(9) Lake-Sumter Community College, Board of Trustees, Member Appointee: McCormick, Daniel B.	5/31/79
(10) Miami-Dade Community College, Board of Trustees, Member Appointee: D'Alemberte, Talbot	5/31/79

	<i>For Term Ending</i>		<i>For Term Ending</i>
(11) North Florida Community College, Board of Trustees, Member Appointee: Blow, Lynn S.	5/31/79	(28) Commissioners for the Promotion of Uniformity of Legislation, Member Appointee: Adams, William H., III	6/5/79
(12) Pasco-Hernando Community College, Board of Trustees, Member Appointee: Coffie, Lorenzo E.	5/31/79	(29) Board of Examiners of Nursing Home Administrators, Members Appointees: Ciolfi, Agnes S. Dye, H. Michael Lawrence, Elizabeth Ann W. Lockeby, Kyle E., Jr. Rice, Julia Touchette, Norbert E.	1/16/80 12/31/79 1/16/81 12/28/80 1/16/81 6/2/80
(13) Pensacola Community College, Board of Trustees, Member Appointee: Mayo, Wallace C.	5/31/78	(30) Ponce de Leon Port Authority, Members Appointees: Hollinshead, Byron S. Simmons, H. E.	2/1/81 2/1/81
(14) Santa Fe Community College, Board of Trustees, Member Appointee: Mickle, Stephan P.	5/31/79	(31) Jacksonville Port Authority, Member Appointee: Montney, R. H.	10/1/80
(15) South Florida Junior College, Board of Trustees, Members Appointees: Henderson, Harold E. Williams, Wendell W.	5/31/79 5/31/77	(32) Tampa Port Authority, Member Appointee: Drawdy, Delmar B., Sr.	11/15/80
(16) Valencia Community College, Board of Trustees, Members Appointees: Bruton, Willie J. Overstreet, Murray W., Jr.	5/31/79 5/31/80	(33) Historic Key West Preservation Board of Trustees, Members Appointees: Knight, Joan T. Rabon, Florence G. Revell, Walter L.	10/12/80 11/29/80 10/18/80
(17) State Board of Independent Colleges and Universities, Members Appointees: Dillon, Richard T. Hamilton, Clinton Wilson, Charles F.	3/20/79 8/18/79 8/18/77	(34) Historic St. Augustine Preservation Board of Trustees, Member Appointee: Pierce, Mary I.	8/31/78
(18) State Board of Cosmetology, Members Appointees: Bliss, L. Grace Hall, Dola P. Llaneza, Violet M. Reno, Vincent C.	6/27/80 6/27/77 6/27/80 6/27/77	(35) Prison Industry Commission, Members Appointees: Beacham, Herbert C. Biggins, Clarice F. Bronson, Thomas E. Cellon, Ralph W., Jr. Hudiburg, John J. Mathias, Arthur F.	12/15/79 12/15/78 12/15/78 12/15/80 12/15/80 12/15/79
(19) Florida Elections Commission, Members Appointees: Johnson, Benjamin A. Kelley, Anne E. King, Wallace F. (Chmn.) King, Wallace F. (Chmn.) Leslie, Helen K. Matthews, James W. McKillips, James F.	12/10/77 12/10/77 12/27/76 12/27/79 12/10/79 12/10/79 12/10/79	(36) Public Employees Relations Commission, Members Appointees: Carson, Leonard A. (Chmn.) Lang, Thomas F. Stowell, Douglas L.	7/1/78 7/1/80 7/1/79
(20) Commission on Ethics, Members Appointees: Ashler, Don L. Price, Ed H., Jr.	7/1/78 7/1/77	(37) Oklawaha Basin Recreation and Water Conservation and Control Authority, Member Appointee: Knowles, Charles Joseph	7/13/79
(21) Tampa-Hillsborough County Expressway Authority, Member Appointee: McElvy, George R.	7/1/80	(38) Board of Regents, Member Appointee: Smith, James C.	1/1/86
(22) Florida State Fair Authority, Members Appointees: Carlton, Doyle E., Jr. Cate, Richard Herman Logan, John Henry, Sr. Whiddon, Jack G.	7/1/80 7/1/79 7/1/79 7/1/80	(39) State Retirement Commission, Member Appointee: Ireland, L. K., Jr.	12/31/77
(23) Firefighters Standards and Training Council, Members Appointees: Doolittle, Charles V. Felts, William E. Thomas, William B. Wagner, William B., Jr.	12/20/80 5/14/80 12/1/80 1/10/80	(40) Florida School for the Deaf and the Blind, Board of Trustees, Members Appointees: Hicks, Pauline Mauldin, Mary M.	11/19/80 12/10/80
(24) Board of Funeral Directors and Embalmers, Members Appointees: Combs, L. Don Marsicano, Ralph E.	7/22/80 7/25/80	(41) State Board of Independent Post-secondary Vocational, Technical, Trade and Business Schools, Members Appointees: Donnell, L. Nelson Wheeler, Mark K.	7/1/79 7/1/79
(25) Game and Fresh Water Fish Commission, Members Appointees: Matthews, George G. Parrish, Ralph Bernard, Jr. Rhodes, Donald G.	1/5/80 1/6/82 1/4/81	(42) Northwest Florida Water Management District, Governing Board, Member Appointee: Odom, Howard	7/1/77
(26) South Lake County Hospital District, Board of Trustees, Member Appointee: Dougherty, Tom K.	7/5/79	(43) St. Johns River Water Management District, Governing Board, Members Appointees: Christmas, Jack R. Godwin, Claude O. Townsend, B. C., Jr.	7/1/79 7/1/79 7/1/79
(27) Industrial Relations Commission, Members Appointees: Canady, Arthur C. Pleasure of Governor Friday, Elmer O., Jr. (Chmn.) Pleasure of Governor		(44) Oklawaha River Basin Board of the St. Johns River Water Management District, Member Appointee: Root, Charles A.	6/30/79
		(45) South Florida Water Management District, Governing Board, Member Appointee: Plummer, Maurice Lee	7/1/79

- | | <i>For Term
Ending</i> |
|---|--|
| (46) Big Cypress Basin Board of the South Florida Water Management District, Members
Appointees: Barton, William L.
Kiser, Russell Eugene
Price, John Edward, Jr.
Walters, William M.
Yokel, Bernard | 6/30/77
6/30/79
6/30/79
6/30/78
6/30/78 |
| (47) Southwest Florida Water Management District, Governing Board, Members
Appointees: Johns, N. Brooks
Martinez, Robert
McAteer, Derrill S.
Pender, Nicholas A., Jr.
Ruppel, George
Thompson, Helen T. | 7/1/80
7/1/80
7/1/80
7/1/78
7/1/78
7/1/80 |
| (48) Alafia River Basin Board of the Southwest Florida Water Management District, Members
Appointees: Charles, Hoyt
Odiorne, Patricia B. | 6/30/79
6/30/78 |
| (49) Crystal River-Homosassa River Basin Board of the Southwest Florida Water Management District, Member
Appointee: Barnes, Charles P. | 6/30/79 |
| (50) Manasota Basin Board of the Southwest Florida Water Management District, Members
Appointees: Hall, A. Sterling
Hartman, Gordon Dean
Rushton, Betty Toombs | 6/30/79
6/30/77
6/30/79 |
| (51) Northwest Hillsborough County Basin Board of the Southwest Florida Water Management District, Member
Appointee: Jackson, Frank D., II | 6/30/79 |
| (52) Peace River Basin Board of the Southwest Florida Water Management District, Members
Appointees: McCarter, William E.
Peeples, Vasco | 6/30/79
6/30/79 |
| (53) Pinellas County-Anclote River Basin Board of the Southwest Florida Water Management District, Members
Appointees: Carr, W. Don
Pierce, Raymond R.
Velong, Anthony J. | 6/30/79
6/30/78
6/30/77 |
| (54) Pithlachascootee River Basin Board of the Southwest Florida Water Management District, Members
Appointees: Register, Max
Sculley, Thomas Morgan | 6/30/78
6/30/79 |
| (55) Withlacoochee River Basin Board of the Southwest Florida Water Management District, Members
Appointees: Hunt, Norvell W.
Newton, Dalton F. | 6/30/79
6/30/77 |
| (56) Suwannee River Water Management District, Governing Board, Member
Appointee: Finlayson, John MacRae | 7/1/79 |

As required by Rule 12.7(a), the Committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry, the Committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the Committee—by a separate vote as to each appointee—respectfully advises and recommends:

- (1) That the executive appointment of the above-named appointees, to the office and for the term of office indicated, be *confirmed* by the Senate.
- (2) That Senate action on said appointments be taken prior to adjournment of the 1977 Regular Session.

(3) That there is no necessity known to the Committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,
Ralph R. Poston, Chairman
Don C. Childers, Vice Chairman
Jim Glisson
Henry Saylor
Sherrill Pete Skinner
Lori Wilson

Senator Poston moved that the report be accepted and the Senate confirm the appointments identified in the foregoing report of the committee, to the offices and for the terms indicated, in accordance with the recommendations of the committee. The motion was adopted by the following vote:

Yeas—33

Mr. President	Gorman	Peterson	Vogt
Barron	Graham	Poston	Ware
Castor	Henderson	Renick	Williamson
Chamberlin	Holloway	Saylor	Wilson
Childers, Don	Johnston	Scarborough	Winn
Dunn	Lewis	Scott	Zinkil
Firestone	MacKay	Spicola	
Gallen	McClain	Thomas, Jon	
Glisson	Myers	Trask	

Nays—None

Vote after roll call:

Yeas—W. D. Childers, Hair, Tobiassen

The Honorable Lew Brantley
President, The Florida Senate
The Capitol

May 27, 1977

Dear Mr. President:

The following executive appointments were referred to the Committee on Executive Business as "an appropriate committee" for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

- | | <i>For Term
Ending</i> |
|--|----------------------------|
| (1) Career Service Commission, Member
Appointee: Range, M. Athalie | 11/22/80 |
| (2) Central Florida Community College, Board of Trustees, Member
Appointee: Connors, Helen Jean | 5/31/79 |
| (3) State Board of Independent Colleges and Universities, Members
Appointees: Critchfield, Jack B.
Wireman, Billy O. | 8/25/79
8/18/79 |
| (4) Florida State Fair Authority, Member
Appointee: Turner, Latimer H. | 7/1/80 |
| (5) Board of Examiners of Nursing Home Administrators, Member
Appointee: Chadwick, Laurel J. | 7/7/80 |
| (6) Public Employees Relations Commission, Member
Appointee: McLean, Jack L., Jr. | 7/1/78 |
| (7) Southwest Florida Water Management District, Governing Board, Member
Appointee: Graw, John R. | 7/1/79 |

As required by Rule 12.7(a), the Committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry, the Committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the Committee—

by a separate vote as to each appointee-respectfully advises and recommends:

- 1) That the Senate *take no action on and fail to confirm* the appointment of the above-named appointees, to the office and for term of office indicated, because the Committee finds that each of those appointees has tendered a resignation.
- 2) That Senate action on said appointments be taken prior to adjournment of the 1977 Regular Session.
- 3) That there is no necessity known to the Committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,

*Ralph R. Poston, Chairman
Don C. Childers, Vice Chairman
Jim Glisson
Henry Saylor
Sherrill Pete Skinner
Lori Wilson*

On motion by Senator Poston, the report was accepted and the Senate took no action on and failed to confirm the appointments identified in the foregoing report of the committee, to the offices and for the terms indicated, in accordance with the recommendations of the committee.

Senator Henderson moved that the following explanation be spread upon the Senate Journal:

Senator Henderson stated, "Senators, I would like for the record to reflect that the action—the failure to confirm and take no action—indicates nothing whatsoever against the individuals that are involved in this report."

Senator Poston responded to Senator Henderson as follows: "Senator, you are absolutely correct and I think it ought to be put in the Senate Journal to that effect that the Senate does not hold these men to be unworthy of office, but due to circumstances, usually in the law that requires them not to have dual offices, some of them resigned. We respect that and that's the reason we changed it to, "Take no action on and fail to confirm".

The Executive Order of Suspension, EXO 76-37, dated August 25, 1976, directed to Monroe Brannen, Sheriff of Polk County, was received by the Senate on August 26, 1976, and referred to the Committee on Executive Business. Executive Order of Reinstatement, EXO 76-43, dated November 1, 1976, revoking the suspension of Monroe Brannen was received by the Senate on November 1, 1976 and referred to the Committee on Executive Business.

The Honorable Lew Brantley
President of the Florida Senate
The Capitol

December 7, 1976

Dear Mr. President:

This report concerns proceedings by the Committee on Executive Business on the Executive Order of Suspension, EXO Number 76-37, whereby the Honorable Monroe Brannen, Sheriff of Polk County, Florida, was suspended from office.

It has been brought to the attention of the Committee on Executive Business that an Executive Order of Reinstatement, EXO Number 76-43, dated November 1, 1976, has been entered by His Excellency Reubin O'D. Askew, thereby revoking the Order of Suspension and reinstating the Honorable Monroe Brannen to the aforesaid county office, effective as of November 1, 1976.

In view of the foregoing, the Committee on Executive Business advises that no further action by the Senate is authorized or required by the Florida Constitution. The Committee recommends, therefore, that the Senate take no further action on the above-referenced matter and that this suspension case be closed.

Respectfully submitted,

*Ralph R. Poston, Chairman
Don Childers, Vice Chairman
Jim Glisson
Sherrill Skinner
Lori Wilson
William G. Zinkil (Excused)*

On motion by Senator Poston, the foregoing report on the Executive Order of Suspension of Monroe Brannen, Sheriff of Polk County, Florida, was accepted and the Senate took no further action in view of the Executive Order of Reinstatement.

The Honorable Lew Brantley
President, the Florida Senate
The Capitol

December 7, 1976

Dear Mr. President:

The Committee on Executive Business submits this final report on the matter of the suspension of Jack Wheeler.

By Executive Order Number 73-60, filed with the Secretary of State on October 8, 1973, His Excellency Reubin O'D. Askew, as Governor, suspended Jack Wheeler from the office of Comptroller, Broward County, Florida.

The suspension order charged that Jack Wheeler, while holding the aforesaid county office, committed the crime of perjury (\$837.02, F.S.), a felony, and the crime of common law malfeasance in office, a misdemeanor. These crimes constitute grounds for suspension under Section 7 of Article IV, Florida Constitution, 1968 Revision.

Criminal prosecution of Jack Wheeler was commenced in the Circuit Court of the Seventeenth Judicial Circuit in Broward County and, subsequently, he was found guilty of the crime of perjury. On April 2, 1974, Jack Wheeler was sentenced to three years in prison.

The Senate assumed jurisdiction of this matter on October 8, 1973, and this matter was referred to the Special Master on Executive Suspensions on October 8, 1973. Proceedings by the Special Master were stayed, pursuant to Senate Rule 12.7(b), during the pendency of the criminal prosecution in the trial court.

The Select Committee on Executive Suspensions resumed its investigation and hearings in this matter on May 9, 1974, at which time a pre-hearing conference was held. Subsequent and final hearings were held on May 23 and May 24, 1974. On May 29, 1974, a motion was filed to continue the hearing and determination of the cause by the Select Committee pending the determination of an appeal taken to the District Court of Appeal, Fourth District of Florida. The motion was granted, and proceedings by the Select Committee on Executive Suspensions were stayed. On May 13, 1975, a petition for Writ of Certiorari was filed with the Florida Supreme Court by the suspended officer; this petition was subsequently denied. An appeal to the United States Supreme Court was taken, and on June 21, 1976, that appeal was also denied. Mr. Wheeler's conviction is now final.

Based upon the investigation conducted by this Committee, it is the finding of this Committee that Jack Wheeler was convicted on April 2, 1974, of a felony under the laws of the state of Florida, that he has not been restored to civil rights, that on April 2, 1974, he became and is now disqualified to hold public office in Florida, that he has been "removed" by operation of law from the office of Comptroller of Broward County, and that after due process and hearing he has not shown any cause why the Senate should not remove him from office, effective April 2, 1974, the date of his conviction for a felony.

It is the recommendation of this Committee, therefore, that Jack Wheeler be removed from the office of Comptroller of Broward County, Florida, effective April 2, 1974.

Respectfully submitted,

*Ralph R. Poston, Chairman
Don Childers, Vice Chairman
Jim Glisson
Sherrill Skinner
Lori Wilson
William G. Zinkil (Excused)*

On motion by Senator Poston, the foregoing report on the Executive Order of Suspension of Jack Wheeler from the office of Comptroller, Broward County, Florida, was accepted and adopted and the Senate removed Jack Wheeler from said office effective April 2, 1974.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Gallen, the rules were waived and by two-thirds vote HB 507 was withdrawn from the Committee on Rules and Calendar.

REQUEST FOR EXTENSION OF TIME

The Committee on Commerce requests an extension of 3 days for consideration of the following:

- | | |
|---|---|
| SB 623 by Senator Pat Thomas | SB 887 by Senator Dunn |
| SB 628 by Senator Vogt | SB 894 by Senator Lewis |
| SB 620 by Senator Lewis | SB 899 by Senator Renick |
| SB 639 by Senator McClain | SB 901 by Senator Renick |
| SB 1401 by Senator Barron | SB 909 by Senator Scott |
| SB 1407 by Senator Firestone | SB 1137 by Senator Vogt |
| SB 1411 by Senator Williamson | CS for SB 750 by Economic, Community and Consumer Affairs and Senator MacKay |
| SB 1413 by Senator Dunn | HB 1255 by Regulated Industries |
| SB 1415 by Senator W. D. Childers | HB 1049 by Finance and Taxation |
| SB 1429 by Senator Hair | HB 939 by Tourism and Economic Development Committee |
| SB 1438 by Senator McClain | CS for HB 8 by Regulated Industries and Licensing and Representative Dyer et al |
| SB 824 by Senator Trask | |
| SB 846 by Senators Scarborough, Henderson | |
| SB 854 by Senators Winn, Gordon, Firestone, Graham, et al | |
| SB 871 by Senators MacKay, Zinkil et al | |
| SB 878 by Senator Scarborough | |

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed in the office of the Secretary of State SB 487 and CS for SB 475 which he had approved May 30, 1977.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has adopted SM 1110.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

- | | | |
|--------|---------------|--------|
| SB 492 | CS for SB 585 | SB 715 |
| SB 800 | SB 797 | SB 580 |
| SB 844 | SB 1493 | |

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed SB 666

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB's 454 & 1119.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

- | | | |
|---------|---------|---------|
| SB 434 | SB 712 | SB 990 |
| SB 1041 | SB 1154 | SB 1156 |
| SB 1157 | SB 1445 | SB 1448 |
| SB 1450 | SB 1459 | SB 1472 |
| SB 1474 | SB 1475 | SB 1477 |
| SB 1482 | SB 1484 | SB 1487 |
| SB 1488 | SB 1489 | SB 641 |
| SB 642 | SB 845 | |

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 109 and SB 1425.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

- | | | |
|---------------|---------------|---------|
| SB 133 | SB 636 | SB 1317 |
| CS for SB 995 | CS for SB 989 | |

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 122 and SB 1350.

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

The Honorable Lew Brantley, President

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

- | | | |
|--------|---------|--------|
| CS for | HB 1286 | HB 482 |
| HB 575 | HB 300 | |

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 2 and passed SB 226, as amended.

Allen Morris, Clerk

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Lewis (by request) and others—

SB 551—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s. 409.235(2), Florida Statutes; providing that the payment of assistance under the aid to families with dependent children program is discretionary; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 22 and 23, strike all language and insert: Section 2. Section 409.266, Florida Statutes, is amended to read:

409.266 Medical assistance for the needy.—

(1) The department is authorized to provide medical services ~~through the [department]~~ to any person who:

(a) Is 65 years of age or older, or blind, or permanently and totally disabled, or a spouse of such a person, or children that would, if needy, qualify for aid to families with dependent children, or relatives with whom such children are living, including any dependent children required to be included by the Social Security Act, or children in foster home care; such eligibility as established by regulations of the department.

(b) Is a citizen of the United States or has been a resident of the United States for at least 20 years and resides in this state.

(c) Has not sufficient income resources or assets, as determined by the department, to provide needed medical care without utilizing his resources required to meet his basic needs for shelter, food, clothing, and personal expenses.

(2) The department, ~~through the [department]~~, is hereby authorized to:

(a) Enter into such agreements with fiscal agents, other state agencies, or any agency of the Federal Government and accept such duties in respect to social welfare or public aid as may be necessary or needed to implement the provisions of the Social Security Act pertaining to medical assistance.

(b) *Contract with health maintenance organizations, certified pursuant to part II, chapter 641, for the provision of medical services to eligible persons.*

(3) ~~(b)~~ The services herein provided shall be administered by the department in consultation with, and with the advice of, the advisory committee appointed by the secretary.

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

Amendment 2—On page 1 in title, line 7, insert after the word "discretionary;": amending s. 409.266, Florida Statutes; conforming the statute to the reorganization of the Department of Health and Rehabilitative Services; authorizing the department to contract with certified health maintenance organizations for provision of medical services;

On motions by Senator Lewis, the Senate concurred in the House Amendments.

SB 551 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Graham	Poston	Vogt
Barron	Hair	Sayler	Ware
Castor	Henderson	Scarborough	Williamson
Chamberlin	Johnston	Scott	Wilson
Childers, Don	Lewis	Skinner	Winn
Childers, W. D.	MacKay	Thomas, Jon	Zinkl
Dunn	McClain	Thomas, Pat	
Gallen	Myers	Tobiassen	
Gorman	Peterson	Trask	

Nays—None

Votes after roll call:

Yeas—Renick, Spicola

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Lewis (by request) and others—

SB 621—A bill to be entitled An act relating to state agencies; amending s. 287.043, Florida Statutes; requiring all printing, duplicating, or reproduction equipment purchased by state agencies to be used for efficient and economical production of printed material directly related to state business; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 24, after the period "." insert and renumber the subsequent section: Section 2. State agency publications; prior justification and approval.—

(1) As used in this section, "state agency publication" means any annual, biennial, regular or special report or publication of which at least 500 copies are printed and which may be subject to distribution to the public.

(2) Each state agency desiring to publish a state agency publication for public use or information after June 30, 1978, shall first justify the need for each such publication and its intended distribution and secure prior approval for funding thereof by including same as an appropriation line item within the state agency's fiscal year budget request to the Legislature.

(3) Any state agency finding a need to publish a state agency publication without justification and approval as provided in subsection (2) shall bring such need before the Governor and Cabinet and, upon approval of the Governor and Cabinet, funding for such publication shall be provided by the Emergency Appropriation Fund or the Deficiency Appropriation Fund, in the discretion of the Governor and Cabinet sitting as the Administration Commission.

(4) This section shall not apply to agency publications which are wholly funded by moneys received from outside the publishing state agency.

Amendment 2—On page 1 in title, line 8, after the semicolon ";" insert: requiring prior justification and approval of each state agency publication as an appropriation line item within the agency's budget request to the Legislature; providing for approval and funding of state agency publications in a different manner; providing exceptions;

On motions by Senator Lewis, the Senate refused to concur in the House amendments and the House was requested to recede. The action, with the bill and amendments, was certified to the House.

The Honorable Lew Brantley, President

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

By Senator Lewis (by request) and others—

SB 727—A bill to be entitled An act relating to hospital licensing; amending s. 395.05, Florida Statutes; providing for the issuance of a provisional license to new hospitals or hospitals which are in substantial compliance with chapter 395, Florida Statutes, and with regulations of the Department of Health and Rehabilitative Services; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 22 insert: [after the word "licenses"]; however, such provisional licenses shall not be granted for a period of more than one year

On motion by Senator Lewis, the Senate concurred in the House Amendment.

SB 727 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Mr. President	Dunn	Hair	Myers
Barron	Firestone	Henderson	Peterson
Castor	Gallen	Johnston	Poston
Chamberlin	Glisson	Lewis	Renick
Childers, Don	Gorman	MacKay	Sayler
Childers, W. D.	Graham	McClain	Scarborough

Scott	Thomas, Pat	Ware	Zinkil
Skinner	Tobiassen	Williamson	
Spicola	Trask	Wilson	
Thomas, Jon	Vogt	Winn	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

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

By Senator Lewis (by request) and others—

SB 734—A bill to be entitled An act relating to the practice of massage; creating ss. 480.011, 480.012, 480.013, 480.014, 480.015, 480.016, 480.017, 480.018, 480.019, 480.0195, 480.021, 480.022, 480.023, 480.024, 480.025, 480.026, 480.027, 480.028, 480.029, 480.0295, Florida Statutes; providing definitions; creating the Florida Board of Massage; providing for organization, meetings, and compensation of the board; providing powers and duties of the board; requiring the board to keep records; requiring masseurs and masseuses to be certified; requiring massage establishments and schools to be registered; requiring certification or registration prior to issuance of an occupational license; providing certification and registration procedures; requiring display and recording of certificates and registrations; providing for disciplinary action; providing for payment of fees and the disposition thereof; providing for renewal of certificates and registrations; authorizing counties or municipalities to regulate the practice of massage; providing exemptions; providing for certification by endorsement; providing a penalty and a grandfather clause; providing severability; repealing ss. 480.01-480.23, Florida Statutes, the Massage Registration Law of 1943; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 12, line 24, insert a new subsection (2) and renumber subsequent subsections:

(2) Nothing contained in this chapter shall be construed or interpreted as applying to any person engaging in the practice of reflexology, defined as the compression of reflex areas of the feet only.

On motion by Senator Lewis, the Senate concurred in the House Amendment.

SB 734 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gorman	Peterson	Thomas, Pat
Barron	Graham	Poston	Tobiassen
Castor	Hair	Renick	Trask
Chamberlin	Henderson	Sayler	Vogt
Childers, Don	Johnston	Scarborough	Ware
Childers, W. D.	Lewis	Scott	Williamson
Dunn	MacKay	Skinner	Winn
Gallen	McClain	Spicola	Zinkil
Glisson	Myers	Thomas, Jon	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

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

By Senator Lewis (by request)—

SB 804—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; adding s. 381.031 (1)(h), Florida Statutes; prohibiting the adoption of rules by

the department which imposes any requirements for permits, licenses, or approvals not specifically imposed by law; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 19-21, strike all language and insert: ; however, nothing herein shall be construed to authorize the department to require a permit or license unless such requirement is specifically provided by law.

On motion by Senator Lewis, the Senate concurred in the House Amendment.

SB 804 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Gorman	Peterson	Thomas, Pat
Barron	Graham	Poston	Tobiassen
Castor	Hair	Renick	Trask
Chamberlin	Henderson	Sayler	Vogt
Childers, Don	Johnston	Scarborough	Ware
Childers, W. D.	Lewis	Scott	Williamson
Dunn	MacKay	Skinner	Winn
Gallen	McClain	Spicola	Zinkil
Glisson	Myers	Thomas, Jon	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

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

By Senator Lewis (by request)—

SB 810—A bill to be entitled An act relating to The Florida Clinical Laboratory Law; amending s. 483.031(2), Florida Statutes; to provide that the exemption from chapter 483, Florida Statutes, for clinical laboratories operated by physicians applies to a clinical laboratory operated by one or more physicians; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 17, strike all of said line and insert: (2) A clinical laboratory operated by five or less duly

On motion by Senator Lewis, the Senate concurred in the House Amendment.

SB 810 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Graham	Peterson	Tobiassen
Castor	Hair	Poston	Trask
Chamberlin	Henderson	Renick	Vogt
Childers, Don	Johnston	Sayler	Ware
Childers, W. D.	Lewis	Scott	Williamson
Dunn	MacKay	Spicola	Winn
Gallen	McClain	Thomas, Jon	Zinkil
Gorman	Myers	Thomas, Pat	

Nays—None

On motion by Senator Lewis, the Senate reconsidered the vote by which SB 810 passed.

Senator Lewis moved that the Senate reconsider the vote by which the Senate concurred in House Amendment 1. The Senate reconsidered and refused to concur in Amendment 1 and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed with 2 amendments—

By Senator Lewis (by request) and others—

SB 617—A bill to be entitled An act relating to public health; amending s. 381.031(1)(g), Florida Statutes; providing for the control of communicable diseases by the quarantine or destruction by the Department of Health and Rehabilitative Services of domestic pets or wild animals infected with rabies; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 21, strike *domesticated* and insert: *pigeons or psittacine*

Amendment 2—On page 1, in title, line 7, strike *rabies*; and insert: *or exposed to rabies*; providing for the control of communicable diseases transmitted by pigeons or psittacine birds;

On motions by Senator Lewis, the Senate concurred in the House Amendments.

SB 617 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gorman	Myers	Thomas, Jon
Castor	Graham	Peterson	Thomas, Pat
Chamberlin	Hair	Poston	Tobiassen
Childers, Don	Henderson	Renick	Trask
Childers, W. D.	Johnston	Sayler	Vogt
Dunn	Lewis	Scarborough	Winn
Firestone	MacKay	Skinner	
Gallen	McClain	Spicola	

Nays—None

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed with 4 amendments—

By Senators Myers and Sayler—

SB 1122—A bill to be entitled An act relating to parents; amending s. 741.24, Florida Statutes, relating to civil actions against parents for willful destruction or theft of property by minors; providing for recovery against parents of a minor for theft of property; increasing amount recovered to \$5,000; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 31 insert a new Section 2: Section 2. Section 741.25, Florida Statutes, is created to read: 741.25 Civil action against parents; torts committed by children against instructional personnel or students.—

(1) Each parent or guardian of a child who attends a public school in this state shall be civilly liable for the torts of his child which are committed by the child against instructional personnel of a public school, or pupils attending a public school, when:

(a) The parent or guardian entrusts the child with an instrument, substance, or any other item which, because of the child's youth, inexperience, or poor judgment becomes a source of danger to others;

(b) The child, in the commission of a tortious act, is occupying the relationship of a servant or agent of his parent or guardian;

(c) The parent or guardian knows of his child's previous wrongdoing and consents to it, or directs or sanctions it;

(d) The parent or guardian fails to exercise control over the child to prevent tortious acts, although the parent or guardian knew or in the exercise of due care should have known that injury to another was a probable consequence of the child's conduct; or

(e) The parent's or guardian's negligence made it possible for the child to commit the tortious act and probable that he would do so.

(2) In the event that any member of the instructional personnel of any public school, or any pupil attending any public school in this state, should prevail in an action under this act, in addition to damages, he shall be entitled to have reasonable attorney's fees awarded against the parent or guardian, as well as any other costs he may be entitled to under the law.

(3) If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

And Renumber Subsequent Section.

Amendment 2—On page 1 in title, line 8, insert after the figure "\$5,000": creating s. 741.25, Florida Statutes, providing civil liability of parents or guardians for torts committed by their children against instructional personnel of public schools or against pupils of public schools, based upon certain criteria; providing attorney's fees for plaintiffs; providing for severability;

Amendment 3—On page 1, line 21, strike \$5,000 and insert \$2,500

Amendment 5—On page 1, in title, line 8, strike \$5,000 and insert \$2,500

On motions by Senator Myers, the Senate concurred in House Amendments 3 and 5 and refused to concur in House Amendments 1 and 2 and the House was requested to recede.

SB 1122 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—26

Castor	Graham	Myers	Trask
Chamberlin	Hair	Peterson	Vogt
Childers, Don	Henderson	Poston	Ware
Dunn	Holloway	Renick	Winn
Firestone	Johnston	Sayler	Zinkil
Glisson	Lewis	Scarborough	
Gorman	McClain	Thomas, Jon	

Nays—3

Mr. President Barron Wilson

Votes after roll call:

Yeas—W. D. Childers and Tobiassen

Yea to Nay—Don Childers

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 2 to House amendment 3; amended Senate Amendment 1 to House amendment 2, concurred in same as amended and passed SB 270, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Senator Sayler—

SB 270—A bill to be entitled An act relating to local governmental units; amending s. 163.3174(1), (2), (5), Florida Stat-

utes; providing for the creation of county wide local planning agencies by special act; providing for the required content of special acts creating local planning agencies; providing an effective date.

House Amendment to Senate Amendment 1 to House Amendment 2—On page 1, line 1, strike s. 193.496 and insert: s. 193.461, Florida Statutes, 1976 Supplement,

On motions by Senator Saylor, the Senate concurred in the House Amendment to Senate Amendment 1 to House Amendment 2 and House Amendment 2 as amended.

SB 270 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—30

Mr. President	Graham	Poston	Tobiassen
Castor	Hair	Renick	Vogt
Chamberlin	Henderson	Saylor	Ware
Childers, Don	Johnston	Scarborough	Williamson
Childers, W. D.	Lewis	Scott	Wilson
Firestone	McClain	Skinner	Winn
Gallen	Myers	Spicola	
Gorman	Peterson	Thomas, Jon	

Nays—None

The bill was ordered engrossed and then enrolled.

The President appointed Senator Gallen to escort to the rostrum Representative Rish, Cissy Whitfield of Wewahitchka, Florida Honey Queen, and Jill Jacobs of Bristol, Tupelo Honey Queen. Mr. Rish addressed the Senate briefly.

The Honorable Lew Brantley, President

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

By Senator Dunn—

SB 18—A bill to be entitled An act relating to sheriffs' fees for service of summons, subpoenas, and executions; amending s. 30.231(1), Florida Statutes; providing for an increase in fees; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. New section 30.232, Florida Statutes, is created to read:

30.232 Discretionary surfee for service of summons, subpoenas, and executions.—

(1) The sheriff in each county may charge, subject to the provision of s. 125.0166 (as created by this act), a discretionary surfee for the services listed in paragraphs (a), (b), (c) and (d) of s. 30.231 in addition to the amount permitted under s. 30.231, according to the following schedule:

(a) All summons or writs except subpoenas and executions: \$4.50 for each person or respondent to be served.

(b) All writs except executions requiring a levy or seizure of property: \$2 in addition to the extra \$4.50 surfee as stated in paragraph (a).

(c) Witness subpoenas: \$2 for each witness to be served.

(d) Executions:

1. \$2 for docketing and indexing each writ of execution, regardless of the number of persons involved;

2. \$5 for each levy;

3. \$1 for advertisement of sale under process;

4. \$3 for sale under process;

5. \$3 for deed or bill of sale.

After levy they shall be entitled to collect said fees, notwithstanding payment of debt to plaintiff. They shall be allowed actual expenses for the levying, safekeeping and sale of property under levy.

(2) All fees collected under paragraphs (a), (b), (c) and (d) of subsection (1) shall be nonrefundable, and no additional fees shall be required for alias and pluries documents when service was not effected on the original document.

(3) All fees collected under the provisions of this section shall be paid monthly into the fine and forfeiture fund of the county.

Section 2. Section 125.0166, Florida Statutes, is created to read:

125.0166 Discretionary surfee for service of summons, subpoenas, and executions.—

(1) Subject to the provisions of this section and pursuant to the provisions of s. 30.232 (as created by this act), the governing authority in each county is authorized to levy a discretionary surfee for the services listed in paragraphs (a), (b), (c), and (d) of s. 30.231.

(2) The levying of the discretionary surfee may be implemented by an ordinance levying any or all of the discretionary surfees noted in s. 30.232, to be proposed at a regular meeting of the governing authority at least 2 weeks prior to formal adoption. Formal adoption shall not be effective unless approved on final vote by not less than a majority of the total membership of the governing authority.

Section 3. Subsection (1) of section 30.30, Florida Statutes, is amended to read:

30.30 Writs, process, etc.; duties and liabilities in levying.—

(1) Whenever any writ, issuing out of any court of this state, shall be delivered to a sheriff, commanding him to levy upon property specifically described therein, it shall be his duty to levy upon such property; and, if no property is specifically described, then he shall levy upon *any property in the possession of the defendant which is described in instructions for levy or upon any property assessed against the defendant on the current tax rolls of the county or registered in his name under any law of the United States or of the state upon the request of the plaintiff or the plaintiff's attorney listing such property.*

Section 4. This act shall take effect October 1, 1977.

Amendment 2—On page 1, lines 3-6, strike all of lines 3-6 and insert: of summons, subpoenas, and executions; creating s. 30.232, Florida Statutes; providing for the levy of discretionary sheriff surfees authorized under the provisions of this act; creating s. 125.0166, Florida Statutes; authorizing each county by ordinance to levy discretionary sheriff surfees; amending s. 30.30(1), Florida Statutes, requiring the sheriff to levy upon certain property in the possession of a defendant when commanded to do so by the court and upon the request of the plaintiff or the plaintiff's attorney listing the property; providing an effective date.

On motion by Senator Dunn, the Senate concurred in the House Amendments.

SB 18 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—28

Mr. President	Gallen	Myers	Tobiassen
Barron	Glisson	Peterson	Trask
Castor	Gorman	Poston	Vogt
Chamberlin	Hair	Saylor	Williamson
Childers, W. D.	Henderson	Scott	Wilson
Dunn	Johnston	Skinner	Winn
Firestone	McClain	Thomas, Jon	Zinkil

Nays—3

Childers, Don Lewis Ware

Votes after roll call:

Yeas—Graham, Holloway, Spicola, Pat Thomas

Yea to Nay—Wilson

The bill was ordered engrossed and then enrolled.

The Honorable Lew Brantley, President

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

By Senator Myers—

SB 1246—A bill to be entitled An act relating to standards of conduct for public officers and employees; adding s.112.313 (12), Florida Statutes; permitting members of advisory boards to have or hold an employment or contractual relationship with a business entity or agency which is subject to the regulation of, or is doing business with, their own agencies and to purchase, rent, lease, or sell realty, goods, or services to or from their own agencies upon disclosure to, and grant of a waiver by, the body or person that appointed such member to the advisory board; exempting elected officials of counties and municipalities having a specified population from the prohibition against doing business with their own agency and the prohibition relating to conflicting employment and contractual relationships upon disclosure and upon approval; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, lines 14 through 20, strike all of line 14 through line 20 and insert: providing exemptions for public officers and employees from the prohibition against doing business with their own agency and the prohibition relating to conflicting employment and contractual relationships; providing an effective date.

Amendment 2—On page 1, line 22, after the colon “:” insert: (and renumber the subsequent sections)

Section 1. Section 111.09, Florida Statutes, is created to read:

111.09 Malfeasance, treble damages; nonfeasance and misfeasance, actual damages.—

(1) Whenever a public officer or employee is found in a civil action to have committed an act constituting malfeasance in office, from which act such officer or employee benefited financially, such officer or employee shall be liable to the state, in the case of a state officer or employee, or to the county or municipality, in the case of a county or municipal officer or employee, for damages in an amount equal to treble the sum of such financial benefit.

(2) Whenever a person is found in a civil action to have participated, directly or indirectly, in the commission of an act by a public officer or employee constituting malfeasance in office, from which act such person benefited financially, such person shall be liable to the state, in the case of an act committed by a state officer or employee, or to the county or municipality, in the case of an act committed by a county officer or employee, for damages in an amount equal to treble the sum of such financial benefit.

(3) Whenever a public officer or employee is found in a civil action to have committed an act or omitted to perform an act constituting nonfeasance or misfeasance in office, from which act or omission such officer or employee benefited financially, such officer or employee shall be liable to the state, in the case of a state officer or employee, or to the county or municipality, in the case of a county or municipal officer or employee, for damages in the amount of any such financial benefit plus accrued interest at the rate of 10 percent per annum.

(4) Whenever a person is found in a civil action to have directly participated in the commission of an act by a public officer or employee, or directly participated in having a public officer or employee omit the performance of an act, constituting nonfeasance or misfeasance in office, from which act or

omission such person benefited financially, such person shall be liable to the state, in the case of an act or omission by a state officer or employee, or to the county or municipality, in the case of an act or omission by a county or municipal officer or employee, for damages in the amount of any such financial benefit plus accrued interest at the rate of 10 percent per annum.

Amendment 3—On page 1, in title, line 3, after the semicolon “;” insert: creating s. 111.09, Florida Statutes; providing that public officers or employees benefiting financially from malfeasance shall be liable for treble damages; providing that persons participating with public officers or employees in acts of malfeasance and benefiting financially therefrom shall be liable for treble damages; providing that public officers or employees, and persons participating with public officers or employees, benefiting financially from nonfeasance or misfeasance shall be liable for actual damages plus interest;

On motions by Senator Myers, the Senate refused to concur in the House Amendments and the House was requested to recede. The action, with the bill and amendments, was certified to the House.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment 1 to House Amendment 2 to SB 598 and requests a Conference Committee.

Allen Morris, Clerk

By Senator Don Childers—

SB 598—A bill to be entitled An act relating to public schools; amending s. 233.17, Florida Statutes; altering the term of adoption for instructional materials; amending sections 233.14 and 233.16, Florida Statutes; providing conforming technical amendments; providing for a price escalation clause; providing an effective date.

On motion by Senator Don Childers, the Senate refused to recede from Senate Amendment 1 to House Amendment 2 and acceded to the request for a conference committee. The President appointed Senators Peterson, Don Childers and Tobiassen.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1, 3 and 4 to HB 931 and requests the Senate to recede.

Allen Morris, Clerk

By Representative Steinberg—

HB 931—A bill to be entitled An act relating to the Beverage Law; amending s. 562.11, Florida Statutes, relating to the illegal furnishing of alcoholic beverages to minors, to provide that such a violation must be committed; providing a saving clause; providing an effective date.

Senate Amendment 1—On page 1, line 19, after the word “premises” strike the period “.” and insert: Wherein the person selling, giving, serving or permitting the serving or consuming of said beverages knew or should have known that the person receiving or consuming said beverages is under 18 years of age.

Senate Amendment 3—On page 2, line 4, insert: (4) It shall be a duty imposed upon all licensees, their agents, and employees under this chapter to take all reasonable precautions in the sale or other disposition of alcoholic beverages to insure that such sale or disposition is not made to persons under the age of 18 years.

Senate Amendment 4—On page 1 in title, line 6, after the word “committed” strike the semicolon “;” and insert: wherein the violator knew or with the exercise of reasonable diligence should have known the recipient was under 18 years of age;

On motions by Senator Williamson, the Senate refused to recede from Senate amendments 1, 3 and 4 to HB 931 and again requested the House to concur.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed with 5 amendments—

By Senator Williamson—

SB 595—A bill to be entitled An act relating to mortgages; amending s. 697.01, Florida Statutes; defining the term “purchase-money mortgage”; creating s. 697.06, Florida Statutes; providing that mortgagors may prepay mortgages without penalty when the mortgage note is silent with respect to prepayment; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—Strike all of lines 12 through 31 on page 1 and lines 1 and 2 on page 2 and renumber remaining sections accordingly.

Amendment 2—On page 1 in title, lines 2, 3, and 4, strike amending s. 697.01, Florida Statutes, defining the term “purchase-money mortgage”;

Amendment 5—On page 2, line 5, strike mortgage (in both places)

Amendment 7—On page 2, lines 6 & 8, strike mortgagor and insert: obligor

Amendment 8—On page 1 in title, lines 5-7, strike mortgagors may prepay mortgages without penalty when the mortgage and insert: obligors may prepay notes without penalty when the

On motions by Senator Williamson, the Senate concurred in House Amendments 1, 5, 7 and 8.

Senator Williamson moved the following amendment to House Amendment 2 which was adopted:

Amendment 1—On page 1, on the line before line (a) between the words “strike” and “amending” insert the word “mortgages;” and on line 2, insert: notes;

On motion by Senator Williamson, the Senate concurred in the House amendment as amended and the House was requested to concur in the Senate amendment to the House amendment.

SB 595 passed as further amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29

Mr. President	Hair	Renick	Tobiassen
Castor	Henderson	Sayler	Trask
Chamberlin	Holloway	Scarborough	Vogt
Childers, W. D.	MacKay	Scott	Williamson
Gallen	McClain	Skinner	Winn
Glisson	Myers	Spicola	
Gorman	Peterson	Thomas, Jon	
Graham	Poston	Thomas, Pat	

Nays—5

Childers, Don	Johnston	Lewis	Wilson
Firestone			

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives reconsidered passage, reconsidered and withdrew House Amendments 1 and 2; has further amended, and passed SB 1230, as amended, and requests the concurrence of the Senate.

Allen Morris, Clerk

By Senator Pat Thomas and others—

SB 1230—A bill to be entitled An act relating to the State University System; creating s. 240.145, Florida Statutes, prohibiting the merger of state universities without legislative approval; providing an effective date.

Amendment 3—On page 1, line 15, after the period “.” insert: Section 2. Section 240.146, Florida Statutes, is created to read:

240.146 Curriculum Screening Committee.—The Board of Regents of the State University System and the Board of Trustees of each community college are hereby directed to establish rules to require the creation of a curriculum screening committee in each university and community college to review films and course curricula to determine the compliance with community standards on pornography (when such community standards have been clearly established). Said committee shall be composed of no less than 9 faculty members who shall be chosen by the President of each university and community college and shall be representative of the entire faculty.

and renumber subsequent section

Amendment 4—On page 1 in title, line 5, after the semicolon “;” insert: creating s. 240.146, Florida Statutes, providing for a curriculum screening committee;

On motions by Senator Pat Thomas, the Senate concurred in the House amendments.

SB 1230 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

Mr. President	Graham	Renick	Trask
Castor	Hair	Sayler	Vogt
Chamberlin	Holloway	Scarborough	Williamson
Childers, Don	Johnston	Scott	Wilson
Childers, W. D.	MacKay	Skinner	Winn
Firestone	McClain	Spicola	Zinkil
Gallen	Myers	Thomas, Jon	
Glisson	Peterson	Thomas, Pat	
Gorman	Poston	Tobiassen	

Nays—None

The bill was ordered engrossed and then enrolled.

On motion by Senator Graham, the Senate reconsidered the vote by which—

SB 551—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s. 409.235(2), Florida Statutes; providing that the payment of assistance under the aid to families with dependent children program is discretionary; providing an effective date.

—as amended passed this day.

On motion by Senator Graham the Senate reconsidered the vote by which the Senate concurred in House Amendments 1 and 2.

Senator Graham moved the following amendment to House amendment 1 which was adopted:

Senate Amendment 1A to House Amendment 1—On page 1, the second line 16, strike the period and insert: (4) On January 15 of each year, the Department of Health and Rehabilitative Services shall report to the Legislature with respect to the status of the program of assistance provided under this section.

(5) The department shall establish and maintain an automated management and information system with respect to the program of assistance provided under this section. This system shall be placed in operation no later than July 1, 1977.

(6) The department is authorized to conduct a preliminary investigation into suspected violations of s. 409.325 with respect to the program of assistance provided under this section and report any information it deems necessary to the Auditor General for performance of his duties under s. 11.50.

(a) The department in coordination with the Auditor General shall report any criminal violation that it finds to the appropriate state attorney for prosecution.

(b) If, upon a hearing pursuant to chapter 120, there exists substantial evidence that a provider has violated the provisions of s. 409.325, the department may suspend the privilege of such provider of services to participate in the program of assistance provided by this section.

(c) The department in coordination with the Auditor General shall report the suspension of any physician, osteopathic physician, pharmacist, or nursing home administrator from the participation in the program of assistance provided under this section in writing to the appropriate professional licensing board. Upon such written report by the department, the board shall hold a hearing to determine whether or not any charges which might lead to denial, suspension, or revocation of a license or other disciplinary action should be preferred against such provider of services.

Senator Graham moved the following amendment to House Amendment 2 which was adopted:

Senate Amendment 2A to House Amendment 2—On page 1, in title, line 5, after the semicolon insert: prescribing additional duties of the Department of Health and Rehabilitative Services with respect to such program of assistance; authorizing the department to investigate suspected fraud or attempted fraud violations under s. 409.325, Florida Statutes, with respect to such assistance, requiring any criminal violation to be reported to the appropriate state attorney; authorizing the department to suspend the privilege of participation in the program of any provider of services whom it finds to have violated s. 409.325, Florida Statutes; requiring any violation by a physician, osteopathic physician, dentist, pharmacist, or nursing home administrator to be reported to the appropriate professional licensing board and requiring such board to conduct a disciplinary proceeding with respect to the violator;

On motions by Senator Graham, the Senate concurred in the House Amendments as amended and the House was requested to concur in the Senate amendments.

SB 551 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Graham	Peterson	Tobiassen
Castor	Hair	Poston	Trask
Childers, Don	Henderson	Saylor	Vogt
Childers, W. D.	Holloway	Scott	Williamson
Firestone	Johnston	Skinner	Wilson
Gallen	Lewis	Spicola	Winn
Glisson	McClain	Thomas, Jon	Zinkil
Gorman	Myers	Thomas, Pat	

Nays—None

SPECIAL ORDER

SB 1340—A bill to be entitled An act relating to the tax on the severance of solid minerals; amending s. 211.31, Florida Statutes; providing an excise tax on the commercial severance of phosphate rock; restricting the credit for ad valorem tax payments; providing for the distribution of such tax; creating the Old Land Reclamation Trust Fund; adding s. 211.32(4), Florida Statutes; providing standards and procedures for the reclamation and restoration of certain acres disturbed by the severance of solid minerals before July 1, 1975; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator Myers:

Amendment 1—On page 2, on line 19 strike "\$2.50;" and on line 20 strike "26" on line 19 insert: \$1.25; and on line 20 insert: 15

Senators MacKay and Spicola offered the following substitute amendment for Amendment 1 which was moved by Senator MacKay:

Amendment 2—On page 2, strike all of lines 19 through 29 and on page 3, strike all of lines 1 through 12 and insert: of this state for commercial use shall be 12 percent of the value at the point of severance of the phosphate minerals severed during the taxable year. The proceeds from the tax provided in this manner shall be paid into the state treasury as follows:

(a) Twenty-one percent to the credit of the Land Reclamation Trust Fund established for refunds under the provisions of s. 211.32(3).

(b) Eight percent to the credit of the old Lands Reclamation Trust Fund, which is hereby created, for distributions as provided under the provisions of s. 211.32(4).

(c) Seventy-nine percent shall be paid to the credit of the General Revenue Fund.

The expenses for this part shall be borne by the Old Land Reclamation Trust Fund.

Section 2. Subsection (1) of section 211.32 Florida Statutes, is hereby repealed.

(Renumber subsequent section.)

Senator Plante moved the following amendment to amendment 2:

Amendment 2A—On page 1, above line a, strike everything after the word "Amendment" and insert: Section 1. Subsection (1) of section 211.31, Florida Statutes, is amended to read:

211.31 Levy of tax on severance of solid minerals; rate, basis, distribution, and implementation of tax.—

(1) There is hereby levied, to be collected as provided herein, an excise tax upon every person engaging in the business of severing solid minerals from the soils and waters of this state for commercial use. Such tax shall be 5 10 percent of the value at the point of severance of the identifiable solid minerals severed. The proceeds of the tax, excluding the amount credited for ad valorem tax payments, shall be paid into the State Treasury as follows:

(a) ~~Seventy-five~~ ~~Fifty~~ percent to the credit of the general revenue fund of the state; and

(b) ~~Twenty-five~~ ~~Fifty~~ percent to the credit of a Land Reclamation Trust Fund to be established for refunds under the provisions of s. 211.32(3).

The expenses of administering this part shall be borne by the Land Reclamation Trust Fund.

Section 2. Subparagraph 1. of paragraph (d) of subsection 211.32(3), Florida Statutes, is amended to read:

211.32 Tax on solid minerals; credit for ad valorem taxes and royalties; certain exclusions; refund for restoration and reclamation.—

(3)(d) The Comptroller shall, upon written verification of compliance with paragraphs (a), (b), or (c) of this subsection by the Department of Natural Resources, and upon verification of the cost of the restoration and reclamation program or, if paragraph (c) is elected, the fair market value of the land, grant refunds, to be paid from the Land Reclamation Trust Fund, of the taxes paid under this part, in an amount equal to 100 percent of the costs incurred in complying with paragraphs (a) or (b), or 100 percent of the fair market value of the land transferred in complying with paragraph (c), subject to the following limitations:

1. A taxpayer shall not be entitled to refunds in excess of ~~25~~ ~~50~~ percent of the taxes paid by the taxpayer under this part.

Section 3. This act shall take effect July 1, 1977. It is the intent of the Legislature that the increased taxes and other amendments enacted by this act shall apply to the severance of solid minerals and to the performance of land reclamation occurring on and after July 1, 1977.

Amendment 2A was adopted by the following vote:

Yeas—19

Barron	Henderson	Poston	Trask
Dunn	Holloway	Sayler	Wilson
Firestone	McClain	Scarborough	Winn
Gorman	Peterson	Skinner	Zinkil
Hair	Plante	Tobiassen	

Nays—18

Castor	Glisson	Myers	Thomas, Pat
Chamberlin	Graham	Renick	Vogt
Childers, Don	Johnston	Scott	Ware
Childers, W. D.	Lewis	Spicola	
Gallen	MacKay	Thomas, Jon	

Senator Holloway moved that the Senate reconsider the vote by which Amendment 2A was adopted. The motion was adopted by the following vote:

Yeas—22

Castor	Gallen	Myers	Thomas, Pat
Chamberlin	Graham	Poston	Tobiassen
Childers, Don	Holloway	Scarborough	Vogt
Childers, W. D.	Johnston	Scott	Ware
Dunn	Lewis	Spicola	
Firestone	MacKay	Thomas, Jon	

Nays—14

Barron	Henderson	Renick	Winn
Glisson	McClain	Skinner	Zinkil
Gorman	Peterson	Trask	
Hair	Plante	Wilson	

The question recurred on Amendment 2A which failed by the following vote:

Yeas—19

Barron	McClain	Sayler	Trask
Glisson	Peterson	Scarborough	Wilson
Gorman	Plante	Scott	Winn
Hair	Poston	Skinner	Zinkil
Henderson	Renick	Thomas, Jon	

Nays—19

Castor	Firestone	Lewis	Tobiassen
Chamberlin	Gallen	MacKay	Vogt
Childers, Don	Graham	Myers	Ware
Childers, W. D.	Holloway	Spicola	Williamson
Dunn	Johnston	Thomas, Pat	

The question recurred on Amendment 2 which was adopted.

The Senate recessed at 12:00 noon to reconvene at 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:00 p.m. A quorum present—39:

Mr. President	Gorman	Peterson	Thomas, Pat
Barron	Graham	Plante	Tobiassen
Castor	Hair	Poston	Trask
Chamberlin	Henderson	Renick	Vogt
Childers, Don	Holloway	Sayler	Ware
Childers, W. D.	Johnston	Scarborough	Williamson
Dunn	Lewis	Scott	Wilson
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	Zinkil
Glisson	Myers	Thomas, Jon	

On motion by Senator W. D. Childers, the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote HB 1089 and Senate Bills 436, 854, 1199 and 1336, and CS for SB 750 were withdrawn from the Committee on Commerce.

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote House Bills 2269 and 2270 were withdrawn from the Committees on Commerce and Finance, Taxation and Claims.

On motion by Senator W. D. Childers, by two-thirds vote, HB 1641 was withdrawn from the Committee on Commerce.

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote House Bills 2234 and 2235 were withdrawn from the Committee on Rules and Calendar.

On motion by Senator W. D. Childers, the rules were waived and by two-thirds vote SB 1408 was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Spicola, the rules were waived and by two-thirds vote HB 1033 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Lewis, the rules were waived and by two-thirds vote SCR 1413 was withdrawn from the Committee on Finance, Taxation and Claims.

SPECIAL ORDER

The Senate resumed consideration of—

SB 1340—A bill to be entitled An act relating to the tax on the severance of solid minerals; amending s. 211.31, Florida Statutes; providing an excise tax on the commercial severance of phosphate rock; restricting the credit for ad valorem tax payments; providing for the distribution of such tax; creating the Old Land Reclamation Trust Fund; adding s. 211.32(4), Florida Statutes; providing standards and procedures for the reclamation and restoration of certain acres disturbed by the severance of solid minerals before July 1, 1975; providing an effective date.

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator Myers and adopted:

Amendment 3—On page 3, lines 5 through 9 insert: *credit of the General Revenue Fund of the state.*

On motion by Senator MacKay the Senate reconsidered the vote by which Amendment 2 was adopted. By permission Senator MacKay withdrew Amendment 2.

Senators Plante, MacKay, Graham, Dunn and Myers offered the following substitute amendment for Amendment 1 which was moved by Senator Plante and adopted.

Amendment 4—On page 1, above line a, strike everything after the enacting clause and insert: Section 1. Subsection (1) of section 211.31, Florida Statutes, is amended to read:

211.31 Levy of tax on severance of solid minerals; rate, basis, distribution, and implementation of tax.—

(1) There is hereby levied, to be collected as provided herein, an excise tax upon every person engaging in the business of severing solid minerals from the soils and waters of this state for commercial use. Such tax shall be $\frac{5}{12}$ percent of the value at the point of severance of the identifiable solid minerals severed. The proceeds of the tax, excluding the amount credited for ad valorem tax payments, shall be paid into the State Treasury as follows:

(a) ~~Seventy-five~~ ~~Fifty~~ percent to the credit of the general revenue fund of the state; and

(b) ~~Twenty-five~~ ~~Fifty~~ percent to the credit of a Land Reclamation Trust Fund to be established for refunds under the provisions of s. 211.32(3).

The expenses of administering this part shall be borne by the Land Reclamation Trust Fund.

Section 2. Subparagraph 1. of paragraph (d) of subsection 211.32(3), Florida Statutes, is amended to read:

211.32 Tax on solid minerals; credit for ad valorem taxes and royalties; certain exclusions; refund for restoration and reclamation.—

(3)(d) The Comptroller shall, upon written verification of compliance with paragraphs (a), (b), or (c) of this subsection by the Department of Natural Resources, and upon verification of the cost of the restoration and reclamation program or, if paragraph (c) is elected, the fair market value of the land, grant refunds, to be paid from the Land Reclamation Trust Fund, of the taxes paid under this part, in an amount equal to 100 percent of the costs incurred in complying with paragraphs (a) or (b), or 100 percent of the fair market value of the land transferred in complying with paragraph (c), subject to the following limitations:

1. A taxpayer shall not be entitled to refunds in excess of 25 50 percent of the taxes paid by the taxpayer under this part.

Section 3. This act shall take effect July 1, 1977. It is the intent of the Legislature that the increased taxes and other amendments enacted by this act shall apply to the severance of solid minerals and to the performance of land reclamation occurring on and after July 1, 1977.

Senator Plante moved the following amendment:

Amendment 5—On page 1 in title, lines 1 through 14, strike all of said lines and insert: A bill to be entitled An Act relating to the tax on the severance of solid minerals; amending ss. 211.31(1) and 211.32(3)(d)1., Florida Statutes; providing an excise tax on the commercial severance of solid minerals; providing for the distribution of such tax; providing an effective date.

Senator Plante moved the following amendment to Amendment 5 which was adopted:

Amendment 5A—On page 1, line 5, insert after the semicolon limiting the land restoration and reclamation programs which are eligible for refunds;

Amendment 5 as amended was adopted.

Senators Plante, MacKay, Graham and Myers offered the following amendment which was moved by Senator MacKay and adopted:

Amendment 6—On page 1, line 18, before the period insert: *and such refund shall only be made for the restoration and reclamation of acres disturbed by the severance of solid minerals prior to July 1, 1975, which have not been reclaimed and which are not included in a Department of Natural Resources approved reclamation and restoration program as of December 31, 1971*

Senator Peterson moved the following amendment:

Amendment 7—On page 1, above line a, strike everything after the word "Amendment" and insert: Section 1. Subsection (1) of section 211.31, Florida Statutes, is amended to read:

211.31 Levy of tax on severance of solid minerals; rate, basis, distribution, and implementation of tax.—

(1) There is hereby levied, to be collected as provided herein, an excise tax upon every person engaging in the business of severing solid minerals from the soils and waters of this state for commercial use. Such tax shall be 5 10 percent of the value at the point of severance of the identifiable solid minerals severed. The proceeds of the tax, excluding the amount credited for ad valorem tax payments, shall be paid into the State Treasury as follows:

(a) ~~Seventy-five~~ ~~Fifty~~ percent to the credit of the general revenue fund of the state; and

(b) ~~Twenty-five~~ ~~Fifty~~ percent to the credit of a Land Reclamation Trust Fund to be established for refunds under the provisions of s. 211.32(3).

The expenses of administering this part shall be borne by the Land Reclamation Trust Fund.

Section 2. Subparagraph 1. of paragraph (d) of subsection 211.32(3), Florida Statutes, is amended to read:

211.32 Tax on solid minerals; credit for ad valorem taxes and royalties; certain exclusions; refund for restoration and reclamation.—

(3)(d) The Comptroller shall, upon written verification of compliance with paragraphs (a), (b), or (c) of this subsection by the Department of Natural Resources, and upon verification of the cost of the restoration and reclamation program or, if paragraph (c) is elected, the fair market value of the land, grant refunds, to be paid from the Land Reclamation Trust Fund, of the taxes paid under this part, in an amount equal to 100 percent of the costs incurred in complying with paragraphs (a) or (b), or 100 percent of the fair market value of the land transferred in complying with paragraph (c), subject to the following limitations:

1. A taxpayer shall not be entitled to refunds in excess of 25 50 percent of the taxes paid by the taxpayer under this part.

Section 3. This act shall take effect July 1, 1977. It is the intent of the Legislature that the increased taxes and other amendments enacted by this act shall apply to the severance of solid minerals and to the performance of land reclamation occurring on and after July 1, 1977.

Amendment 7 failed by the following vote:

Yeas—15

Barron	Hair	Sayler	Trask
Childers, W. D.	Henderson	Scarborough	Wilson
Gallen	McClain	Skinner	Zinkil
Gorman	Peterson	Tobiassen	

Nays—20

Castor	Graham	Myers	Thomas, Pat
Chamberlin	Holloway	Plante	Vogt
Childers, Don	Johnston	Scott	Ware
Dunn	Lewis	Spicola	Williamson
Firestone	MacKay	Thomas, Jon	Winn

Senator Trask moved that the Senate reconsider the vote by which Amendment 6 was adopted. The motion failed by the following vote:

Yeas—14

Childers, W. D.	Peterson	Scott	Wilson
Gallen	Plante	Skinner	Zinkil
Glisson	Renick	Tobiassen	
Gorman	Sayler	Trask	

Nays—19

Castor	Graham	Myers	Vogt
Chamberlin	Holloway	Poston	Ware
Childers, Don	Johnston	Scarborough	Williamson
Dunn	Lewis	Spicola	Winn
Firestone	MacKay	Thomas, Pat	

Vote after roll call:

Nay—Hair

Senators Scarborough and Peterson offered the following amendment to the bill as amended which was moved by Senator Peterson and failed:

Amendment 8—On page 2, line 18, following "Rock" insert: , lime Rock,

On motion by Senator Myers, by two-thirds vote SB 1340 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Glisson	Myers	Tobiassen
Castor	Graham	Plante	Vogt
Chamberlin	Hair	Poston	Ware
Childers, Don	Holloway	Renick	Williamson
Childers, W. D.	Johnston	Scott	Winn
Dunn	Lewis	Spicola	
Firestone	MacKay	Thomas, Jon	
Gallen	McClain	Thomas, Pat	

Nays—8

Barron	Peterson	Scarborough	Wilson
Gorman	Sayler	Skinner	Zinkil

Votes after roll call:

Nays—Henderson, Trask

SB 1365—A bill to be entitled An act relating to the oil and gas production tax; amending s. 211.02(1), Florida Statutes; increasing the rate of taxation; changing the percentage distribution under the first and second oil and gas tax; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator MacKay and adopted:

Amendment 1—On page 1, lines 23, 24, 27 and 30, on line 23 strike 12; on line 24, strike 12; on line 27, strike *Eleven-twelfths*; and on line 30, strike *One-twelfth*. on line 23, insert 8; on line 24, insert 8; on line 27, insert *Seven-eighths*; and on line 30, insert *One-eighth*.

Senator McClain moved the following amendment which failed:

Amendment 2—On page 1, lines 23 and 24, strike 12 and insert: 6

Senator Plante moved the following amendment to the bill as amended which was adopted:

Amendment 3—On page 1, lines 23 and 24, on line 23, strike 8; on line 24, strike 8 on line 23, insert 5; on line 24, insert 5

On motion by Senator MacKay, by two-thirds vote SB 1365 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—23

Mr. President	Gallen	Lewis	Thomas, Jon
Castor	Glisson	MacKay	Vogt
Chamberlin	Graham	Myers	Ware
Childers, Don	Hair	Plante	Williamson
Dunn	Holloway	Poston	Winn
Firestone	Johnston	Spicola	

Nays—16

Barron	McClain	Scarborough	Tobiassen
Childers, W. D.	Peterson	Scott	Trask
Gorman	Renick	Skinner	Wilson
Henderson	Sayler	Thomas, Pat	Zinkil

By the Committee on Finance, Taxation and Claims and Senator Gordon—

CS for SB 1212—A bill to be entitled An act relating to the Beverage Law; adding s. 561.01(12), Florida Statutes; providing a definition for "net purchase price"; amending ss. 561.50, 561.55(1), Florida Statutes; providing that the beverage tax shall be paid as a percentage of the net purchase price of alcoholic beverages; providing for remittance of tax and filing of required reports to the Division of Beverage of the Department of Business Regulation for the previous calendar

month; amending ss. 563.05, 564.06, 565.12, Florida Statutes; providing that the beverage tax on malts, wines, and liquors shall be a percentage of the net purchase price; providing an exemption; deleting requirement for payment of tax by vendors; providing for levy and payment of tax on alcoholic beverages in possession of a distributor on October 1, 1977; providing an effective date.

—was read the first time by title and SB 1212 was laid on the table.

On motion by Senator Graham, by two-thirds vote CS for SB 1212 was read the second time by title.

Senator Lewis moved the following amendment:

Amendment 1—On page 1, line 24, strike all after the enacting clause and insert: Section 1. Section 563.05, Florida Statutes, is amended to read:

563.05 Excise taxes on malt beverages.—As to malt beverages containing more than 1 percent of alcohol by weight there shall be paid by all manufacturers, distributors, and vendors, as herein defined, a tax of ~~32~~ 40 cents per gallon upon all such beverages in bulk or in kegs or barrels, and, when sold in containers of less than 1 gallon, the tax shall be 4 5 cents on each pint or fraction thereof in said container. However, the excise taxes required to be paid by this section upon malt beverages containing alcohol of not more than 3.2 percent by weight shall not be required to be paid upon such beverages when the same are sold to post exchanges, ship service stores, and base exchanges located in military, naval, or air force reservations within this state.

Section 2. (Substantial rewording of Sec. 564.06, F.S. See Sec. 564.06, F.S., for present text.)

564.06 Excise taxes on all wines; exemptions.—

(1) As to all wines containing more than 1 percent alcohol by weight there shall be paid by all manufacturers and distributors a tax at the rate of \$1.75 per gallon.

(2) As to all wines containing more than 1 percent alcohol by weight manufactured in Florida from Florida-grown fresh fruits, berries, or grapes and not from concentrates thereof, except concentrates of fruits, berries, or grapes grown and concentrated in Florida and bottled in Florida and upon all other such beverages except malt beverages, containing more than 1 percent alcohol by weight manufactured and bottled in Florida from Florida-grown citrus products, citrus byproducts, honey, fresh fruits, berries, grapes, sugarcane, guavas, potatoes, peaches, papayas, strawberries, and mangoes, and not from concentrates thereof except concentrates grown and concentrated in the state, the tax imposed by subsection (1) hereof shall not apply provided, however, that in lieu thereof there shall be paid by all manufacturers and distributors a tax of 87.5 cents per gallon upon such beverages.

(3) Wine purchases from a Florida distributor for use by an established church as sacramental wine or in connection with religious services is hereby expressly exempted from the provisions of this section.

Section 3. Section 565.12, Florida Statutes, is amended to read:

565.12 Excise tax on liquors and beverages.—

(1)(a) As to beverages containing 14 percent or more of alcohol by weight and not more than 48 percent of alcohol by weight, except wines, there shall be paid by all manufacturers, distributors and vendors a tax at the rate of ~~\$3.75~~ 4.75 per gallon.

(b) As to all such beverages manufactured and bottled in Florida from Florida-grown citrus products, citrus byproducts, honey, fresh fruits, berries, grapes, sugarcane, guavas, potatoes, peaches, papayas, strawberries and mangoes, and not from concentrates thereof, except concentrates grown and concentrated in the state the tax imposed by paragraph (a) shall not apply, provided, however, that in lieu thereof there shall be paid by all manufacturers and distributors a tax at the rate of \$45-8 2.375 cents per gallon. ~~The rate of tax imposed by this paragraph shall be increased by the following schedule: October 1, 1971, 18.7 cents; October 1, 1972, 18.5 cents; October 1, 1973, 18.5 cents; October 1, 1974, 18.5 cents, and October 1, 1975, 18.5 cents.~~

(2) (a) As to beverages containing more than 48 percent of alcohol by weight, there shall be paid by all manufacturers, distributors and vendors a tax at the rate of ~~\$7.52~~ 8.52 per gallon.

(b) As to all such beverages manufactured and bottled in Florida from Florida-grown citrus products, citrus byproducts, honey, fresh fruits, berries, grapes, sugar cane, guavas, potatoes, peaches, papayas, strawberries and mangoes, and not from concentrates thereof except concentrated grown and concentrated in the state the tax imposed by paragraph (a) shall not apply, provided, however, that in lieu thereof there shall be paid by all manufacturers and distributors a tax at the rate of ~~one dollar eighty-nine and six-tenths cents~~ four dollars and twenty six cents per gallon. The difference between the rate of tax imposed by this paragraph and the rate of tax imposed by paragraph (a) shall be reduced and eliminated by the following schedule: October 1, 1971, 27.4 cents; October 1, 1972, 27 cents; October 1, 1973, 27 cents; October 1, 1974, 27 cents, and October 1, 1975, 27 cents.

(3) The use of the words "and vendors" in subsections (1) (a) and (2) (a) shall not be construed as imposing a new excise tax based upon sale at retail, but shall only be construed as applying the increase in tax rates to vendors inventories of stock on June 1, 1968.

Section 4. This act shall take effect October 1, 1977.

Senator Williamson moved the following amendment to Amendment 1:

Amendment 1A—On page 4, between lines 1 and 2, add a new Section 4 and renumber the existing Section 4 Section 4. Section 563.10 Florida Statutes is created to read:

563.10 Excise Tax on Soft Drinks.—

(1) There shall be paid by every person doing business within this state and engaged in the business of selling, manufacturing, purchasing, consigning, using, shipping or distributing, for the purpose of sale within this state, soft drinks, an excise tax upon all such beverages.

(2) (a) Soft drinks are defined to be all carbonated beverages, including carbonated water, containing less than 1% alcohol by weight and any and all soft drink syrups used with carbonated water in the preparation of non-bottled soft drinks.

(b) "Bottled soft drinks" mean any ready to use soft drink in a closed or sealed container, regardless of the size of such container.

(3) The excise tax required to be paid by this Section shall be at the rate of 1 cent for each 12 ounces or fractional part thereof for bottled soft drinks and \$1 per gallon or fractional part thereof for soft drink syrup.

(4) The tax imposed by this section shall be paid only once and shall be remitted to the Department of Revenue on or before the twentieth of each month, for all bottled soft drinks and soft drink syrups sold during the previous calendar month.

(5) The Department of Revenue may require the posting of a reasonable surety bond sufficient to secure the payment of all taxes levied.

(6) The Department of Revenue may adopt reasonable rules and regulations in order to carry out the provisions of this section.

(7) The proceeds of the tax hereby levied, except that amount required for administration, shall be deposited in the State Treasury to the credit of the General Revenue Fund of the State.

(8) Provisions of Chapter 212 relating to penalties shall apply to this section.

(9) The provisions of this section shall take effect October 1, 1977.

Amendment 1A failed by the following vote:

Yeas—14

Childers, Don	Johnston	Scarborough	Williamson
Gallen	Plante	Scott	Wilson
Gorman	Renick	Vogt	
Henderson	Sayler	Ware	

Nays—25

Mr. President	Glisson	Myers	Tobiassen
Barron	Graham	Peterson	Trask
Castor	Hair	Poston	Winn
Chamberlin	Holloway	Skinner	Zinkil
Childers, W. D.	Lewis	Spicola	
Dunn	MacKay	Thomas, Jon	
Firestone	McClain	Thomas, Pat	

Amendment 1 was adopted.

On motion by Senator Graham, by two-thirds vote CS for SB 1212 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Glisson	Peterson	Thomas, Pat
Castor	Hair	Plante	Tobiassen
Chamberlin	Holloway	Poston	Vogt
Childers, Don	Johnston	Renick	Ware
Childers, W. D.	Lewis	Scott	Williamson
Dunn	MacKay	Skinner	
Firestone	McClain	Spicola	
Gallen	Myers	Thomas, Jon	

Nays—8

Barron	Henderson	Scarborough	Wilson
Gorman	Sayler	Trask	Zinkil

On motion by Senator Plante, the Senate reconsidered the vote by which—

SB 1365—A bill to be entitled An act relating to the oil and gas production tax; amending s. 211.02(1), Florida Statutes; increasing the rate of taxation; changing the percentage distribution under the first and second oil and gas tax; providing an effective date.

—as amended passed this day.

On motion by Senator Plante, the Senate reconsidered the vote by which SB 1365 was placed on third reading.

On motion by Senator Plante, the Senate reconsidered the vote by which Amendment 3 was adopted. By permission Senator Plante withdrew Amendment 3.

Senator Plante moved the following amendment which was adopted:

Amendment 4—On page 1, on line 24; strike "8" and on line 24; insert 5

On motion by Senator Plante, by two-thirds vote SB 1365 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—23

Mr. President	Gallen	MacKay	Spicola
Castor	Graham	Myers	Thomas, Pat
Chamberlin	Hair	Peterson	Vogt
Childers, Don	Holloway	Plante	Williamson
Dunn	Johnston	Poston	Winn
Firestone	Lewis	Skinner	

Nays—12

Barron	Gorman	Scarborough	Trask
Childers, W. D.	Henderson	Scott	Wilson
Glisson	McClain	Tobiassen	Zinkil

Votes after roll call:

Yea to Nay—Plante, Skinner

SB 1433—A bill to be entitled An act relating to taxation; amending ss. 210.02(1), (3)-(5), 210.20(2)(a), Florida Statutes; increasing the excise or privilege tax on cigarettes; changing the distribution of funds received from such taxes; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator MacKay:

Amendment 1—On page 1, on line 21, strike “9”; on line 23, strike “18”; and on line 26, strike “36”; and on line 21, insert 11; on line 23, insert 22; and on line 26, insert 44

Senator Lewis moved the following substitute amendment which was adopted:

Amendment 2—On page 1, on line 21, strike “9”; on line 23, strike “18”; and on line 26, strike “36”; and on line 21, insert 10½; on line 23, insert 21; and on line 26, insert 42

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator MacKay:

Amendment 3—On page 2, on line 2, strike “9-cent”; on line 4, strike “18-cent”; on line 9, strike “18-cent”; on line 11, strike “36-cent”; on line 16, strike “36-cent”; and on line 18, strike “72-cent”; and on line 2, insert 11-cent; on line 4, insert 22-cent; on line 9, insert 22-cent; on line 11, insert 44-cent; on line 16, insert 44-cent; and on line 18, insert 88-cent

Senator Lewis moved the following substitute amendment which was adopted:

Amendment 4—On page 2, on line 2, strike “9-cent”; on line 4, strike “18-cent”; on line 9, strike “18-cent”; on line 11, strike “36-cent”; on line 16, strike “36-cent”; and on line 18, strike “72-cent”; and on line 2, insert 10½-cent; on line 4, insert 21-cent; on line 9, insert 21-cent; on line 11, insert 42-cent; on line 16, insert 42-cent; and on line 18, insert 84-cent

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator MacKay:

Amendment 5—On page 3, on line 2, strike “two-eighteenths”; on line 3, strike “twelve-eighteenths”; and on line 5, strike “one-eighteenth”; and on line 2, insert two-twenty-seconds; on line 3, insert eleven-twenty-seconds; and on line 5, insert one-twenty-second

Senator Lewis moved the following substitute amendment which was adopted:

Amendment 6—On page 3, on line 2, strike “two-eighteenths”; on line 3, strike “twelve-eighteenths”; and on line 5, strike “one-eighteenth”; and on line 2, insert two-twenty-firsts; on line 3, insert eleven-twenty-firsts; and on line 5, insert one-twenty-first

Senators Jon Thomas, Renick, Saylor, Johnston, Firestone and Plante offered Amendment 7 which was moved by Senator Jon Thomas and failed by the following vote:

Yeas—15

Barron	Gallen	Renick	Tobiassen
Childers, Don	Johnston	Saylor	Wilson
Childers, W. D.	Peterson	Scarborough	Winn
Firestone	Poston	Thomas, Jon	

Nays—22

Mr. President	Graham	McClain	Trask
Castor	Hair	Myers	Vogt
Chamberlin	Henderson	Plante	Ware
Dunn	Holloway	Scott	Zinkil
Glisson	Lewis	Spicola	
Gorman	MacKay	Thomas, Pat	

Vote after roll call:

Yea to Nay—Barron

On motion by Senator Jon Thomas, the rules were waived and Amendment 7 was not printed in the Journal because of its volume.

On motion by Senator MacKay, by two-thirds vote SB 1433 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—23

Mr. President	Gallen	Lewis	Thomas, Jon
Chamberlin	Glisson	MacKay	Thomas, Pat
Childers, Don	Graham	Myers	Tobiassen
Childers, W. D.	Hair	Plante	Vogt
Dunn	Holloway	Poston	Winn
Firestone	Johnston	Spicola	

Nays—14

Barron	McClain	Scott	Williamson
Castor	Peterson	Skinner	Wilson
Gorman	Saylor	Trask	
Henderson	Scarborough	Ware	

Votes after roll call:

Yea—Renick

Nay—Zinkil

Yea to Nay—Spicola, Pat Thomas

By the Committee on Finance, Taxation and Claims and Senator Gordon (by request)—

CS for SB 1385—A bill to be entitled An act relating to taxation; amending s. 220.03(1)(1), Florida Statutes, to redefine the term “State” applicable to corporate income taxation; amending s. 220.13(1)(b), Florida Statutes, to delete subparagraph 2, relating to the exemption of foreign source income from corporate income taxation; amending s. 220.15(3), Florida Statutes, to redefine the term “everywhere” as used in the computation of apportionment factor denominators for corporate income tax purposes; effective for taxable years beginning after June 30, 1977.

—was read the first time by title and SB 1385 was laid on the table.

On motion by Senator Myers, by two-thirds vote CS for SB 1385 was read the second time by title.

The Committee on Finance, Taxation and Claims offered the following amendment which was moved by Senator Myers and failed:

Amendment 1—On page 4, between lines 20 and 21 insert: Section 4. Paragraph (i) of subsection (2) of section 220.13, Florida Statutes, 1976 Supplement, is amended to read:

220.13 Adjusted federal income defined.—

(2) For purposes of this section, a taxpayer’s taxable income for the taxable year shall mean taxable income as defined in section 63 of the Internal Revenue Code and properly reportable for federal income tax purposes for the taxable year, but subject to the limitations set forth in paragraph (1) (b) with respect to the deductions provided by sections 172 (relating to net operating losses), 170 (d)(2) (relating to excess charitable contributions), 404 (a)(1)(D) (relating to excess pension trust contributions), 404 (a)(3)(A) and (B) (to the extent relating to excess stock bonus and profit-sharing trust contributions), 404 (d) (relating to excess contributions under the 1939 code) and 1212 (relating to capital losses) of the Internal Revenue Code, except that, subject to the same limitations:

(i) “Taxable income,” in the case of a corporation for which there is in effect for the taxable year an election under section 1372 of the Internal Revenue Code, shall mean the amount of income subject to tax at the corporate level under paragraph 1372 (b)(1) of the Internal Revenue Code for each taxable year commencing prior to July 1, 1977, and taxable income for such a corporation for each taxable year commencing on or after January 1, 1977 shall mean taxable income as defined in section

63 of the Internal Revenue Code (determined without regard to the provisions of subchapter S of said Code).

(Renumber subsequent sections.)

On motion by Senator MacKay, further consideration of CS for SB 1385 was deferred.

By the Committee on Finance, Taxation and Claims and Senator Gordon (by request)—

CS for SB 1285—A bill to be entitled An act relating to taxation of motor and other fuels which provides a price responsive adjustment for the taxes levied under ss. 206.41, 206.60, 206.605, and 206.87, Florida Statutes; and the deductions and credits permitted under ss. 206.31, 206.43, 206.50, 206.64, 206.625, and 215.22, Florida Statutes; by creating ss. 206.78, 206.781, 206.782, 206.98 and 206.981, Florida Statutes; providing an effective date.

—was read the first time by title and SB 1285 was laid on the table.

On motion by Senator MacKay, by two-thirds vote CS for SB 1285 was read the second time by title.

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

Amendment 1—On page 1, strike everything after the enacting clause and insert: Section 1. Section 206.606, Florida Statutes, is created to read:

206.606 Additional tax on motor fuel.—

(1) An additional excise or license tax of 1 cent per gallon is imposed, in addition to all other taxes imposed, upon every gallon of motor fuel sold or used in this state, or brought into this state for use, upon which such tax has not been paid, or the payment thereof not lawfully assumed by some person handling the same in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title within this state whether by a distributor or dealer, except as expressly provided in s. 206.41(2), who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(2) An additional excise or license tax of 1 cent per gallon is imposed, in addition to all other taxes imposed, upon every gallon of special fuels used or sold in this state for use. Unless expressly provided to the contrary in part II of this chapter, every sale shall be deemed to be for use in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title within this state by a dealer, except as expressly provided in part II of this chapter, who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(3) The additional 1-cent tax per gallon imposed by this section on motor fuels and special fuels shall be collected by the department. Of the money collected 75 percent shall be paid into the State Treasury for deposit in the Department of Transportation Trust Fund, and shall be used by the Department of Transportation, and 25 percent shall be returned to the county in which the tax was collected.

(4) The taxes imposed by and collected pursuant to the provisions of this section shall be administered in accordance with the provisions of this section and the provisions of parts I and II of this chapter that are not inconsistent with the provisions of this section.

Section 2. This act shall take effect July 1, 1977.

Senator Ware moved the following substitute amendment:

Amendment 2—On pages 1, 2 and 3, strike everything after the enacting clause and insert: Section 1. Section 206.606, Florida Statutes, is created to read:

206.606 Additional tax on motor fuel for public transportation purposes.—

(1) An additional excise or license tax of 1 cent per gallon is imposed, in addition to all other taxes imposed, upon every gallon of motor fuel sold or used in this state, or brought into this state for use, upon which such tax has not been paid, or the

payment thereof not lawfully assumed by some person handling the same in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title within this state whether by a distributor or dealer, except as expressly provided in s. 206.41(2), who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(2) An additional excise or license tax of 1 cent per gallon is imposed, in addition to all other taxes imposed, upon every gallon of special fuels used or sold in this state for use. Unless expressly provided to the contrary in part II of this chapter, every sale shall be deemed to be for use in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title within this state by a dealer, except as expressly provided in part II of this chapter, who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(3) The additional 1-cent tax per gallon imposed by this section on motor fuel and special fuels shall be collected by the department and shall be paid into the general fund of the county in which collected to be used only for transportation purposes.

Section 2. This act shall take effect July 1, 1977.

Senators MacKay and Plante offered the following amendment to Amendment 2 which was moved by Senator MacKay and adopted:

Amendment 2A—On page 1, strike lines 19 and 20 and lines 1-11 on page 2 and insert: (3) The additional 1-cent tax per gallon imposed by this section on motor fuels and special fuels shall be collected by the department. Of the money collected 75 percent shall be paid into the State Treasury for deposit in the Department of Transportation Trust Fund, and shall be used by the Department of Transportation, and 25 percent shall be returned to the county in which the tax was collected.

(4) The taxes imposed by and collected pursuant to the provisions of this section shall be administered in accordance with the provisions of this section and the provisions of parts I and II of this chapter that are not inconsistent with the provisions of this section.

Section 2. This act shall take effect July 1, 1977.

Senators Henderson, MacKay and Plante offered the following amendment to Amendment 2 which was adopted:

Amendment 2B—insert: (5) However, commencing July 1, 1979, all money collected from such 1-cent tax per gallon shall be returned to the county in which the tax was collected.

Senator Poston moved the following amendment to Amendment 2 which failed:

Amendment 2C—On page 1, between lines 16 and 17, insert: (5) If the price on motor fuels reaches a rate of 75 cents a gallon, then another 1 cent of tax a gallon shall automatically be levied with the proceeds of such additional tax to be deposited in the State Road Trust Fund.

Amendment 2 as amended was adopted.

Senator Sayler moved the following title amendment which was adopted:

Amendment 3—On page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to taxes on motor fuels and special fuels; creating s. 206.606, Florida Statutes; imposing an additional 1-cent tax per gallon on motor fuel and on special fuels; providing for the collection of such tax by the Department of Revenue; providing for distribution of the revenues of such tax; providing for the use of such revenues for transportation purposes only; providing an effective date; providing for repeal of act on August 1, 1978.

On motion by Senator Myers, by two-thirds vote CS for SB 1285 as amended was read the third time by title and failed to pass. The vote was:

Yeas—13

Mr. President	Dunn	Lewis	Thomas, Jon
Castor	Firestone	Myers	
Chamberlin	Hair	Plante	
Childers, Don	Johnston	Poston	

Nays—22

Barron	McClain	Skinner	Ware
Childers, W. D.	Peterson	Spicola	Williamson
Gallen	Renick	Thomas, Pat	Wilson
Glisson	Sayler	Tobiassen	Zinkil
Gorman	Scarborough	Trask	
Graham	Scott	Vogt	

Votes after roll call:

Yea—Holloway
Nay—Winn

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has adopted HCR 2374 and HCR 2375 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Tucker and others—

HCR 2374—A concurrent resolution commending J. Herbert Taylor of the Florida State University Institute of Molecular Biophysics and Department of Biological Science, and the State University System faculty members who are members of the National Academy of Sciences.

—was read the first time in full. On motions by Senator Barron, by two-thirds vote HCR 2374 was placed on the calendar and by two-thirds vote read the second time by title, adopted and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gorman	Myers	Thomas, Pat
Barron	Graham	Peterson	Tobiassen
Castor	Hair	Poston	Trask
Chamberlin	Henderson	Renick	Vogt
Childers, Don	Holloway	Sayler	Williamson
Childers, W. D.	Johnston	Scarborough	Wilson
Dunn	Lewis	Scott	Winn
Firestone	MacKay	Skinner	
Glisson	McClain	Spicola	

Nays—None

Dr. Taylor was recognized by the Senate.

By Representative Tucker and others—

HCR 2375—A concurrent resolution commending Dr. William P. Foster as Director of Bands at Florida A & M University.

—was read the first time in full. On motions by Senator Barron, by two-thirds vote HCR 2375 was placed on the calendar and by two-thirds vote read the second time by title, adopted and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gorman	Myers	Thomas, Pat
Barron	Graham	Peterson	Tobiassen
Castor	Hair	Poston	Trask
Chamberlin	Henderson	Renick	Vogt
Childers, Don	Holloway	Sayler	Williamson
Childers, W. D.	Johnston	Scarborough	Wilson
Dunn	Lewis	Scott	Winn
Firestone	MacKay	Skinner	
Glisson	McClain	Spicola	

Nays—None

Dr. Foster was recognized by the Senate. The President introduced Dr. Bernie Sliger, president of Florida State University, to the Senate.

SPECIAL ORDER, continued

Senator Skinner presiding

SB 511—A bill to be entitled An act relating to sales, storage, and use tax; amending s. 212.02(3)(c), Florida Statutes, 1976 Supplement, and s. 212.08(4), Florida Statutes, to exempt from taxation fuel and energy used in manufacturing or processing goods for sale or resale; providing an effective date.

—was read the second time by title.

The President presiding

Senator Zinkil moved the following amendment:

Amendment 1—Strike everything after enacting clause and insert: Section 1. Subsections (1), (3), and (6) of section 212.03, Florida Statutes, are amended to read:

212.03 Transient rentals tax; rate, procedure, enforcement, etc.—

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing or letting any living quarters, sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, tourist or trailer camp, as hereinbefore defined in this chapter. For the exercise of said privilege a tax is hereby levied as follows: in the amount equal to 5 4 percent of and on the total rental charged for such living quarters, sleeping or housekeeping accommodations by the person charging or collecting the rental; provided that such tax shall apply to hotels, apartment houses, roominghouses, tourist or trailer camps, as hereinbefore defined in this chapter, whether or not there be in connection with any of the same, any dining rooms, cafes or other places where meals or lunches are sold or served to guests.

(3) Where rentals are received by way of property, goods, wares, merchandise, services or other things of value, the tax shall be at the rate of 5 4 percent of the value of said property, services or other things of value.

(6) It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages or who leases or rents docking or storage spaces for boats in boat docks or marinas. For the exercise of this privilege a tax is hereby levied at the rate of 5 4 percent on the total rental charged.

Section 2. Subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Lease or rental of real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking or storage spaces under s. 212.03(6).

(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the commercial rental tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., or 3. of this subsection, the department shall determine from the lease and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.

(c) For the exercise of such privilege a tax is levied in the amount equal to 5 4 percent of and on the total rent charged for such real property by the person charging or collecting the rental.

(d) Where the rental of any such real property is paid by way of property, goods, wares, merchandise, services or other thing of value, the tax shall be at the rate of 5 4 percent of the value of the property, services or other things of value.

Section 3. Subsection (1) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement, etc.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who sells or receives anything of value, by way of admissions. For the exercise of said privilege a tax is levied as follows:

(1) At the rate of 5 4 percent of sales price, or the actual value received from such admissions said 5 4 percent to be added and collected with all such admissions from the purchaser thereof and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket shall reflect on its face the actual sales price of admission and the tax shall be computed and collected on the basis of each such admission price.

Section 4. Paragraph (a) of subsection (1), and subsections (2), (3), (4), (5), and (6) of section 212.05, Florida Statutes, 1976 Supplement, are amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state. For the exercise of said privilege a tax is levied on each taxable transaction or incident and shall be due and payable, according to the brackets set forth in s. 212.12(10), as follows:

(1)(a) At the rate of 5 4 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, the tax to be computed on each taxable sale for the purpose of remitting the amount of tax due the state, and to include each and every retail sale.

(2) At the rate of 5 4 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed or stored for use or consumption in this state.

(3) At the rate of 5 4 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the rental of motion-picture film where an admission is charged for viewing such film and the lease or rental of a motor vehicle to one lessee or rentee for a period of not less than 12 months where tax was paid on the acquisition of such vehicle by the lessor, where the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to said business.

(4) At the rate of 5 4 percent of the lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by the lessee or rentee, to the owner of the tangible personal property.

(5) At the rate of 5 4 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on recurring charges to regular subscribers for local telephone service and for wired television service; on all charges for the installation of telephonic, wired television, and telegraphic equipment; and, at the same rate, on all charges for electrical power or energy. Telephone and telegraph services originating within this state and completed outside this state or originating outside this state and completed within this state are not taxable. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telephone and telegraph services and electric power subsequently found to be uncollectible. The word "charges" in this subsection shall not include any excise or similar tax levied by the federal government, any political subdivision of the state, or any municipality upon the purchase or sale of telephone; wired television or telegraph service, or electric power, which tax is collected by the seller from the purchaser.

(6) At the rate of 5 4 percent on the sale, rental, use, consumption, or storage for use in this state of machines and

equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation or public utility services. However, in the case of any written agreement executed prior to July 1, 1971, which became binding before the effective date of this act, for the sale, rental, use, consumption, or storage for use in this state of such property, the dealer making such agreement and paying the tax, or his assigns, may apply to the department within 3 years after the effective date of this act and, upon furnishing sworn proof of the existence of such binding written agreement and of the payment of such taxes, shall obtain a refund of 25 percent of the tax paid with respect to such property.

Section 5. Subsection (1) of section 212.055, Florida Statutes, 1976 Supplement, is amended to read:

212.055 Discretionary tax; charter counties; administration and collection.—

(1) Each charter county which adopted a charter prior to June 1, 1976, may levy, subject to the provisions of s. 125.0165 [F. S. 1976 Supp.], a discretionary 1 percent tax on all 5 4 percent taxable transactions under the provisions of this chapter, except that the sales amount above \$1,000 of any one transaction shall not be taxable.

Section 6. Paragraph (a) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

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

(1)(a) The aforesaid tax at the rate of 5 4 percent of the retail sales price as of the moment of sale, 5 4 percent of the cost price as of the moment of purchase, or 5 4 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution and the storage for use or consumption in this state, of tangible personal property. The full amount of the tax on credit sales, installment sales, and sales made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as a cash sale.

Section 7. Subsection (3) of section 212.08, Florida Statutes, is amended to read:

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

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5 4 percent.

Section 8. Subsections (10) and (11) of section 212.12, Florida Statutes, 1976 Supplement, are amended to read:

212.12 Dealer's credit for collecting tax; penalties for non-compliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(10) Taxes imposed by this chapter upon the privilege of the use, consumption, or storage for consumption, or sale of tangible personal property, admissions and rentals, and communication services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price of such admissions, rentals, communication services or sale price of such article or articles that are purchased, sold or leased at any one time by or to a customer or buyer, and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his gross sales of tangible personal property, admissions, and rentals, communication services and such person or dealer shall add the tax imposed by this chapter to the price, rental or admissions, and communication services and collect

the total sum from the purchaser, admittee, lessee or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions and rentals, and communication services, the following brackets shall be applicable to all 5 4 percent taxable transactions:

(a) On single sales of less than 10 cents no tax shall be added.

(b) On single sales in amounts from 10 cents to 20 25 cents, both inclusive, 1 cent shall be added for taxes.

(c) On sales in amounts from 21 26 cents to 40 50 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 41 51 cents to 60 75 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 61 76 cents to 80 cents \$1, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.

(g) ~~(f)~~ On sales in amounts of more than \$1, 5 4 percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

(11) In charter counties which have adopted the discretionary 1 percent tax, the following brackets shall be applicable to all taxable transactions which would otherwise have been 5 4 percent taxable transactions:

(a) On single sales of less than 10 cents, no tax shall be added.

(b) On single sales in amounts from 10 cents to 20 cents, both inclusive, 1 cent shall be added for taxes.

(c) On sales in amounts from 21 cents to 35 40 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 36 41 cents to 50 60 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 51 61 cents to 65 80 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 66 81 cents to 80 cents \$1, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts from 81 cents to \$1, both inclusive, 6 cents shall be added for taxes.

(h) ~~(g)~~ On sales in amounts from \$1 up to, and including, the first \$1,000 in price, 6 5 percent shall be charged upon each dollar of price, plus the above bracket charges upon any fractional part of a dollar.

(i) ~~(h)~~ On sales in amounts of more than \$1,000 in price, 6 5 percent shall be added upon the first \$1,000 in price; and 5 4 percent shall be added upon each dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (10).

Section 9. Subsection (1) of section 125.0165, Florida Statutes, 1976 Supplement, is amended to read:

125.0165 Discretionary sales tax; adoption; application of revenue.—

(1) Subject to the provisions of this section and pursuant to the provisions of s. 212.055, the governing authority in each charter county which adopted a charter prior to June 1, 1976, is authorized to levy a discretionary additional 1 percent tax on all 5 4 percent taxable transactions under the provisions of chapter 212 for the purposes of development, construction, equipment, maintenance, operation, supportive services, and related costs of a fixed guideway rapid transit system. However, the sales amount above \$1,000 of any one transaction shall not be taxable.

Section 10. This act shall take effect January 1, 1978.

Amendment 1 failed by the following vote:

Yeas—6			
Castor	Glisson	Winn	Zinkil
Firestone	McClain		

Nays—33

Mr. President	Hair	Poston	Tobiasen
Barron	Henderson	Renick	Trask
Chamberlin	Holloway	Saylor	Vogt
Childers, Don	Johnston	Scarborough	Ware
Childers, W. D.	Lewis	Scott	Williamson
Dunn	MacKay	Skinner	Wilson
Gallen	Myers	Spicola	
Gorman	Peterson	Thomas, Jon	
Graham	Plante	Thomas, Pat	

Senator Vogt moved the following amendment:

Amendment 2—Strike on page 2, lines 1 through 31 and on page 3, lines 1 through 7 and insert: Section 2. Present subsection (10) of section 212.08, Florida Statutes, is renumbered as subsection (11) and a new subsection (10) is added to said section to read:

(10) EXEMPTIONS, PARTIAL: FUELS AND ENERGY USED BY INDUSTRY IN MANUFACTURING OR PROCESSING GOODS FOR RESALE.—There shall be taxable at the rate of 3 percent the sale, use, storage, or consumption of fuels and energy used and dissipated in fabricating, converting, or processing tangible personal property for sale.

By direction of the President, the Senate stood in informal recess at 4:05 p. m. until 4:10 p.m. The Senate was called to order by the President. A quorum present.

Senators Lewis, Plante, Peterson, MacKay and Barron were excused to examine the tax bills passed by the Senate to determine the amount of revenue to be derived from them and the additional amount needed.

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Lew Brantley, President

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

By the Committee on Commerce and Senator Barron and others—

CS for SB's 1181, 925 and 792—A bill to be entitled An act relating to insurance and tort reform; providing a short title; adding subsection (8) to s. 624.404, Florida Statutes; providing for valuation of portfolio at current market value; providing that a rate structure established by a stock insurance company shall be deemed excessive if it provides for replenishment of surpluses from premiums where such replenishment is attributable to investment losses; amending subsection (3) of s. 624.411, Florida Statutes; increasing deposit requirements; amending subsection (4) of s. 624.418, Florida Statutes, increasing provision for surplus as to policyholders; adding subsection (8) to s. 624.424, Florida Statutes; giving department authority to require an annual certified financial report; amending subsection (2) of s. 627.062, Florida Statutes, removing motor vehicle insurance from certain rate standards; amending paragraph (a) of subsection (1) of s. 627.072, Florida Statutes; removing motor vehicle insurance from certain provisions concerning making and use of rates; providing that motor vehicle insurers file certain manuals of classifications, rules, and rates, rating plans, and modifications thereto to and for the approval of the Insurance Commissioner and Treasurer or satisfy such requirement with membership of or subscription to a licensed rating organization; providing procedures for approval or disapproval by the Insurance Commissioner and Treasurer of such material; creating s. 627.066, Florida Statutes; prohibiting excessive profits for motor vehicle insurance; repealing s. 627.082, Florida Statutes; relating to basis of approval or disapproval of filing; repealing subsection (5) of s. 627.331, Florida Statutes, relating to annual filing of loss and expense experience; creating s. 627.342, Florida Statutes; providing for risk classification reporting for motor vehicle insurance; amending s. 627.4132, Florida Statutes; providing for stacking of uninsured motorist coverage in tort action brought under s. 627.737(2), Florida Statutes; amending s. 627.7375, Florida Statutes, 1976 Supplement; providing for penalty for making false and fraudulent claims and statements used to support such claims; providing

for civil cause of action if section is violated; defining "statement"; providing that section also applies to insurers, adjusting firms or their agents who defraud claimant; prohibiting solicitation of motor vehicle tort claims by any person and providing a penalty; prohibiting soliciting by an attorney of motor vehicle tort claims and providing a penalty; amending s. 626-989(2), (3) and (4), Florida Statutes, 1976 Supplement; providing subpoena powers to the Division of Fraudulent Claims; providing for criminal contempt; restricting public inspection of documents; providing for explanation by State Attorney if prosecution is not begun within 60 days; amending subsection (3) and adding new subsections (6) and (7) to s. 627.727, Florida Statutes; providing that underinsured motorist protection follows the car rather than the person; providing an alternative method to settle a third party claim in an underinsured situation; making arbitration not compulsory; amending s. 627.733, Florida Statutes; removing compulsory liability insurance except as required under financial responsibility law; providing that insurers providing mandatory personal injury protection coverage must also make available automobile liability insurance; amending s. 627.735, Florida Statutes; providing for suspension of license and registration if required security is not maintained; amending s. 627.736, Florida Statutes; providing that personal injury protection benefits would be payable for 80 percent of all reasonable medical expenses; providing that disability benefits would be 80 percent of loss of gross income unless such benefits are deemed not includable in gross income for federal tax purposes, then it is limited to 60 percent; providing that insurer must reduce rates in proportion to reduction in benefits; providing for credit against benefits otherwise payable if Medicaid benefits are payable; clarifying who is covered by this section; amending s. 627.739, Florida Statutes; providing for modified personal injury protection insurance; providing for deductibles and exclusions; adding subsection (4) to s. 627.737, Florida Statutes, 1976 Supplement; prohibiting claim for punitive damages in an action against an automobile liability insurer for damages in excess of its policy limits; creating s. 627.7372, Florida Statutes; providing that all collateral sources are admissible into evidence in all tort actions; creating s. 768.061, Florida Statutes; providing contributory negligence is not a bar to recovery; providing for damage award to be diminished in proportion to negligence; creating s. 768.062, Florida Statutes; providing for set-offs in certain negligence actions; creating s. 768.063, Florida Statutes, providing for non-joinder of liability insurers; repealing ss. 627.730-627.735, Florida Statutes, and 627.736, 627.737, 627.738-627.741, Florida Statutes, 1976 Supplement, the Florida Automobile Repairs Reform Law; creating s. 627.7403, Florida Statutes; providing for mandatory joinder or derivative claims in certain actions; amending subsection (2) of s. 768.18, Florida Statutes; providing new definition of "minor children"; creating s. 627-7373, Florida Statutes; requiring the maintenance of an index by each insurer of medical providers and attorneys who are directly or indirectly involved in automobile insurance claims; providing for the creation of a Good Driver Fund; providing for funding; providing for disbursement of moneys in fund; adding paragraph (h) to subsection (15) of s. 626.9541, Florida Statutes, 1976 Supplement; prohibiting discrimination; repealing s. 627.7263, Florida Statutes, 1976 Supplement, relating to rental and leasing driver's insurance primary; repealing s. 768.06, Florida Statutes, relating to comparative negligence; providing for a mandatory reduction in private passenger automobile insurance policy premiums for policies in effect on July 1, 1977, and for new and renewal policies on and after that date; creating a Citizens' Tort Claims Study Commission; providing for severability; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 5, line 23, strike everything after the enacting clause and insert the following: Section 1. Subsection (3) is added to section 320.02, Florida Statutes, to read:

320.02 Application for registration; forms.—

(3)(a) Proof that personal injury protection benefits have been purchased when required under s. 627.733 shall be made by the applicant at the time of registration of any motor vehicle owned as defined in s. 627.732. The issuing agent shall refuse to issue registration if such proof of purchase is not made. Insurers shall furnish uniform proof of purchase cards in such form as prescribed by the Department of Highway Safety and Motor Vehicles, and such card, or an insurance

policy, an insurance policy binder, a certificate of insurance, or such proof as may be prescribed by the Department of Highway Safety and Motor Vehicles shall be accepted as such proof. The Department of Insurance shall require that such uniform cards as specified by the Department of Highway Safety and Motor Vehicles be furnished by insurers providing such benefits. Any person altering such card or duplicating or counterfeiting such card in order to furnish such proof or to permit another person to furnish such proof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) When an operator owning a motor vehicle or motor vehicles comes under the operation of the financial responsibility requirements of chapter 324, such operator shall provide proof of compliance with such financial responsibility requirements at the time of registration of any such motor vehicle through the use of a uniform proof of purchase of insurance card specifying such coverage, or an insurance policy, an insurance policy binder, a certificate of insurance, or by such other method of furnishing such proof as may be required by the Department of Highway Safety and Motor Vehicles. The issuing agent shall refuse to issue registration of a motor vehicle if such proof of purchase is not made. The Department of Insurance shall require that such uniform cards as specified by the Department of Highway Safety and Motor Vehicles be furnished by insurers writing motor vehicle liability insurance in this state. Any person altering such card or duplicating or counterfeiting such card in order to furnish such proof or to permit another person to furnish such proof shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 324.011, Florida Statutes, is amended to read:

324.011 Purpose of chapter.—*It is the intent of this chapter to recognize the existing privilege to operate a motor vehicle on the public streets and highways of this state when such vehicles are used with due consideration for others and their property, and to promote safety and provide financial security by such operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle, so it is required herein that the operator of a motor vehicle involved in an accident or convicted of a certain traffic offenses meeting the operative provisions of s. 324.051(2) shall respond for such damages and show proof of financial ability to respond for damages in future accidents as a requisite to his future exercise of such privileges. It is the intent of this chapter to recognize the existing rights of all to own motor vehicles and to operate them on the public streets and highways of this state when such rights are used with due consideration for others; to promote safety, and provide financial security by such owners and operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle, so it is required herein that the owner and operator of a motor vehicle involved in an accident shall respond for such damages and show proof of financial ability to respond for damages in future accidents as a requisite to his future exercise of such privileges.*

Section 3. Subsections (1), (2) and (8) of section 324.021, Florida Statutes, 1976 Supplement, are amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any bicycle or "moped," as defined in s. 316.003(2). However, the term "motor vehicle" shall not include any motor vehicle as defined in s. 627.732(1), when the owner of such vehicle has complied with the requirements of ss. 627.730-627.741, inclusive, unless the provisions of s. 324.051 apply, and in such case until January 1, 1979, such owner shall establish proof of compliance with such sections in the manner provided for evidence of insurance as set forth in s. 325.19(7) at the time of inspection of any such motor vehicle, and after such date the applicable proof of insurance provisions of s. 320.02 shall apply.

(2) DEPARTMENT.—The Department of *Highway Safety and Motor Vehicles Insurance*.

(8) MOTOR VEHICLE LIABILITY POLICY.—Any ~~owner's or~~ operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring said ~~owner or~~ operator against loss from liability for bodily injury, death and property damage arising out of the ownership, maintenance or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state.

Section 4. Section 324.031, Florida Statutes, is amended to read:

324.031 Manner of proving financial responsibility.—The operator ~~or owner~~ of a vehicle may prove his financial responsibility by:

(1) Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) and s. 324.151, or

(2) Posting with the department a satisfactory bond of a surety company authorized to do business in this state, conditioned for payment of the amount specified in s. 324.021(7), or

(3) Furnishing a certificate of the department showing a deposit of cash or securities in accordance with s. 324.161, or

(4) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

Section 5. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 324.051, Florida Statutes, 1976 Supplement, are amended to read:

324.051 Reports of accidents; suspensions of licenses and registrations.—

(1)(a) The Department of *Highway Safety and Motor Vehicles* ~~or~~ Any sheriff, police department or peace officer of this state shall within 10 days following any accident within the purview of this chapter, coming to its or his attention, report such accident in writing to the department of *Insurance*. Such report shall contain the following information: Date and place of the accident, description of the cars involved, the names and addresses of owners or operators, the extent of the damage, and such other information as the department may require.

(b) The department is hereby further authorized to require reports of accidents from individual owners or operators whenever it deems it necessary for the proper administration of this chapter, and these reports shall be made without prejudice and shall be for the confidential use of the department. No such report shall be used as evidence in any trial arising out of an accident, but the fact of such report or the failure to report may be certified by the department. ~~The Department of Highway Safety and Motor Vehicles shall carry out and execute and enforce all orders of suspension and reinstatement of licenses and all registrations issued by the Department of Insurance pursuant to the provisions of this chapter.~~

(2)(a) Thirty days after receipt of notice of any judgment being rendered due to an accident involving a motor vehicle within this state which has resulted in bodily injury or death to any person, or total damage of \$1,000 ~~\$500~~ or more to property, or traffic conviction for a violation of s. 316.027, s. 316.028 or s. 316.029, the department shall suspend the license ~~licenses~~ of the operator ~~operators~~ against whom such judgment or conviction applies and all registrations of the owners of the vehicles owned by such operator whether or not involved in such accident and, in the case of a nonresident ~~owner or~~ operator, shall suspend such nonresident's operating privilege in this state, unless such operator ~~or owner~~ shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence in its files satisfactory to the department that:

1. No injury was caused to the person or property of anyone other than such operator or owner;

2. The motor vehicle was legally parked at the time of such accident;

1. 3. The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein;

4. Such operator or owner ~~has~~ been finally adjudicated not to be liable by a court of competent jurisdiction;

2. 5. Such operator ~~has or~~ owner ~~has~~ secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said accident and had complied with one of the provisions of s. 324.031;

3. 6. Such operator ~~or owner~~ has deposited with the department of *Insurance* security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031; or

4. 7. One year has elapsed since such ~~owner or~~ operator was suspended pursuant to subsection 324.051(4), the ~~owner or~~ operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection shall not apply:

1. To such operator ~~or owner~~ if such operator ~~owner~~ had in effect at the time of such accident or traffic conviction an automobile liability policy with respect to all of the registered motor vehicles owned by such operator vehicle involved in such accident;

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident or traffic conviction an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

3. To such operator ~~or owner~~ if the liability of such operator ~~or owner~~ for damages resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance or bond; nor

4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in subsection 324.021(7).

(3)(a) The notices of accidents and orders of suspension required under this chapter as a result of accident or conviction cases shall be given to owners and operators either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice or order in an envelope with postage prepaid, addressed to such person at his address as shown by the accident report or from records of ~~furnished~~ the department by the Department of *Highway Safety and Motor Vehicles*.

Section 6. Subsections (1) and (3) of section 324.061, Florida Statutes, are amended to read:

324.061 Security ~~Securities~~ deposited with Department of *Highway Safety and Motor Vehicles Insurance*; release.—

(1) Security deposited pursuant to the provisions of s. 324.051(2)(a)6. with respect to claims for injuries to persons or properties resulting from an accident occurring prior to such deposit shall be in the form and amount determined by the department of *Insurance* which, in its judgment, will be sufficient to compensate for all injuries arising out of such accident, but in no case shall the amount exceed the limits as specified in s. 324.021(7).

(3) The department of *Insurance* shall invest security deposits in its custody received under this section in excess of current needs in interest-bearing accounts. The interest earned from such investments shall be deposited in a department trust fund, the *Insurance Commissioner's Regulatory Trust Fund* and any security deposits remaining unclaimed after 5 years shall be transferred to the State School Fund as provided in subsection (2)(e) above.

Section 7. Section 324.071, Florida Statutes, is amended to read:

324.071 Reinstatement; renewal of license; reinstatement fee.—Any operator ~~or owner~~ whose license or registration has been suspended pursuant to s. 324.051(2), s. 324.072, s. 324.081, or s. 324.121 may effect its reinstatement upon compliance with the provisions of s. 324.051(2)(a)4., 5. or 6., or s. 324.081(2) and (3), as the case may be, and with one of the provisions of s. 324.031 and upon payment to the department of *Insurance* of a nonrefundable reinstatement fee of \$15 ~~\$5~~. Only one such

fee shall be paid by any one person irrespective of the number of licenses and registrations to be then reinstated or issued to such person. All such fees shall be deposited to a department trust fund the Insurance Commissioner's Regulatory Trust Fund. When the reinstatement of any license or registration is effected by compliance with s. 324.051(2)(a)5. or 6., the department of Insurance shall notify the Department of Highway Safety and Motor Vehicles that such renewal shall not renew the license or registration be granted within a period of 3 years from such reinstatement, nor shall any other license or registration be issued in the name of such person unless the owner or operator is continuing to comply with one of the provisions of s. 324.031.

Section 8. Section 324.072, Florida Statutes, is amended to read:

324.072 Proof required upon certain convictions.—

(1) The Department of Highway Safety and Motor Vehicles shall report to the Department of Insurance the name of any person whose license has been revoked pursuant to the provisions of s. 322.26. The names of such persons shall be included in a written monthly report from said Department of Highway Safety and Motor Vehicles to the Department of Insurance, which report shall list the names and addresses of the persons involved, the reasons for revocation and such other information as the Department of Insurance reasonably may require.

(1) (2) Upon receipt of such notification of a license revocation of a license pursuant to the provisions of s. 322.26, by reason of conviction or forfeiture of bail, the department shall suspend the registration for all motor vehicles registered in the name of such person, either individually or jointly with another, except that it shall not suspend such registration, unless otherwise required by law, if such person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by such person, in accordance with this chapter.

(2) (3) Such license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person, nor shall any motor vehicle be thereafter registered in the name of such person until permitted under the laws of this state, and not then unless and until he shall give and thereafter maintain proof of financial responsibility as required by s. 324.071.

Section 9. Subsections (1) and (4) of section 324.081, Florida Statutes, are amended to read:

324.081 Nonresident owner or operator.—

(1) The department of Insurance may establish reciprocal agreements with any other states for the purpose of fulfilling the provisions of this chapter and pursuant to such agreements may suspend the license and registration of a resident of this state involved in an accident in another state.

(4) In the event such nonresident shall at the time have in effect an insurance policy or surety bond issued by any insurance company or surety company not authorized to do business in this state, the department may reinstate such nonresident upon said company furnishing it him with power of attorney to accept service of process.

Section 10. Subsection (1) of section 324.091, Florida Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in an accident or conviction case within the purview of this chapter shall furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of accident by the department in such form and manner as it may designate. Upon receipt of evidence that an automobile liability policy, motor vehicle liability policy, or surety bond was in effect at the time of the accident or conviction case, the department shall forward by United States mail, postage prepaid, to the insurer or surety insurer a copy of such information and shall assume that such policy or bond was in effect unless the insurer or surety insurer shall notify the department otherwise within 20 days from the mailing of the notice to the insurer or surety insurer; provided that if the department shall later ascertain that an automobile liability policy, motor vehicle liability policy, or surety bond was not in

effect and did not provide coverage for both the owner and the operator, it shall at such time take such action as it is otherwise authorized to do under this chapter. Proof of mailing to the insurer or surety insurer may be made by the department by naming the insurer or surety insurer to whom such mailing was made and specifying the time, place and manner of mailing.

Section 11. Section 324.101, Florida Statutes, is amended to read:

324.101 Compliance before license or registration allowed.— In case the operator or owner of a motor vehicle involved in an accident within the state has no license or registration, he shall not be allowed a license or registration until he has complied with the requirements of this chapter to the same extent that would be necessary, if at the time of the accident he had held a license and registration.

Section 12. Subsection (2) of section 627.727, Florida Statutes, 1976 Supplement, is amended to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.—

(2) The limits of uninsured motorist coverage shall be not less than the limits of bodily injury liability insurance purchased by the named insured, or such lower limit complying with the company's rating plan as may be selected by the named insured, but in any event the insurer shall make available, at the written request of the insured, limits up to \$100,000 each person, \$300,000 each occurrence, irrespective of the limits of bodily injury liability purchased, in compliance with the company's rating plan. Any claim made against an uninsured motorist insurer shall be subject to the limitations on recovery provided in s. 627.737.

Section 13. Subsection (3) of section 627.733, Florida Statutes, is amended to read:

627.733 Required security.—

(3) Such security shall be provided by one of the following methods:

(a) Security by insurance may be provided with respect to such motor vehicle by an insurance policy delivered or issued for delivery in this state by an authorized or eligible motor vehicle liability insurer which is actually writing such insurance as otherwise defined in this code, which provides qualifies as evidence of automobile or motor vehicle liability insurance under chapter 324, the "Financial Responsibility Law," except as modified to provide the benefits and exemptions contained in ss. 627.730-627.741. Any such policy of motor vehicle liability insurance covering motor vehicles registered or licensed in this state and any policy of insurance represented or sold as providing the security required hereunder for registered and licensed motor vehicles under ss. 627.730-627.741 shall be deemed to provide insurance for the payment of such benefits; or

(b) Security may be provided with respect to any motor vehicle by any other method authorized by s. 324.031(2), (3), or (4) and approved by the Department of Highway Safety and Motor Vehicles Insurance as affording security equivalent to that afforded by a policy of insurance, if such security is continuously maintained throughout the motor vehicle's registration or licensing period. The person filing such security shall have all of the obligations and rights of an insurer under ss. 627.730-627.741.

Section 14. Subsections (1), (3) and (5) of section 627.736, Florida Statutes, 1976 Supplement, are amended, and subsection (9) is added to said section to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(1) REQUIRED BENEFITS.—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices; necessary ambulance, hospital, nursing services; and funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a motor vehicle or motorcycle, all as specifically provided in subsections (2) and (4)(d), to a limit of \$3,000 \$5,000 for loss sustained by any such person as a result

of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—All reasonable expenses for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) Disability benefits.—~~Sixty One hundred percent~~ of any loss of gross income and loss of earning capacity per individual, ~~unless such benefits are deemed not includable in gross income for federal income tax purposes, in which event such benefits shall be limited to 85 percent,~~ from inability to work proximately caused by the injury sustained by the injured person, plus 100 percent of all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) Funeral, burial or cremation benefits.—Funeral, burial, or cremation expenses in an amount not to exceed \$1,000 per individual.

(d) *Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section and no such insurer shall require the purchase of any other motor vehicle coverage as a condition for providing such required benefits. Such insurers shall make such benefits available through normal marketing channels. Any insurer writing motor vehicle liability insurance in this state failing to comply with such availability requirement as a general business practice shall be deemed to have violated part VII of chapter 626 and such violation shall constitute an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance, and any such insurer committing such violation shall be subject to the penalties afforded in such part as well as those which may be afforded elsewhere in the insurance code.*

(3) **INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN TORT CLAIMS.**—No insurer shall have a lien on any recovery in tort by judgment, settlement, or otherwise for personal injury protection benefits, whether suit has been filed or settlement has been reached without suit. An injured party who is entitled to bring suit under the provisions of s. 627.737, or his legal representative, shall have no right to recover any damages for which personal injury protection benefits are paid or payable. The plaintiff may prove all of his special damages notwithstanding this limitation, but if special damages are introduced in evidence, the trier of facts, whether judge or jury, shall not award damages for personal injury protection benefits paid or payable or damages for the 40 percent of any loss of gross income and loss of earning capacity not paid by such benefits to the extent that such loss has been covered by unemployment compensation, disability income insurance, or wage continuation benefit plan. In all cases in which a jury is required to fix damages, the court shall instruct the jury that the plaintiff shall not recover such special damages for personal injury protection benefits paid or payable or damages for the 40 percent of any loss of gross income and loss of earning capacity not paid by such benefits to the extent that such loss has been covered by unemployment compensation, disability income insurance, or wage continuation benefit plan.

(5) **CHARGES FOR TREATMENT OF INJURED PERSONS.**—Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment if the insured receiving such treatment or his guardian has countersigned the invoice or bill upon which such charges are to be paid as being actually rendered to the best knowledge of the insured or his guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, and accommodations in cases involving no insurance.

(9) *For the purposes of this act, medical doctors, dentists, osteopaths, chiropractic physicians, and other physicians licensed in the State of Florida shall be deemed competent and qualified to testify at any trial or hearing held in the state under the laws of the state to establish the cause and permanency of any injury or disease within the particular physician's area of knowledge, training, and expertise, within a reasonable degree of medical probability.*

Section 15. Subsection (8) is added to section 624.404, Florida Statutes, to read:

624.404 General eligibility of insurers for certificate of authority.—To qualify for and hold authority to transact insurance in this state an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock insurer, or an incorporated mutual insurer, or a reciprocal insurer, of the same general type as may be formed as a domestic insurer under this code; except that:

(8) *For the purpose of satisfying the requirements of ss. 624.407 and 624.408 the investment portfolio of an insurer applying for an initial certificate of authority to do business in this state shall value its bonds and stocks at the then current market value.*

Section 16. Subsection (3) of section 624.411, Florida Statutes, is amended to read:

624.411 Deposit requirement, domestic and foreign insurers.—

(3) In addition to the deposits otherwise required pursuant to this section, the department may, after notice and hearing, require any insurer, for good cause shown, to deposit and maintain deposited in trust for the protection of the insurer's policyholders or its policyholders and creditors, for such time as the department deems necessary, securities eligible for such deposit under s. 625.52, having a value of not less than the amount which the department shall determine is necessary, which amount shall be not less than \$75,000, nor more than \$1 million ~~\$250,000~~, depending on the insurer's obligations in this state.

Section 17. Subsection (4) of section 624.418, Florida Statutes, is amended to read:

624.418 Suspension, revocation of certificate of authority for violations and special grounds.—

(4) The department may, in its discretion, suspend or revoke an insurer's certificate of authority if it finds that the ratio of net premiums written to surplus as to policyholders exceeds four to one ~~and the insurer has less than \$5 million surplus as to policyholders~~. However, the provision of this subsection shall not apply to life and disability insurers.

Section 18. Subsection (8) is added to section 624.424, Florida Statutes, to read:

624.424 Annual statement and other information.—

(8) *The department may require an insurer to furnish certified audited financial statements or reports.*

Section 19. Section 627.066, Florida Statutes, is created to read:

627.066 Excessive profits for motor vehicle insurance prohibited.—

(1) *Each insurer group shall file with the department prior to July 1 of each year on a form prescribed by the department the following data for Florida private passenger automobile business. The data filed for the group shall be a consolidation of the data of the individual insurers of the group. The data shall include both voluntary and Joint Underwriting Association business, as follows:*

- (a) *Calendar year total limits earned premium.*
 - (b) *Accident year incurred losses and loss adjustment expenses.*
 - (c) *The administrative and selling expenses incurred in Florida or allocated to Florida for the calendar year.*
 - (d) *Policyholder dividends applicable to the calendar year.*
- (2) *Excessive profit has been realized:*

(a) If there has been an underwriting gain for the 3 most recent calendar/accident years combined which is greater than the anticipated underwriting profit plus 5 percent of earned premiums for those calendar/accident years.

(b) As used herein with respect to any three-year period, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business; provided that separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.

(3) Each insurer group shall also file a schedule of Florida private passenger automobile loss and loss adjustment experience for each of the 3 most recent accident years. The incurred losses and loss adjustment expenses shall be valued as of March 31 of the year following the close of the accident year, developed to an ultimate basis, and at two 12-month intervals thereafter, each developed to an ultimate basis, so that a total of three evaluations will be provided for each accident year. The first year to be so reported shall be accident year 1976, so that the reporting of 3 accident years will not take place until accident years 1977 and 1978 have become available.

(4) Each insurer group's underwriting gain or loss for each calendar/accident year shall be computed as follows: The sum of the accident year incurred losses and loss adjustment expenses as of March 31 of the following year, developed to an ultimate basis, plus the administrative and selling expenses incurred in the calendar year, plus policyholder dividends applicable to calendar year, will be subtracted from the calendar year earned premium to determine the underwriting gain or loss.

(5) For the three most recent calendar/accident years, the underwriting gain or loss will be compared to the anticipated underwriting profit.

(6) If the insurer group has realized an excessive profit the department may order a return of the excessive amounts to policyholders.

(7) In determining what action should be taken if excessive profits are realized the department shall consider the following as they relate to Florida private passenger automobile insurance:

(a) The underwriting profit or loss of the insurer group in prior years.

(b) The financial strength and stability of the insurer group.

(c) The loss development patterns of the insurer group.

(8) The department may excuse an insurer from complying with these reporting requirements if the volume of business written by the insurer would not justify the expense of the reporting requirement.

(9) Any excess profit of an insurance company offering motor vehicle insurance shall be returned to policyholders in the form of a cash refund rather than a credit towards the future purchase of insurance.

Section 20. Subsections (2), (4) and (5) of section 627.331, Florida Statutes, are amended to read:

627.331 Recording and reporting of loss, and expense, and claim experience; rating information.—

(2) In promulgating such rules and plans, the department shall give due consideration to the rating systems in use in this state and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system used by it, except for motor vehicle insurance as otherwise provided by law.

(4) The department shall require insurers and rating organizations to furnish it with a copy of their rates, rating schedules, and rating manuals which are in effect, and a copy of any

changes in such rates, rating schedules, and rating manuals, as soon as practicable following their effective date, but in no event later than 30 days prior to the effective date of any such change thereafter. The submission of rates, rating schedules, and rating manuals to the department by a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this subsection for any insurer maintaining membership or subscribership in such organization, to the extent that the insurer uses the rates, rating schedules, and rating manuals of such organization. All such information shall be available for public inspection, upon receipt by the department, during usual business hours.

(5) Any insurer writing an automobile liability policy in the state shall report certain information annually to the department. The information shall be divided into the following main categories: bodily injury liability, property damage liability, uninsured motorist, personal injury protection benefits, medical payments, comprehensive, and collision. The information given shall be on direct insurance writings in the state alone. For the first year only, the insurer shall provide data for the current year and 4 previous years for paragraphs (a) through (i). Insurers shall be required to report all of the following information.

(a) Premiums written.

(b) Premiums earned.

(c) Unearned premiums.

(d) The dollar amount of paid claims.

(e) Incurred claims, but not including claims incurred but not reported.

(f) Loss reserves for all claims except those incurred but not reported.

(g) Reserves for claims incurred but not reported.

(h) Net investment gain or loss and other income gain or loss allocated to Florida business utilizing the investment allocation formula contained in the National Association of Insurance Commissioners' Profitability Report by line by state.

(i) Underwriting income or loss.

(j) Accident year paid losses.

(k) Loss reserves at the beginning of the year.

(l) Prior accident year paid losses, paid during the year.

(m) Accident year incurred losses.

(n) Accident year outstanding losses.

(o) Loss reserves at the end of the year.

(p) Such additional information as may be required by the department in order to evaluate the cost impact of the various deductibles mandated under the insurance code.

(q) Such additional information as the insurance commissioner may require in order to evaluate the reasonableness of rates or to assure that such rates are not excessive or unfairly discriminatory or to evaluate the financial condition of insurers underwriting motor vehicle insurance. Notwithstanding any other provisions of this part, all insurers shall annually, on or before June 1, file their actual premium, incurred losses, and expense experience on those coverages providing required security under ss. 627.730—627.741 for the preceding 3 calendar years. In the event any of such 3 year experience compilations reflect underwriting profits in excess of those determined by the department to be reasonable, the department shall direct each insurer earning said excess profits to refund said excess profits to their policyholders whose coverages were in effect at the time such a determination is made, or credit said excess profits to their policyholders upon renewal of their policies. "Excess underwriting profits" are defined as any underwriting profits in excess of the amount budgeted for profit and contingencies in the individual company rate filings in use during the 3 year experience period provided for in this subsection.

Section 21. Subsection (1) of section 627.351, Florida Statutes, 1976 Supplement, is amended to read:

627.351 Insurance risk apportionment plan.—

(1) Agreements may be made among casualty and surety insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modification for such insurance, such agreements and rate modifications to be subject to the approval of the department. The department shall, after consultation with the insurers licensed to write automobile liability insurance in this state, adopt a reasonable plan or plans for the equitable apportionment among such insurers of applicants for such automobile liability insurance or personal injury protection benefits as provided in s. 627.736 who are in good faith entitled to but are unable to procure such benefits or such insurance through ordinary methods and, when such plan has been adopted, all such insurers shall subscribe thereto and shall participate therein. Such plan or plans shall include rules for classification of risks and rates therefor. Such plan or plans shall provide for the payment to the producing agent of not more less than 15 percent of the annual premium on private passenger automobile insurance. Any insured placed with the plan shall be notified of the fact that insurance coverage is being afforded through the plan and not through the private market and such notification shall be given in writing within 10 days of such placement. To assure that plan rates are made adequate to pay claims and expenses, insurers shall develop a means of obtaining loss and expense experience on at least an annual basis and the plan shall file such experience, when available, with the department in sufficient detail to make a determination of rate adequacy. Such experience shall be filed with the department not more than 9 months following the end of the annual statistical period under review. Within 60 days thereafter the department shall approve such rate revisions as are supported by the filing. In addition to provisions for claims and expenses, the rate making formula shall include a factor for projected claims trending and 5 percent for contingencies. Trend factors shall not be found to be inappropriate if not in excess of trend factors normally used in the development of residual market rates by the appropriate licensed rating organization.

Section 22. Section 120.50, Florida Statutes, is amended to read:

120.50 Exception to application of chapter.—This chapter shall not apply to the Legislature or the courts or to the determination of rate revisions or hearings thereon with respect to the automobile joint underwriting association established under s. 627.351(1).

Section 23. Subsection (7) is added to section 624.315, Florida Statutes, to read:

624.315 Department; annual report.—As early as reasonably possible the department shall annually prepare a report to the Legislature and the Governor showing, with respect to the preceding calendar year:

(7) A summary of all information reported to the department as required by s. 627.331(5).

Section 24. Subsections (5) and (6) are added to section 624.316, Florida Statutes, to read:

624.316 Examination of insurers.—

(5) The department shall, as a part of its examination procedure, examine each insurer regarding all of the information required by s. 627.331.

(6) The department shall examine each insurer according to the requirements contained in the latest edition of the National Association of Insurance Commissioners' Market Conduct Examination Handbook.

Section 25. Subsection (5) is added to section 627.7375, Florida Statutes, 1976 Supplement, to read:

627.7375 Fraud.—

(5) It is unlawful for any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership, or association to act, for monetary or other compensation, as a runner to solicit any business in and about city receiving hospitals, city and county receiving hospitals, county hospitals, circuit courts, county courts, or in any public institution or in any public place or upon any public street or highway or in and about private

hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever for the purpose of making motor vehicle tort claims. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 26. Section 624.155, Florida Statutes, is created to read:

624.155 False and fraudulent claims.—

(1) Any person who, with the intent to injure, defraud, or deceive any insurance company:

(a) Presents or causes to be presented any written or oral statement as a part of or in support of a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false or misleading information concerning any fact or thing material to such claim; or

(b) Prepares or makes any written or oral statement that is intended to be presented to any insurance company in connection with or in support of any claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains any false or misleading information concerning any fact or thing material to such claim; is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. All claims forms shall contain a statement in a form approved by the department that clearly state in substance the following: "Any person who knowingly and with intent to injure, defraud or deceive any insurance company files a statement of claim containing any false or misleading information is guilty of a felony of the third degree."

(2) Any insurance company damaged as a result of a violation of any provision of this section shall have a cause of action to recover compensatory damages and punitive damages in an amount equal to threefold the amount of compensatory damages, plus all reasonable investigation and litigation expenses including attorneys fees at the trial and appellate courts.

(3) For the purposes of this section "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test result, or other evidence of loss, injury, or expense.

Section 27. Section 626.989, Florida Statutes, 1976 Supplement, is amended to read:

626.989 Division of Fraudulent Claims; investigative powers; accident reports to division; personnel and expenses; division of costs.—

(1) The Division of Fraudulent Claims shall have authority to investigate+

(a) allegedly fraudulent claims alleging loss or damages arising out of the ownership, operation, maintenance, or use of a motor vehicle as defined in s. 320.01, anywhere within the state, filed by a claimant against any person insured by an insurance company which has issued a policy of insurance, providing protection or indemnity to the insured owner and to any other person operating, maintaining, or using such motor vehicle with the consent, expressed or implied, of the insured; and

(b) Any other claim covered by insurance resulting from the ownership, operation, maintenance, or use of such motor vehicle.

(2) If, by its own inquiries or as a result of complaints, the Division of Fraudulent Claims has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates s. 627.7375 or s. 624.155, it may administer oaths and affirmations, request the attendance of witnesses or proferring of matter, and collect evidence. The department shall not compel the attendance of any person or matter in any such investigation except pursuant to subsection (4).

(3) If matter that the division seeks to obtain by request is located outside the state, the person so requested may make it available to the division or its representative to examine the matter at the place where it is located. The division may designate representatives, including officials of the state in

which the matter is located, to inspect the matter on its behalf and it may respond to similar requests from officials of other states.

(4) The division may request that an individual who refuses to comply with any such request be ordered by the circuit court to provide the testimony or matter. The court shall not order such compliance unless the division has demonstrated to the satisfaction of the court that the testimony of the witness or the matter under request has a direct bearing on a violation of s. 627.7375 or s. 624.155 or is pertinent and necessary to further such investigation. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which he is entitled by law may not be subjected to a criminal proceeding or to a civil penalty with respect to the act concerning which he is required to testify or produce relevant matter.

(5) The division's papers, documents, reports or evidence relative to the subject of an investigation under this section shall not be subject to public inspection for so long as the division deems reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or to be in the public interest. Further, such papers, documents, reports or evidence relative to the subject of an investigation under this section shall not be subject to subpoena until opened for public inspection by the division, unless the division consents; or after notice to the division and a hearing, the court determines the division would not be unnecessarily hindered by such subpoena.

(6) ~~(2)~~ Any company which believes that such a fraudulent claim is being made shall, within 60 days of the receipt of such notice, send to the Division of Fraudulent Claims, on a form prescribed by the department, the information requested and such additional information relative to the accident and the parties claiming loss or damages because of the accident as the department may require. The Division of Fraudulent Claims shall review such reports and select such claims as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such claim to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists in the submission of the claim. The Division of Fraudulent Claims shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney having jurisdiction with respect to any such violation, as provided in s. 624.310. *If prosecution by the State Attorney is not begun within 60 days of the division's report, the State Attorney shall inform the division of the reasons for the lack of prosecution.*

(7) ~~(3)~~ No insurer, or the employees or agents of any insurer, shall be subject to civil liability for libel or otherwise by virtue of the filing of reports or furnishing other information required by this section or required by the Division of Fraudulent Claims as a result of the authority herein granted.

(8) ~~(4)~~ All costs of administration and operation of said Division of Fraudulent Claims shall be borne by the insurers licensed to write motor vehicle insurance in this state. The Insurance Commissioner shall equally divide such costs among all such companies, charging each such company an identical amount adequate to provide the total cost of each fiscal year of operation. Such [amounts] as derived by said assessment shall be [deposited in] the State Treasurer and Insurance Commissioner's Regulatory Trust Fund. The total number of positions to be allocated to the Division of Fraudulent Claims shall not exceed 25 employees, and the total budget of said division cost shall be as determined annually in the General Appropriations Act not exceed \$500,000 for said fiscal year.

Section 28. Good Drivers' Incentive Fund.—

(1) There is hereby created a Florida Good Drivers' Incentive Fund, hereinafter referred to as the "fund."

(2) The fund shall be administered by the Department of Highway Safety and Motor Vehicles, hereinafter referred to as the "department," and the costs of administration shall be borne by the fund.

(3) The department shall draft a plan for the operation of the fund to implement the purposes of this section.

(4) On and after the effective date of this act:

(a) Any driver convicted of a moving traffic violation shall be assessed an additional civil penalty or fine of \$30 in addition to the amount normally levied for such conviction. For purposes of this section the term "moving traffic violation" means an infraction of ss. 316.030, 316.040, 316.053, 316.054, 316.055, 316.056, 316.0565, 316.057(9), 316.061, 316.081, 316.082, 316.083, 316.084, 316.085, 316.086, 316.087, 316.088, 316.089, 316.090, 316.091, 316.092, 316.094, 316.095, 316.096, 316.098, 316.100(1), 316.102, 316.104(2) or (4), 316.107, 316.108, 316.109, 316.110, 316.1105, 316.113, 316.121, 316.122, 316.123, 316.125, 316.126(1) or (3), 316.133, 316.134, 316.138, 316.139, 316.151, 316.152, 316.153, 316.154, 316.155, 316.157, 316.158, 316.159, 316.162, 316.181, 316.182, 316.183, 316.184, 316.185, 316.186, 316.196, 316.197, 316.198, 316.205, 316.206, 316.217, 316.236, 316.238, 316.2431, or 339.30(1), (a), (b), (c), (d), (g), or (h).

(b) Any driver convicted of a violation of s. 316.028 or 316.029 shall be assessed an additional civil penalty or fine of \$200 per conviction.

It is the intent of the Legislature that any civil penalty or fine normally levied be increased by the amounts specified in paragraphs (a) and (b) and such additional civil penalty or fine shall be considered a part of the total civil penalty or fine. Such additional civil penalty or fine shall be collected by the clerk of the appropriate court and remitted on a monthly basis to the department, which shall place such additional civil penalty or fine in the fund. The purpose of this section is to provide an incentive for those persons operating motor vehicles in this state to utilize the privilege of operating such motor vehicles in a safe and financially responsible fashion and at the same time to provide a disincentive to those who would abuse such privilege.

(5) Beginning July 1, 1978, and at the beginning of each fiscal year thereafter, all money in the fund after deduction of the costs of administration of the fund shall be distributed to persons who have:

(a) Received no convictions as specified in subsection (4) or convictions arising out of a motor vehicle accident during the preceding 12 months; and

(b) 1. Purchased voluntarily bodily injury liability insurance of at least \$10,000 because of bodily injury to, or death of, one person in any one accident, and, subject to said limits for one person, in the amount of \$20,000 because of bodily injury, or death of, two or more persons in any one accident; or

2. Established voluntarily with the department financial responsibility by one of the alternative methods set forth in s. 324.031(2), (3), or (4).

The Department of Insurance shall provide the department with a territorial differential of the cost of the coverage set forth in paragraph (b)1. as computed from the most recent Insurance Service Office records available as filed with the Department of Insurance.

(6) The amount paid to any person meeting the requirements of subsection (5) shall vary from county to county as determined by the county of residence of any such person, based on the territorial differentials of cost as established under subsection (5). In the event the warrant forwarded by the department to any such person is returned as undeliverable such warrant shall be voided and the entitlement to the proceeds of such warrant shall cease to exist, unless such person files a claim of entitlement with the department within 90 days of the date of return.

Section 29. Remittitur and additur.—

(1) In any action for the recovery of damages based on personal injury or wrongful death arising out of the operation of a motor vehicle, whether in tort or in contract, wherein the trier of fact determines that liability exists on the part of the defendant and a verdict is rendered which awards money damages to the plaintiff, it shall be the responsibility of the court, upon proper motion, to review the amount of such award to determine if such amount is clearly excessive or inadequate in light of the facts and circumstances which were presented to the trier of fact. If the court finds that the amount awarded is clearly excessive or inadequate, it shall order a remittitur or additur as the case may be. If the party adversely affected by such remittitur or additur does not agree, the court shall order a new trial in the cause on the issue of damages only.

(2) In determining whether an award is clearly excessive or inadequate in light of the facts and circumstances presented to the trier of fact and in determining the amount, if any, that such award exceeds a reasonable range of damages or is inadequate, the court shall consider the following criteria:

(a) Whether the amount awarded is indicative of prejudice, passion, or corruption on the part of the trier of fact.

(b) Whether it clearly appears that the trier of fact ignored the evidence in reaching a verdict or misconceived the merits of the case relating to the amounts of damages recoverable.

(c) Whether the trier of fact took improper elements of damages into account or arrived at the amount or damages by speculation and conjecture.

(d) Whether the amount awarded bears a reasonable relation to the amount of damages proved and the injury suffered.

(e) Whether the amount awarded is supported by the evidence and is such that it could be adduced in a logical manner by reasonable persons.

(3) It is the intent of the Legislature to vest the trial courts of this state with the discretionary authority to review the amounts of damages awarded by a trier of fact in light of a standard of excessiveness or inadequacy. The Legislature recognizes that the reasonable actions of a jury are a fundamental precept of American jurisprudence and that such actions should be disturbed or modified with caution and discretion. However, it is further recognized that a review by the courts in accordance with the standards set forth in this section provides an additional element of soundness and logic to our judicial system and is in the best interests of the citizens of Florida.

Section 30. Section 11.1451, Florida Statutes, is created to read:

11.1451 Joint Legislative Motor Vehicle Insurance Study Committee.—

(1) *There is hereby created the Joint Legislative Motor Vehicle Insurance Study Committee which shall consist of ten members of the House of Representatives appointed by the Speaker of the House, four of whom shall be members of the minority party, and ten members of the Senate appointed by the President of the Senate, four of whom shall be members of the minority party. The chairman shall be selected by majority vote of the members and shall serve as chairman at the pleasure of the members.*

(2) *If a vacancy occurs in the joint committee, the same shall be filled as provided for original appointments.*

(3) *The joint committee shall meet at times and places necessary to perform the functions assigned to it by this section. The joint committee shall meet at least four days per month.*

(4) *The joint committee shall appoint by majority vote a staff director knowledgeable in the area under study and shall hire such staff as may be necessary, not to exceed two secretaries, one attorney, and two persons who are legislative analysts or staff assistants knowledgeable in the area under study. In addition the joint committee shall retain the services of an actuary who is a Fellow of the Casualty Actuarial Society. The actuary shall be retained under contract through the Joint Legislative Management Committee on an as needed basis to answer questions submitted by the Joint Legislative Motor Vehicle Insurance Study Committee. Staff of the joint committee shall be employed without reference to party membership.*

(5) *The joint committee shall study the current motor vehicle insurance laws of this state together with alternative concepts and shall prepare in bill form complete with in-depth supporting documentation its recommendations for changes, if any, to such laws. The recommendations of the joint committee shall be presented to the standing committee of jurisdiction in each house at least 30 days prior to the 1978 legislative session. The joint committee shall continue to study the motor vehicle insurance laws of this state and to make recommendations to the standing committee of jurisdiction in each house at least 30 days prior to the 1979 and 1980 legislative sessions. The joint committee shall cease to exist on June 30, 1980, after issuing a final report.*

Section 31. Section 627.7263, Florida Statutes, 1976 Supplement, is amended to read:

627.7263 Rental and leasing driver's insurance primary.—

(1) The valid and collectible liability insurance or personal injury protection insurance providing coverage for the *lessor of motor vehicles for rent or lease rental or leasing driver or any other person operating the motor vehicle with the permission or consent of the rental or leasing driver* shall be primary *unless otherwise stated in bold type on the face of the rental or lease agreement*. Such insurance shall be primary for the limits of liability and personal injury protection coverage as required by ss. 324.021(7) and 627.736.

(2) Each rental or lease agreement between the lessee and the lessor shall contain a provision on the face of the agreement, stated in bold type, informing the lessee ~~[lessee]~~ of the provisions of subsection (1) and *shall provide providing* a space for the lessee's insurance company's name *if the lessor's insurance is not to be primary*.

Section 32. Section 324.185, Florida Statutes, is created to read:

324.185 Insurance companies to notify department upon certain cancellations.—All insurance companies authorized to do business in this state which provide personal injury protection benefits or motor vehicle liability coverage when such liability coverage is required under chapter 324 shall notify the department of all cancellations which occur at any time other than the normal expiration date of such policies.

Section 33. Subsection (2) of section 324.181, Florida Statutes, is hereby repealed. Subsection (7) of section 325.19, Florida Statutes, is repealed effective January 1, 1979.

Section 34. There shall be no private passenger motor vehicle insurance rate increases for bodily injury liability, property damage liability, personal injury protection benefits or uninsured motorists benefits, excluding rates charged for coverage under the automobile joint underwriting association established under s. 627.351(1), prior to July 1, 1978. This shall not prevent rate reductions.

Section 35. If any provision of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are declared to be severable.

Section 36. This act shall take effect July 1, 1977, and shall apply to all claims arising out of accidents occurring on or after said date, except that subsection (3) of section 320.02, Florida Statutes, as created by section 1 of this act, shall take effect January 1, 1979.

Amendment 2—Strike the entire title and insert the following: A bill to be entitled An act relating to insurance and financial responsibility; adding subsection (3) to s. 320.02, Florida Statutes; providing for furnishing proof of purchase of personal injury protection benefits or of meeting financial responsibility requirements at the time of registration of a motor vehicle; providing for uniform proof of purchase cards; providing a penalty; amending ss. 324.011, 324.031, 324.061(1) and (3), 324.071, 324.072, 324.081(1) and (4), 324.091(1), and 324.101, Florida Statutes, and ss. 324.021(1), (2), and (8) and 324.051(1), (2), and (3) (a), Florida Statutes, 1976 Supplement; providing the purpose of provisions relating to financial responsibility; exempting certain motor vehicles from such provisions; replacing the Department of Insurance with the Department of Highway Safety and Motor Vehicles as the agency responsible for such provisions; deleting the application of such provisions to owners of motor vehicles; providing conditions under which the department is required to suspend the license and registrations of operators involved in certain accidents; increasing reinstatement fees; amending s. 627.727, Florida Statutes, 1976 Supplement, relating to uninsured motorist insurance coverage; amending s. 627.733(3), Florida Statutes, relating to provision of security under the Florida Automobile Repairs Reform Act, substituting the Department of Highway Safety and Motor Vehicles for the Department of Insurance in provisions relating to approval thereof; amending s. 627.736(1), (3), and (5), Florida Statutes, 1976 Supplement, and adding subsection (9) thereto; reducing the required personal injury protection in

motor vehicle insurance policies; prohibiting motor vehicle liability insurers from requiring purchase of other coverage as a condition to providing such protection and providing that violation shall be considered an unfair method of competition or an unfair or deceptive insurance practice; limiting the amount of special damages in tort claims which may be awarded an insured; providing for payment by insurers providing personal injury protection directly to persons providing treatment to an injured person if the injured person signs the invoice for treatment rendered; providing for testimony by certain practitioners regarding the cause and permanency of an injury or disease; adding subsection (8) to s. 624.404, Florida Statutes, providing that stocks and bonds held by insurers applying for initial certification shall be appraised at market value; amending s. 624.411(3), Florida Statutes, providing that the Department of Insurance may require insurers to deposit securities valued up to \$1 million within the state; amending s. 624.418(4), Florida Statutes, providing for the deletion of the exemption for companies with \$5 million or more surplus as to policyholders; adding subsection (8) to s. 624.424, Florida Statutes, providing insurers shall furnish certified audited financial statements; creating s. 627.066, Florida Statutes; prohibiting excessive profits for motor vehicle insurance; amending s. 627.331(2), (4), and (5), Florida Statutes; providing for annual reporting of information relating to claims, premiums, income and expenses by automobile liability insurers; amending s. 627.351(1), Florida Statutes, 1976 Supplement; providing for a plan for equitable apportionment among insurers providing automobile insurance or personal injury protection benefits of applicants who are unable to procure such insurance or benefits through ordinary methods; providing for notification to insureds; providing for filing of loss and expense experience; amending s. 120.50, Florida Statutes; exempting determination of rate revisions or hearings thereon with respect to the automobile joint underwriting association from the Administrative Procedure Act; adding subsection (7) to s. 624.315, Florida Statutes, requiring the Department of Insurance to include certain information in its annual report to the Governor and Legislature; adding subsections (5) and (6) to s. 624.316, Florida Statutes, requiring the department to examine each insurer in certain subjects and requiring the department to examine insurers according to requirements contained in the National Association of Insurance Commissioners' Market Conduct Examination Handbook; adding subsection (5) to s. 627.7375, Florida Statutes, 1976 Supplement, prohibiting any person from acting as a runner for compensation in specified places for the purpose of making motor vehicle tort claims; providing a penalty; creating s. 624.155, Florida Statutes; providing that it is unlawful for any person to knowingly prepare a false or misleading statement as part of or in support of an insurance claim, or to knowingly make a false or misleading statement with the intention that it be presented to an insurance company as support for an insurance claim; providing a penalty; providing that any insurance company damaged by a violation of the section may recover compensatory and punitive damages; amending s. 626.989, Florida Statutes, 1976 Supplement; providing authority of the Division of Fraudulent Claims; providing investigatory powers and providing for certain enforcement by the circuit courts; making investigations confidential; providing for report by the State Attorney if prosecution is not begun within 60 days; providing for budget of the division; establishing the Good Drivers' Incentive Fund to be administered by the Department of Highway Safety and Motor Vehicles; imposing additional civil penalties or fines for specified moving traffic violations and providing for deposit in the fund; providing for annual distribution of moneys in the fund to qualified drivers; providing for remittitur and additur with regard to actions for damages based on personal injury or wrongful death arising out of the operation of a motor vehicle; creating s. 11.1451, Florida Statutes, creating the Joint Legislative Motor Vehicle Insurance Study Committee; amending s. 627.7263, Florida Statutes, 1976 Supplement; providing that liability or personal injury protection insurance providing coverage for the lessor of a motor vehicle for rent or lease shall be primary unless otherwise stated in the rental or lease agreement; creating s. 324.185, Florida Statutes, requiring motor vehicle liability insurers to notify the Department of Highway Safety and Motor Vehicles of policies canceled prior to normal expiration; repealing ss. 324.181(2) and 325.19(7), Florida Statutes, relating to a plan for apportionment of certain applicants for automobile liability insurance and to proof of insurance at the time of motor vehicle inspection; prohibiting certain motor vehicle insurance rate increases prior to July 1, 1978; providing an effective date.

Amendment 14 to House Amendment 1—On page 26, line 19, strike all of Section 25 and insert: Section 25. Section 627.7378, Florida Statutes, is created to read:

627.7378 Unlawful solicitation; penalty.—

(1) *As used in this section:*

(a) *A "runner or capper" means any person acting in any manner or capacity as an agent for an attorney at law, whether the attorney is admitted in Florida or any other jurisdiction, in the solicitation or procurement of business for compensation or other remuneration for such attorney at law as provided in this section.*

(b) *An "agent" is one who represents another in dealings with one or more third persons.*

(2)(a) *It is unlawful for any person to knowingly and willfully be employed as a runner or capper for any attorney or to solicit any business for any attorney for compensation or other remuneration.*

(b) *It is unlawful for any attorney to knowingly and willfully employ in the course of his practice any runner or capper.*

(3) *Any person who violates the provisions of this section shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(4) *Any contract for professional services secured by any attorney at law in this state through the services of a runner or capper is void.*

Amendment 15 to House Amendment 2—On page 4, in title, lines 6 through 11, strike "adding subsection (5) to s. 627.7375, Florida Statutes, 1976 Supplement, prohibiting any person from acting as a runner for compensation in specified places for the purpose of making motor vehicle tort claims;" and insert: creating s. 627.7378, Florida Statutes, prohibiting unlawful solicitations; providing definitions; providing penalties; voiding illegally solicited contracts;

Amendment 17 to House Amendment 1—On page 31, line 26, insert new subsection (9): (9) *In addition to the powers incorporated in subsections (1), (2), (3), (4), (5), (6), (7), and (8), the Department shall be required, at the request of the State Attorney, to conduct an investigation regarding the insurance practices within that county. The purpose of the investigation shall be to file a report to the governing body of the county and the legislature stating recommendations and findings regarding possible areas of fraud, criminal activity, and insurance practice irregularities occurring within that county. The report shall be filed with the governing body of the county and each member of the legislature representing that county within six (6) months of the request. In carrying out this investigation, the Department shall have all powers included in subsections (1), (2), (3), (4), (5), (6), (7), and (8) above.*

Amendment 18 to House Amendment 1—On page 38, line 4, insert: Section 32. Section 627.7385, Florida Statutes, is created to read:

627.7385 Rate differential based on dissolution of marriage or separation prohibited.—No insurer providing security as required by ss. 627.730-627.741 to any owner may utilize the dissolution of the owner's marriage or the separation of the owner from the owner's spouse as a factor in the charging of premiums for insurance coverage.

(Renumber subsequent sections)

On motions by Senator Barron, the Senate refused to concur in the House Amendments and the House was requested to recede, and in the event the House refused to recede requested the appointment of a conference committee consisting of three members from each house. The action of the Senate was certified to the House.

The Honorable Lew Brantley, President

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

By Senator Scarborough and others—

SB 1449—A bill to be entitled An act relating to collective bargaining for public employees; amending ss. 447.14, 447.205,

447.207, 447.301, 447.303, 447.305(1), (3), 447.307, 447.309, 447-403, 447.405, 447.407, 447.503(1)-(4), Florida Statutes; amending s. 447.203, Florida Statutes, 1976 Supplement; adding ss. 447.09(16), 447.17(3), Florida Statutes; transferring subsections (5), (6), (7), (8), and (9), of s. 447.503, Florida Statutes, to s. 447.504, Florida Statutes; repealing s. 447.603, Florida Statutes; limiting the site of picketing; separating penalties and civil remedies from part II; defining public employer, strike, strike funds, chief executive officer and good faith bargaining; eliminating budget submission date; creating a full-time Public Employee Relations Commission and providing operational authority; excluding retirement from collective bargaining; providing for student participation in the Board of Regents negotiations; providing for time of dues deductions; providing for an annual financial report and fee from employee organizations; providing for certification of employee organizations and intervention by 10 percent showing of employees in a proposed unit; providing for the cost of elections; providing for ratification of agreements; eliminating automatic impasse procedures and providing for special master's report; providing for compensation and expenses of mediator and special master; changing appeal procedures for unfair labor practices; providing for awarding cost of litigation and reasonable attorney fees in unfair labor practice charges; repealing local option; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 2, line 11, strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 447-04, Florida Statutes, is amended to read:

447.04 Business agents; licenses, permits, etc.—

(2)(a) Every person desiring to act as a business agent in this state shall, before doing so, obtain a license or permit by filing an application under oath therefor with the Division of General Regulation of the Department of Business Regulation, accompanied by a fee of \$25 \$1 and a full set of fingerprints of the applicant taken by law enforcement agency qualified to take fingerprints. There shall accompany the application a statement signed by the president and the secretary of the labor organization for which he proposes to act as agent, showing his authority to do so. The division shall hold such application on file for a period of 30 days, during which time any person may file objections to the issuing of such license or permit.

Section 2. Subsections (11) and (12) of section 447.09, Florida Statutes, are amended to read:

447.09 Right of franchise preserved; penalties.—It shall be unlawful for any person:

(11) To coerce or intimidate any employee in the enjoyment of his legal rights, including those guaranteed in s. 447.03, or to coerce or intimidate any elected or appointed public official, or to intimidate the his family, picket the his domicile or injure the person or property of such employee or public official, or his family.

(12) To picket beyond the area of the industry or employment within which a labor dispute arises.

Section 3. Section 447.14, Florida Statutes, is amended to read:

447.14 Penalties.—Any person or labor organization who shall violate any of the provisions of this part chapter shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 4. Subsection (3) is added to section 447.17, Florida Statutes, to read:

447.17 Civil remedy; injunctive relief.—

(1) Any person who may be denied employment or discriminated against in his employment on account of membership or nonmembership in any labor union or labor organization shall be entitled to recover from [the discriminating] employer, other person, firm, corporation, labor union, labor organization, or association, acting separately or in concert, in the courts of this state, such damages as he may have sus-

tained and the costs of suit, including reasonable attorney's fees. If such employer, other person, firm, corporation, labor union, labor organization, or association acted willfully and with malice or reckless indifference to the rights of others, punitive damages may be assessed against such employer, other person, firm, corporation, labor union, labor organization, or association.

(2) Any person sustaining injury as a result of any violation or threatened violation of the provisions of this section shall be entitled to injunctive relief against any and all violators or persons threatening violation.

(3) *The remedy and relief provided for by this section shall not be available to public employees as defined in part II of this chapter.*

Section 5. Section 447.201, Florida Statutes, is amended to read:

447.201 Statement of policy.—It is declared that the public policy of the state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution with respect to public employees, to promote harmonious and cooperative relationships between government and its employees, both collectively and individually, and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. It is the intent of the legislature that nothing herein shall be construed either to encourage or discourage organization of public employees. These policies are best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating a Public Employees Relations Commission to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

Section 6. Subsections (13), (14), (15), and (16) of section 447.203, Florida Statutes, 1976 Supplement, are renumbered as subsections (12), (13), (14), and (15), respectively, and paragraph (d) of subsection (3), subsections (4) and (9), and present subsections (12) and (15) of said section are amended to read:

447.203 Definitions.—As used in this part:

(3) "Public employee" means any person employed by a public employer except:

(d) Those persons who are designated by the commission as managerial or confidential employees pursuant to criteria contained herein upon application of the public employer, or of an organization filing a petition for certification pursuant to s. 447.307 to the Public Employees Relations Commission.

(4) "Managerial employees" are those employees who:

(a) Perform jobs that are not of a routine, clerical, or ministerial nature and require the exercise of independent judgment in the performance of such jobs, and one or more of the following:

(a) 1. Formulate or assist in formulating policies which are applicable to bargaining unit employees;

2. May reasonably be required on behalf of the employer to assist in the preparation for the conduct of collective bargaining negotiations;

3. Have a role in the administration of agreements resulting from collective bargaining negotiations;

4. Have a significant role in personnel administration;

5. Have a significant role in employee relations;

6. Are included in the definition of administrative personnel contained in s. 228.041(10), except that collective bargaining contracts entered into prior to the effective date of this law shall remain in effect for the period of such contracts,

and, upon the expiration of these existing contracts, the provisions of this subparagraph shall apply; or

7. Have a significant role in the preparation and administration of budgets for any public agency or institution or subdivision thereof; and

(b) Perform jobs that are not of a routine, clerical, or ministerial nature and require the exercise of independent judgment.

(b) Serve as police chiefs, fire chief, or directors of public safety of any police, fire, or public safety department. Other police officers, as defined in s. 943.10(1), and firefighters, as defined in s. 633.30(1) may be determined by the commission to be managerial employees of such departments. In making such determinations, the commission shall consider, in addition to the criteria established in (a), the para-military organizational structure of the department involved.

Provided, however, that in determining whether an individual is a managerial employee pursuant to either (a) or (b), above, the commission may consider historic relationships of the employee to the public employer and to coemployees.

[Firefighters] as defined under s. 633.30(1) are excluded from this definition.

(9) "Legislative body" means the State Legislature, the board of county commissioners, the district school board, the governing body of a municipality, or the governing body of an instrumentality or unit of government having authority to appropriate funds and establish policy governing the terms and conditions of employment and which, as the case may be, is the appropriate legislative body for the bargaining unit. For purposes of s. 447.403 the board of trustees of a community college shall be deemed to be the legislative body with respect to all employees of the community college.

(12) "Budget submission date" means the date by which, under law or practice, a public employer's budget, or a budget containing proposed expenditures applicable to such public employer, is submitted to or is considered by the legislative body or other similar body of government for final action or, in the absence of any annual budget, the date upon which an annual appropriation ordinance, resolution, or law for the ensuing fiscal year is required to be introduced before such legislative body for final action.

(14) (15) "Membership dues deduction" means the practice of a public employer of deducting dues and uniform assessments from the salary or wages of a public employee upon the presentation to the public employer of cards authorizing the deduction of dues, signed by such individual public employee. Such term also means the practice of a public employer of transmitting the sums so deducted to such employee organization.

Section 7. Section 447.205, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 447.205, F.S., for present text.)

447.205 Public Employees Relations Commission.—

(1) There is hereby created within the Department of Commerce the Public Employees Relations Commission, hereinafter referred to as the "commission." The commission shall be composed of three full-time members, and one part-time alternate member, to be appointed by the Governor subject to confirmation by the Senate, from persons representative of the public, known for their objective and independent judgment, who shall not be employed by or hold any commission with any governmental unit in the state or any employee organization, as defined in this part, while in said office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is or has been classified as a representative of employees or employee organizations. The full-time commissioners shall devote their entire time to commission duties and shall not engage in any other business, vocation, or employment while in said office. The term of office shall be 4 years, except that beginning July 1, 1977, one member shall be appointed for a term of 1 year, one member for 2 years, one member for 3

years, and the alternate member for 4 years. The commissioners shall serve at the pleasure of the Governor. The Governor shall designate one member as chairman who shall be responsible for the administrative functions of the commission and who shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. The chairman shall also have the authority to call the alternate commissioner to serve during such times as the alternate commissioner's presence is necessary to complete a quorum for the conduct of commission business. The presence of three members shall constitute a quorum for the conduct of commission business.

(2) Salaries of the chairman and the full-time commissioners shall be paid by the state as provided in the General Appropriations Act and shall be paid in equal monthly installments. The alternate commissioner shall receive no salary, but shall receive an honorarium of \$200 for each day engaged in the work of the commission. All commissioners shall be reimbursed for expenses, as provided in s. 112.061.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of Commerce. However, the property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of Commerce.

(a) The commission shall make such expenditures, including expenditures for personal services and rent at the seat of government or elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities.

(b) The commission may charge, in its discretion, for publications, subscriptions, and copies of records and documents. Such funds shall be deposited in a trust fund to be established by the commission and shall be used to defray the cost of providing such publications, subscriptions, and copies of records and documents.

(c) The commission shall maintain and keep open, during reasonable business hours, an office which shall be provided in the Capital Center for the transaction of its business, at which office its official records and papers shall be kept. The commission may hold sessions and conduct hearings at any place within the state.

(d) The commission shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida—Public Employees Relations Commission—Seal," and it shall be judicially noticed.

(e) The commission is expressly authorized to provide by rule for, and to destroy, obsolete records of the commission.

Section 8. Subsection (7) is added to section 447.207, Florida Statutes, to read:

447.207 Commission; Powers and duties.—

(7) The commission shall provide by rule a procedure for the filing and prompt disposition of petitions for declaratory statements as to the applicability of any statutory provision or any rule or order of the commission. Such rule, or rules, shall provide for, but not be limited to, an expeditious disposition of petitions posing questions relating to the scope of negotiations or to possible prohibited practices. Commission disposition of petitions shall be final agency action.

Section 9. Subsection (3) of section 447.301, Florida Statutes, is renumbered as subsection (4), and a new subsection (3) is added to said section to read:

447.301 Public employees' rights; organization and representation.—

(2) Public employees shall have the right to be represented by any employee organization of their own choosing, to negotiate collectively through a certified bargaining agent with their public employer in the determination of the terms and conditions of their employment excluding any provisions of the Florida Statutes or appropriate ordinances relating to retirement, and to be represented in the determination of grievances arising thereunder. Public employees shall have the right to refrain from exercising the right to be represented.

(3) Public employees shall have the right to engage in concerted activities not prohibited by s. 447.09, or any other provision of law, for the purpose of collective bargaining or other mutual aid or protection. Public employees shall also have the right to refrain from engaging in such activities.

Section 10. Section 447.303, Florida Statutes, is amended to read:

447.303 Dues; deduction and collection.—Any employee organization which has been certified as a bargaining agent shall have the right to, upon request, have its dues and uniform assessments deducted and collected by the employer from the salaries of those employees who authorize the deduction of said dues and uniform assessments. However, such authorization is revocable at the employee's will upon 30 days' written notice to the employer and employee organization. Said deductions shall commence upon the bargaining agent's written request to the employer. Reasonable costs to the employer of said deductions shall be a proper subject of collective bargaining. Such right to deduction, unless revoked pursuant to s. 447.507, shall be in force for so long as the employee organization remains the certified bargaining agent for the employees in the unit during the term of the collective bargaining agreement. The public employer is expressly prohibited from any involvement in the collection of fines, penalties, or special assessments.

Section 11. Subsections (1) and (3) of section 447.305, Florida Statutes, are amended to read:

447.305 Registration of employee organization.—

(1) Every employee organization, prior to requesting recognition by a public employer for purposes of collective bargaining, or prior to submitting a petition to the commission for purposes of requesting a representation election, shall adopt a constitution and bylaws and shall register with the commission by filing a copy thereof, together with a ~~an annual~~ report in a form prescribed by the commission, and an amended report whenever changes are made, which shall include:

(a) The name and address of the organization and of any parent organization or organization with which it is affiliated.

(b) The names and addresses of the principal officers and all representatives of the organization.

(c) The amount of the initiation fee and of the monthly dues which members must pay.

(d) The current annual financial statement of the organization.

(e) The name of its business agent, and, if different from the business agent, the name of its local agent for service of process and the address where such person or persons can be reached.

(f) A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race, sex, religion, or national origin.

(g) Evidence that the organization has complied with the registration and reporting requirements of part I of this chapter and evidence that its business agent is licensed in accordance with the provisions of s. 447.04.

(3) A registration fee shall accompany the initial report filed with the commission and an annual financial reporting fee shall accompany each annual financial report filed with the commission. Such money shall be used to defray the cost of registration and investigation of the filing party, with the remainder to be deposited in the general revenue fund. The amount charged for registration shall not exceed \$15, and the amount charged for an annual reporting fee shall not exceed \$15.

Section 12. Subsection (2), paragraph (a) of subsection (3), and paragraph (h) of subsection (4) of section 447.307, Florida Statutes, are amended to read:

447.307 Certification of employee organization.—

(1) Any employee organization which is designated or unit as their representative for purposes of collective bargaining shall request recognition by the public employer. The public

employer shall, if satisfied as to the majority status of the employee organization and the appropriateness of the proposed unit, recognize the employee organization as the collective bargaining representative of employees in the designated unit. Upon recognition by a public employer, the employee organization shall immediately petition the commission for certification. The commission shall review only the appropriateness of the unit proposed by the employee organization. If the unit is appropriate according to the criteria used in this part, the commission shall immediately certify the employee organization as the exclusive representative of all employees in the unit.

(2) If the public employer refuses to recognize the employee organization, or if the employee organization has not been designated by a majority of the employees in an appropriate unit as provided by subsection (1), the employee organization may file a petition with the commission for certification as the bargaining agent for a proposed bargaining unit. The petition shall be accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit, indicating that such employees desire to be represented for purposes of collective bargaining by the petitioning employee organization. Once a petition for certification has been filed by an employee organization, any registered employee organization may intervene in the proceeding by filing a motion to intervene accompanied by dated statements signed by at least 10 percent of the employees in the unit proposed in the petition, indicating that such employees desire to be represented for the purposes of collective bargaining by the moving employee organization. Any employee, employers, or employee organization having sufficient reason to believe any of the employee signatures were obtained by collusion, coercion, intimidation, or misrepresentation or are otherwise invalid shall be given a reasonable opportunity to verify and challenge the signatures appearing on the petition.

(3)(a) The commission or one of its designated agents shall investigate the petition to determine its sufficiency; if it has reasonable cause to believe that the petition is sufficient, the commission shall provide for an appropriate hearing upon due notice. Such a hearing may be conducted by an agent of the commission, who shall not make any recommendations with respect thereto. If the commission finds upon the record of the hearing that the petition is sufficient, it shall immediately:

1. Define the proposed bargaining unit and determine which public employees shall be qualified and entitled to vote at any election held by the commission.

2. Identify the public employer or employers for purposes of collective bargaining with the bargaining agent.

3. Order an election by secret ballot.

(4) In defining a proposed bargaining unit, the commission shall take into consideration:

(h) Such other factors and policies as the commission may deem appropriate ~~prescribe by regulations or by its decisions~~. However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

Section 13. Subsections (1) and (5) of section 447.309, Florida Statutes, are amended to read:

447.309 Collective bargaining; approval or rejection.—

(1) After an employee organization has been certified pursuant to the provisions of this part, the bargaining agent for the organization and the chief executive officer of the appropriate public employer or employers jointly shall bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the public employees within the bargaining unit. The chief executive officer or his representative and the bargaining agent or its representative, shall meet at reasonable times and bargain in good faith. In conducting negotiations with the bargaining agent, the chief executive officer or his representative shall consult with, and attempt to represent the views of, the legislative body of the public employer. Any collective bargaining agreement reached by the negotiators shall be reduced to writing, and such agreement shall be signed by the chief executive officer and the bargaining agent. Any agreement signed by the chief executive officer and the bargaining agent shall

not be binding on the public employer until such agreement has been ratified by ~~at a regularly scheduled meeting~~ of the public employer and by public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3). *However, with respect to statewide bargaining units composed of state career service employees, any agreement signed by the Governor and the bargaining agent for such a unit shall not be binding until approved by the public employees who are members of the bargaining unit, subject to the provisions of subsections (2) and (3).*

(5) Any collective bargaining agreement shall not provide for a term of existence of more than 3 years and shall contain all of the terms and conditions of employment of the employees in the bargaining unit during such term except those terms and conditions provided for in any Florida Statute or appropriate ordinances relating to retirement and in applicable merit and civil service rules and regulations.

Section 14. Section 447.403, Florida Statutes, is amended to read:

447.403 Resolution of impasses.—

(1) If, after a reasonable period of negotiation concerning the terms and conditions of employment to be incorporated in a collective bargaining agreement, a dispute exists between a public employer and a bargaining agent, *an impasse shall be deemed to have occurred when one of the parties so declares in writing to the other party and to the commission or if no agreement is reached within 60 days after the commencement of collective bargaining, or at least 70 days prior to the budget submission date of the public employer, an impasse shall be deemed to have occurred.* When an impasse occurs, the public employer or the bargaining agent, or both parties acting jointly, may appoint or secure the appointment of a mediator to assist in the resolution of the impasse.

(2) If no mediator is appointed, *or upon the request of either party, or if the impasse is not resolved within 60 calendar days prior to the budget submission date of the public employer, the commission shall:*

(a) Appoint, and submit all unresolved issues to, a special master acceptable to both parties. If the parties are unable to agree on the appointment of a special master, the commission shall appoint, in its discretion, a qualified special master. Nothing in this section shall preclude the parties from using the services of a mediator at any time during the conduct of collective bargaining.

(b) The special master ~~or masters~~ shall hold hearings in order to define the area or areas of dispute, to determine facts relating to the dispute, and to render a decision on any and all unresolved contract issues. The hearings shall be held at times, dates, and places to be established by the special master ~~or masters~~ in accordance with rules promulgated by the commission. The special master ~~or masters~~ shall be empowered to administer oaths and issue subpoenas on behalf of the parties to the dispute or on their own behalf. *Within 15 calendar days after the close of the final hearing, the special master shall transmit his decision to the commission which shall, within 5 working days after receipt thereof, transmit the decision. Within 20 calendar days after final hearings, the commission shall transmit the recommended decision of the special master or masters to the representatives of both parties. Such, which decision shall be discussed further by the parties in negotiations and shall be deemed approved by both parties unless either party, by formal action, rejects the decision within 15 calendar days after receipt of the transmission of the special master's decision to the parties. Such rejection shall be in the form of written notice which shall include a statement of cause for rejection and shall be rendered to the other party.*

(c) In the event that either the public employer or the employee organization does not accept, in whole or in part, the recommendations of the special master ~~or masters~~:

1. The chief executive officer of the government involved shall, within 10 days after ~~rejection receipt~~ of the findings of fact and recommendations of the special master ~~or masters~~, submit to the legislative body of the government involved a copy of the findings of fact and recommendations of the special master ~~or masters~~, together with the chief executive officer's ~~their~~ recommendations for settling the dispute. *The chief executive officer shall also transmit his recommendations to the employee organization.*

2. The employee organization shall ~~may~~ submit to such legislative body its recommendations for settling the dispute, *which recommendations shall also be transmitted to the chief executive officer.*

3. The legislative body or a duly authorized committee thereof shall forthwith conduct a public hearing at which the parties shall be required to explain their positions with respect to the report of the special master. ~~factfinding board; and~~

4. Thereafter, the legislative body shall take such action as it deems to be in the public interest, including the interest of the public employees involved.

5. *All terms and conditions of employment provided for by an existing collective bargaining agreement shall be maintained and shall remain in effect until the resolution of a negotiation impasse as provided herein.*

Section 15. Paragraph (i) of subsection (4) of section 447.405, Florida Statutes, is amended to read:

447.405 Factors to be considered by the special master.—The special master shall conduct the hearings and render his decision with the objective of achieving a prompt, peaceful, and just settlement of disputes between the public employee organizations and the public employer. The factors, among others, to be given weight by the special master in arriving at a decision shall include:

(4) Comparison of peculiarities of employment in regard to other trades or professions, specifically with respect to:

(5) ~~(i)~~ Availability of funds.

Section 16. Section 447.409, Florida Statutes, is amended to read:

447.409 Records.—All records which are relevant to, or have a bearing upon, any issue or issues raised by the proceedings conducted by the special master shall be made available to the special master by the request in writing to ~~of~~ any of the parties to the ~~impasse proceedings factfinding~~. *Notice of such request shall be furnished to all parties. Any such records which are made available to the special master shall also be made available to any other party to the impasse proceedings upon written request.*

Section 17. Paragraph (a) of subsection (3), paragraphs (a) and (b) of subsection (4), paragraph (a) of subsection (6), and subsection (8) of section 447.503, Florida Statutes, are amended, and paragraph (e) is added to subsection (6) of said section, to read:

447.503 Charges of unfair labor practices.—Violations of the provisions of s. 447.501 shall be remedied by the commission in the following manner:

(3) A charging party whose charge is thus dismissed may appeal to the chairman and one other member of the commission, and if they find substantial evidence of a meritorious charge, that charge shall be reinstated and served pursuant to the procedures of paragraph (a).

(a) If the commission or its agent determines that there is substantial evidence indicating a prima facie violation, the commission or such agent shall issue and cause to be served upon the person [charged with the violation] a copy of the charges and a notice of hearing before the commission or a member thereof, or before a designated agent, at a place therein fixed, to be held not less than ~~14~~ 10 days after service of a copy of the charges by the commission. Any charge may be amended by the charging party at any time prior to the issuance of an order based thereon, provided the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served may file an answer to the charge. The charging party and the respondent shall have the right to appear in person or otherwise and give testimony at the place and time fixed in the notice of hearing. In the discretion of the member or agent conducting the hearing or the commission, any other person may be allowed to intervene in the proceeding and to present testimony. In any hearing the commission shall not be bound by the judicial rules of evidence.

(4) The testimony taken by the commission or its member or agent shall be reduced to writing and filed with the commission. Thereafter the commission, upon notice, may take further testimony or hear argument.

(a) If, upon consideration of all evidence taken, the commission finds substantial evidence that an unfair labor practice has been committed, it shall state ~~the its~~ findings of fact and issue and cause to be served an order requiring the respondent party to cease and desist from the unfair labor practice and to take such positive action, including reinstatement of employees with or without back pay, as will effectuate the policies of this part. *The order shall award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the commission determines that such an award is appropriate. The order shall ~~may~~ further require the person to make periodic reports from time to time showing the extent to which he has complied with the order.*

(b) If, upon consideration of the evidence taken, the commission finds that the person or entity named in the charge has not engaged in and is not engaging in the unfair labor practice, the commission shall state ~~the its~~ findings of fact and issue an order dismissing the charge.

(6)(a) The commission or any party to the commission proceeding may petition for enforcement of the order and for appropriate injunctive relief and shall file the record of the proceedings before the commission in the district court of appeal. *Such petitions shall be exempt from the requirement of s. 120.69(1)(b)1.*

(e) *The court shall award to the prevailing party all or part of the costs of litigation and reasonable attorney's fees and expert witness fees, whenever the court determines that such an award is appropriate.*

(7) Any person aggrieved by a final order of the commission granting or denying, in whole or in part, the relief sought may obtain a review of such order by filing in the appropriate district court of appeal a petition praying that the order of the commission be modified or set aside. A copy of the petition shall be filed with the commission. Thereupon, the aggrieved party shall file in the said court the record in the proceeding certified by the commission. Upon the filing of the petition, the court shall proceed in the same manner as under subsection (5) and shall grant to the [petitioner] such temporary relief or restraining order as it deems just and proper, enforcing, modifying, or setting aside, in whole or in part, the order of the commission. The findings of the commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(8) The commencement of proceedings under subsection (5), ~~or~~ subsection (6), or subsection (7) shall not, unless specifically ordered by the district court of appeal, operate as a stay of the commission's order.

Section 18. Subsection (2) and paragraph (a) of subsection (6) of section 447.507, Florida Statutes, are amended to read:

447.507 Violation of strike prohibition; penalties.—

(2) If a public employee, a group of employees, an employee organization, or any officer, agent, or representative of any employee organization engages in a strike in violation of s. 447.505, either the commission or any public employer whose employees are involved or whose employees may be affected by the strike may file suit to enjoin the strike in the circuit court having proper jurisdiction and proper venue of such actions under Florida Rules of Civil Procedure and Florida Statutes. The circuit court shall conduct a hearing, with notice to the commission and to all interested parties, at the earliest practicable time. If the plaintiff makes a prima facie showing that a violation of s. 447.505 is in progress or that there is a clear, real, and present danger that such a strike is about to commence, the circuit court shall issue a temporary injunction enjoining the strike. Upon final hearing, the circuit court shall either make the injunction permanent or dissolve it.

(6)(a) If the commission determines that an employee organization has violated s. 447.505, it may:

1. Issue cease and desist orders as necessary to insure compliance with its order.

2. Suspend or revoke the certification of the employee organization as the bargaining agent of such employee unit.

3. Revoke the ~~right privilege of check off~~ of dues deduction and collection previously granted to said employee organization pursuant to s. 447.908.

4. Fine the organization up to \$20,000 for each calendar day of such violation or determine the approximate cost to the public due to each calendar day of the strike and fine the organization an amount equal to such cost, notwithstanding the fact that the fine may exceed \$20,000 for each such calendar day. The fines so collected shall immediately accrue to the public employer and shall be used by him to replace those services denied the public as a result of the strike. In determining the amount of damages, if any, to be awarded to the public employer, the commission shall take into consideration any action or inaction by the public employer or its agents that provoked or tended to provoke the strike by the public employees.

Section 19. Section 447.605, Florida Statutes, is amended to read:

447.605 Government in the sunshine.—

(1) All discussions between the chief executive officer of the public employer, or his representative, and the legislative body or of the public employer relative to collective bargaining shall be exempt from s. 286.011.

(2) The collective bargaining negotiations between a chief executive officer, or his representative, and a bargaining agent shall be in compliance with ~~not be exempt from~~ s. 286.011.

(3) All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be exempt from chapter 119.

Section 20. Subsection (17) is added to section 447.203, Florida Statutes, 1976 Supplement to read:

447.203 Definitions.—As used in this part:

(17) "Student representative" means the representative selected by each community college student government association and the council of student body presidents. Each representative may be present at all negotiating sessions which take place between the appropriate public employer and an exclusive bargaining agent. Said representative shall be enrolled as a student with at least 8 credit hours in the respective community college or in the state university system during his term as student representative.

Section 21. Present subsection (3) of section 447.301, Florida Statutes, is renumbered as subsection (4) and a new subsection (3) is added to said section to read:

447.301 Public employees' rights; organization and representation.—

(3) In negotiations over the terms and conditions of service and other matters affecting the working environment of employees or the learning environment of students in institutions of higher education, one student representative selected by the council of student body presidents may, at his discretion, be present at all negotiating sessions which take place between the Board of Regents and the bargaining agent for an employee bargaining unit. In the case of community colleges, the student government association of each college shall establish procedures and shall select a student representative to be present, at his discretion, at negotiations between the bargaining agent of the employees and the board of trustees. Each student representative shall have access to all written draft agreements and all other written documents pertaining to negotiations exchanged by the appropriate public employer and the bargaining agent, including a copy of any prepared written transcripts of any negotiating session. Each student representative shall have the right at reasonable times during the negotiating session to comment to the parties and to the public upon the impact of proposed agreements on the educational environment of students. Each student representative shall have the right to be accompanied by alternates or aides, not to exceed a combined total of two in number. Each student representative shall be obligated to participate in good faith during all negotiations and shall be subject to the rules and regulations of the Public Employees Relations Commission. The student representatives shall have neither voting nor veto power in any negotiation, action, or agreement. The state or any branch, agency, division or agent or any institution of the state shall not expend any moneys from any source for the payment of reimbursement for travel expenses or per diem to aides, alternates, or student representatives participating in, observing, or contributing to any negotiating sessions between the bargaining parties; provided that this limitation shall not

apply to use of student activity fees for the reimbursement of travel expenses and per diem to the university student representative, aides or alternates participating in the aforementioned negotiations between the Board of Regents and the bargaining agent for an employee bargaining unit.

Section 22. Section 447.609, Florida Statutes, is created to read:

447.609 Representation in proceedings.—

Any full-time employee or officer of any public employer or employee organization may represent his employer or any member of a bargaining unit in any proceeding authorized in this part, excluding the representation of any person or public employer in a court of law.

Section 23. This act shall take effect July 1, 1977.

Amendment 2—On page 1, lines 1 through 31, and on page 2 lines 1 through 7 strike all of said lines and insert:

A bill to be entitled An act relating to public employees' collective bargaining; revising part II of chapter 447, Florida Statutes, and modifying provisions in part I to conform to such revision; providing editorial clarification throughout; amending s. 447.04(2)(a), Florida Statutes, increasing license fees for business agents of labor organizations; amending s. 447.09(11) and (12), Florida Statutes; prohibiting coercion or intimidation of public officials or their families; limiting picketing sites; amending ss. 447.14 and 447.201, and adding subsection (3) to s. 447.17, all Florida Statutes, clarifying criminal penalty, civil remedy, and legislative intent provisions to provide for appropriate application to part I or part II; amending s. 447.203(3)(d), (4), (9), (12), and (15), Florida Statutes, 1976 Supplement; authorizing employee organizations to petition the Public Employees Relations Commission for designation of employees as managerial or confidential; clarifying and modifying definitions; amending s. 447.205, Florida Statutes; providing for a full-time commission with one part-time alternate member; providing for reorganization, terms, compensation, and administrative powers thereof; adding subsection (7) to s. 447.207, Florida Statutes, authorizing the commission to provide for the filing and prompt disposition of petitions for declaratory statements; providing that same shall be final agency action; adding a new subsection (3) to s. 447.301, Florida Statutes, to clarify provisions relating to public employees' rights; amending s. 447.303, Florida Statutes, entitling any employee organization certified as a bargaining agent to dues deduction for as long as the organization remains so certified; amending s. 447.305(1) and (3), Florida Statutes; conforming registration and reporting requirements to similar requirements in part I; requiring evidence of compliance with certain provisions of part I; providing an annual financial reporting fee; amending s. 447.307(2), (3)(a), and (4)(h), Florida Statutes, relating to certification of employee organizations; providing for intervention in certification proceedings; removing a prohibition against hearing officers making recommendations with respect thereto; amending s. 447.309(1) and (5), Florida Statutes; providing for approval of bargaining agreements in certain cases; providing that terms and conditions of employment not provided for in a bargaining agreement shall be regulated by applicable merit and civil service rules; amending s. 447.403, Florida Statutes; providing that an impasse must be declared by one of the parties, rather than being automatically declared within a certain time frame; providing that rejection of the special master's decision shall be in the form of written notice; creating s. 447.609, Florida Statutes; providing for representation in collective bargaining proceedings by full-time officers and employees of public employers and employee organizations; requiring that copies of each party's recommendations be furnished to the other party, as well as to the appropriate legislative body for resolution; providing for continuance of existing terms and conditions of employment until the impasse is resolved; amending s. 447.405(4)(i), Florida Statutes, to provide that availability of funds shall be a significant factor in the special master's decision; amending s. 447.409, Florida Statutes, providing for notice, and providing for the furnishing of copies to all parties, with respect to records of the special master; amending s. 447.503(3)(a), (4)(a) and (b), (6)(a), and (8), Florida Statutes, and adding a paragraph; conforming provisions of the section, which relates to charges of unfair labor practices, to the Administrative Procedure Act; authorizing any party to petition for injunctive relief; removing a time limitation relative thereto; providing for award of attorney's fees and costs; providing that commission orders are

not subject to stay unless ordered by the district court of appeal; amending s. 447.507(2) and (6)(a), Florida Statutes, relating to the filing of a suit to enjoin a violation against strikes, providing for notice to the commission pursuant thereto; amending s. 447.605, Florida Statutes, clarifying the requirements of the Government in the Sunshine Law as it applies to collective bargaining negotiations; adding s. 447.203(17), Florida Statutes, 1976 Supplement; defining "student representative"; renumbering s. 447.301(3), Florida Statutes, and adding a new subsection (3) to said section; providing for participation by student representatives in collective bargaining negotiations; denying student representatives voting or veto power in such negotiations; providing an effective date.

Amendment 3 to House Amendment 1—On page 15, line 25 insert: Section 14. Section 447.401, Florida Statutes, is amended to read:

447.401 Grievance procedures.—Each public employer and bargaining agent shall negotiate a grievance procedure to be used for the settlement of disputes between employer and employee, or group of employees, involving the interpretation or application of a collective bargaining agreement. Such grievance procedure shall have as its terminal step a final and binding disposition by an impartial neutral, mutually selected by the parties. However, an arbiter or other neutral shall not have the power to add to, subtract from, modify, or alter the terms of a collective bargaining agreement. If an employee organization is certified as the bargaining agent of a unit, the grievance procedure then in existence may be the subject of collective bargaining, and any agreement which is reached shall supersede the previously existing procedure. All public employees shall have the right to a fair and equitable grievance procedure, administered without regard to membership or nonmembership in any organization, except that certified employee organizations shall not be required to process grievances for employees who are not members of the organization. A career service employee shall have the option of utilizing the civil service appeal procedure or a grievance procedure established under this section, but such employee cannot use both a civil service appeal and a grievance procedure.

AND RENUMBER SUBSEQUENT SECTIONS

Amendment 4 to House Amendment 2—On page 2 in title, line 27, insert after the semicolon: amending s. 447.401, Florida Statutes, providing that no certified employee organization shall be required to process a grievance for any public employee who is not a member of the organization;

On motions by Senator Scarborough, the Senate refused to concur in the House Amendments and the House was requested to recede, and in the event the House refused to recede requested the appointment of a conference committee consisting of three members from each house. The action of the Senate was certified to the House.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 2 and 6, and has refused to concur in Senate Amendments 3, 5 and 7, and requests the Senate to recede; and passed HB 924, as amended.

By Representative Smith—

HB 924—A bill to be entitled An act relating to weapons and firearms; amending s. 790.06, Florida Statutes, 1976 Supplement, authorizing boards of county commissioners to adopt by resolution, a uniform policy and procedure for the issuance of licenses to carry pistols; authorizing such boards to refuse to issue licenses when they deem issuance not in the best interests of the public; adding paragraph (o) to s. 790.25(3), Florida Statutes, providing an exception to the weapons and firearms licensing law for investigators employed by public defenders if such investigators meet certain qualifications; providing an effective date.

Allen Morris, Clerk

On motions by Senator Trask, the Senate refused to recede from Senate amendments 3, 5 and 7 to HB 924 and again requested the House to concur.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the Speaker of the House of Representatives has appointed Representatives Redman, Pajic and Maxwell as Conferees on the part of the House on SB 598.

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 1 and 2 and passed SB 621.

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 1, 2 and 3 and passed SB 1246.

Allen Morris, Clerk

The Honorable Lew Brantley, President

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

SB 1359 SB 353 SB 885

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

On motion by Senator W. D. Childers the rules were waived and the Senate reverted to—

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote SB 1413 was withdrawn from the Committees on Commerce and Governmental Operations.

On motion by Senator W. D. Childers, the rules were waived and by two-thirds vote HB 1285 was withdrawn from the Committee on Commerce.

On motions by Senator W. D. Childers, the rules were waived and by two-thirds vote HB 2118 was withdrawn from the Committees on Commerce and Finance, Taxation and Claims.

SPECIAL ORDER, continued

The Senate resumed consideration of—

SB 1287—A bill to be entitled An act relating to public beaches; requiring that any public beach or seashore recreation area owned, leased, operated, controlled, maintained, or managed by the state or any of its agencies or by any county, municipality, or other political subdivision of the state be open to all members of the public on the same basis as for residents; providing an exemption; providing an effective date.

—which was taken up with pending Amendment 1.

Senator Williamson presiding

Senators MacKay, Castor and Sayler offered the following substitute amendment which was moved by Senator Castor and adopted:

Amendment 2—On page 2, line 8, insert: (6) This Act shall not prevent a county, municipality, or other political subdivision of the state that has purchased, prior to the effective date of this Act, beach or seashore recreation area primarily from local ad valorem tax revenues and that can economically justify the imposition of a differential charge or fee with respect to residence from imposing a differential charge or fee until such time as the acquisition costs of the beach or seashore recreation area are paid.

(7) If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Senator Gallen moved the following amendment which failed:

Amendment 3—On page 1, line 24 of Amendment 2, strike the period and insert: which was partially or wholly acquired through the use of federal government funds or funds appropriated by the state of Florida.

Senator MacKay moved the following title amendments which were adopted:

Amendment 4—On page 1, line 9, insert after the second semi-colon: Providing an exception under certain circumstances;

Amendment 5—On page 1, line 9, insert after exemption: providing for imposition of different charge of fee for beach or seashore recreation areas purchased prior to this Act. and providing a severability clause

Senator Wilson moved the following amendment which was adopted:

Amendment 6—On page 2, line 3, strike “prior to the effective date of this Act,”

On motion by Senator Castor, by two-thirds vote SB 1287 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24

Castor	Gorman	Plante	Thomas, Pat
Chamberlin	Graham	Poston	Ware
Childers, Don	Hair	Renick	Williamson
Dunn	Holloway	Sayler	Wilson
Firestone	Johnston	Spicola	Winn
Glisson	McClain	Thomas, Jon	Zinkil

Nays—7

Childers, W. D.	Peterson	Skinner	Trask
Gallen	Scott	Tobiassen	

By the Committee on Natural Resources and Conservation and Senator Plante—

CS for SB 915—A bill to be entitled An act relating to state-owned lands; abolishing the Board of Trustees of the Internal Improvement Trust Fund and vesting title to lands held by the board of trustees in the Governor and Cabinet, as head of the Department of Natural Resources; providing that the Governor and Cabinet, as head of the Department of Natural Resources, shall succeed to all statutory rights, duties, and responsibilities of the board of trustees; validating land transactions taken by the board of trustees since chapter 75-22, Laws of Florida, the Florida Environmental Reorganization Act of 1975, took effect and prior to the effective date of this act; amending s. 403.-804(1), Florida Statutes; providing that the Environmental Regulation Commission and not the Governor and Cabinet shall hear and decide appeals from decisions of the Department of Environmental Regulation under chapter 253, Florida Statutes; repealing s. 253.76, Florida Statutes, relating to the appeals process to Governor and Cabinet in such regard; providing for conformance to statutory law with the provisions of this act; providing an effective date.

—was read the first time by title and SB 915 was laid on the table.

On motions by Senator Spicola, by two-thirds vote CS for SB 915 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 on passage was:

Yeas—32

Castor	Gorman	Peterson	Spicola
Chamberlin	Graham	Plante	Thomas, Jon
Childers, Don	Hair	Poston	Tobiassen
Childers, W. D.	Holloway	Renick	Ware
Dunn	Johnston	Sayler	Williamson
Firestone	MacKay	Scarborough	Wilson
Gallen	McClain	Scott	Winn
Glisson	Myers	Skinner	Zinkil

Nays—None

SB 1065 was taken up and on motion by Senator Gallen, the rules were waived and by two-thirds vote HB 1046 was with-

drawn from the Committee on Finance, Taxation and Claims and placed on the calendar. On motion by Senator Gallen—

HB 1046—A bill to be entitled An act relating to taxation; amending s. 220.03(1)(h) and (2)(c), Florida Statutes, 1976 Supplement, relating to definitions applicable to corporate income taxation, to redefine the term "Internal Revenue Code"; providing an effective date.

—a companion measure, was substituted for SB 1065 and read the second time by title. On motion by Senator Gallen, by two-thirds vote HB 1046 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Castor	Gorman	Plante	Thomas, Jon
Chamberlin	Graham	Poston	Tobiassen
Childers, Don	Hair	Renick	Trask
Childers, W. D.	Holloway	Saylor	Ware
Dunn	Johnston	Scarborough	Williamson
Firestone	MacKay	Scott	Wilson
Gallen	McClain	Skinner	Winn
Glisson	Peterson	Spicola	Zinkil

Nays—None

Vote after roll call:

Yea—Myers

SB 1065 was laid on the table.

SB 1069—A bill to be entitled An act relating to planning and budgeting; adding a new subsection (5) to s. 216.151, Florida Statutes, to require the secretary of the Department of Administration to analyze the financial effect on local governments as a result of executive, legislative, or judicial action; adding subsection (3) to s. 216.162, Florida Statutes, to require the Governor's legislative budget to include recommendations for sources of funds for local governments when executive, legislative, or judicial actions cause revenue loss or increased expenditures to local governments; providing an effective date.

—was read the second time by title.

Senator Gorman moved the following amendments which were adopted:

Amendment 1—On page 1, line 18, strike everything after the enacting clause and insert: Section 1. Part VI of chapter 163, Florida Statutes, consisting of sections 163.701, 163.702, 163.703, 163.704, 163.705, 163.7055, 163.706, 163.707, and 163.708, Florida Statutes, is created to read:

PART VI

ADVISORY COUNCIL ON INTERGOVERNMENTAL RELATIONS

163.701 Short title.—Part VI of chapter 163 shall be known and may be cited as the "Advisory Council on Intergovernmental Relations Act."

163.702 Findings and purpose.—

(1) The Legislature finds and declares that there is a need for an official body to:

(a) Involve local and state officials in an advisory capacity to the executive and legislative branches of state government.

(b) Study problems of the intergovernmental aspects of governmental structure, finance, functional performance, and relationships at the local, regional, state, and interstate levels.

(c) Recommend solutions to intergovernmental problems.

(d) Establish a regular system of reporting to state and local public officials on the progress of Florida and its political subdivisions toward meeting their intergovernmental responsibilities.

(e) Encourage and recommend methods of effective and efficient delivery of services at the state and local levels through services integration and combination of complementary services delivery functions.

(f) Assume such responsibilities for administering, coordinating, or providing intergovernmental services as may be required by the Legislature or Governor.

(g) Provide the Legislature, the Governor, and other interested parties with advice on intergovernmental concerns.

(2) It is the purpose of this act to improve the coordination and cooperation between the state and its local governments, other states, and the Federal Government through the establishment of a permanent Florida Advisory Council on Intergovernmental Relations.

163.703 Council created.—There is hereby created a Florida Advisory Council on Intergovernmental Relations, hereafter referred to as the "council."

163.704 Membership.—

(1) The council shall be composed of 17 members as follows:

(a) Four members of the Senate appointed by the President of the Senate.

(b) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(c) Nine members to be appointed by the Governor from elected and appointed state and local officials and other interested citizens.

(2) Each member of the council shall perform the duties of a member of the council as additional duties required of him in his other official capacity.

(3) Legislative members shall be appointed to terms which correspond to their terms of office. All other members shall be appointed to staggered 4-year terms. All members may be reappointed.

(4) The council shall elect a chairman and vice chairman and such other officers as it may deem necessary. The chairman and vice chairman shall serve for 1 year and may be reelected. If both the chairman and vice chairman are absent at any meeting, the voting members present shall elect a temporary chairman by a majority vote.

(5) If a representative of the counties or of the cities or a legislator ceases to be an officer or member of the unit he is appointed to represent, his membership on the commission shall terminate immediately and there will be a vacancy in the membership. Within 30 days such vacancy shall be filled in the manner of the regular appointment, and the person so appointed shall serve only to the end of the unexpired term, and until his successor is appointed and qualified.

(6) The presiding officers of the Legislature should be guided in their appointments by consideration of the legislator's expertise, interest, and experience, including legislative committee service in the field of intergovernmental relations.

(7) Nine of the members of the council shall constitute a quorum.

163.705 Functions and duties.—The council shall carry out the following functions and duties:

(1) Serve as a forum for the discussion and study of intergovernmental problems.

(2) To the extent not otherwise provided by law, evaluate on a continuous basis the interrelationships among local, regional, state, interstate, and federal agencies in the provision of public services to the citizens of Florida and, as appropriate, prepare studies and recommendations to improve organizational structure, operational efficiency, the allocation of functional responsibilities, the delivery of services, and related matters.

(3) Analyze the structure, functions, revenue requirements, and fiscal policies of Florida and its political subdivisions, and conduct studies of economic, administrative, tax, and revenue matters for all levels of state government, and make recommendations for improvement.

(4) Examine proposed and existing federal and state programs, assess their impact upon Florida and its political subdivisions, and provide such assessments and recommendations, where appropriate, to the Legislature, the Governor, or any other group, public or private, whose activities affect intergovernmental relations.

(5) Encourage, and where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state, local, and federal agencies, and research and consulting organizations.

(6) Review the recommendations of national commissions studying federal, state, and local government relationships and problems and assess their possible application to Florida.

(7) Issue annual reports of its findings and recommendations to be transmitted to the Governor and the presiding officer of each house of the Legislature not less than 30 days prior to the convening of each regular session of the Legislature. Such reports shall set forth the reasons and supporting data for each recommendation and shall include draft legislation to implement such recommendations. Recommendations regarding economic and taxation issued shall be accompanied by supportive analyses of economic data. The council may issue special or interim reports on specific subjects as it may deem appropriate.

(8) Review and assess the work and recommendations of the federal Advisory Commission on Intergovernmental Relations and report such assessments to that body.

(9) The council is authorized to apply for, contract for, receive, and expend for its purposes any appropriations or grants from the state, its political subdivisions, the Federal Government, or any other source, public or private.

(10) The council shall prepare material providing positive input to the Constitution Revision Commission after carefully investigating the state's tax structure and other issues of an intergovernmental nature as they relate to the State Constitution.

163.7055 Relationship to federal-state intergovernmental relations and activities.—The primary role of the council shall be to study the relationships between state and local government. To the extent that these relationships affect federal-state intergovernmental relations, the council is directed to coordinate and cooperate with the Department of Administration and any other agency or activity concerned with federal-state relationships.

163.706 Meetings, hearings, committees.—

(1) The council shall hold meetings quarterly and at such other times as it deems necessary, except that the first meeting shall be at the call of the Governor. The council may hold hearings from time to time on matters that it deems to be in the public interest. Such meetings or hearings shall be public.

(2) Each officer, board, commission, council, department, or agency of state government, and each political subdivision of the state shall, when not inconsistent with any law, rule, or regulation regarding confidentiality, make available all facts, records, information, and data requested by the council and in all ways cooperate with the council in carrying out the functions and duties imposed by this act.

(3) The council may establish committees as it deems advisable and feasible, the membership of which may or may not be made up, in whole, from members of the council.

(4) The council shall promulgate rules of procedure governing its operations, provided they are in accordance with the provisions of chapter 120. All meetings of the council, or any committee thereof shall be conducted in accordance with the provisions of chapter 286.

163.707 Staff.—

(1) The council shall employ and set the compensation of an executive director, who shall serve at its pleasure. Within available funds, the executive director may employ and set the compensation of professional, technical, legal, or clerical staff as may be necessary, and may remove these personnel. The executive director, with the consent of the council, may acquire the services of consultants and enter into contracts on behalf of the council.

(2) The staff of the council shall be governed by the same rules as are the personnel of the Legislature and shall receive the same rights and benefits accruing to legislative personnel. The council staff shall be members of the Florida Retirement System and the council shall make employer contributions for this purpose.

(3) Upon request of the council, the Joint Legislative Management Committee is directed to provide such office space and equipment as the council deems necessary.

163.708 Finances.—

(1) A member of the council is not entitled to a salary for duties performed as a member of the council, except that the members, other than public officers, shall receive the per diem authorized for legislators and each member is entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties.

(2) Political subdivisions of the state are authorized to appropriate funds to the council to share in the cost of operations.

(3) Any requests by the Legislature for the performance of specific functions of studies requiring additional staff or expenses beyond the basic annual appropriations shall be accompanied by funds for such purposes.

(4) After the initial appropriation for the first year, the funding of this council will be part of the continuing legislative appropriation.

(5) The council is hereby directed to give careful study to the pressing double taxation issue and to the problems of local governmental debt management and to file a report with the Governor and the Legislature by March 1, 1978.

Section 2. The council shall prepare an analysis within 60 days, if any new state program or increased level of service of any existing state program is mandated by state executive regulation or action, by legislative action, or by judicial action, to determine the effect of such action on the revenues, expenditures, and revenue producing ability of counties, municipalities, and special districts, provided, however, that analysis of judicial actions will be conducted when requested by agents of the associations representing counties or municipalities. When the council determines that any such action will have the effect of decreasing the revenues or revenue producing abilities without a corresponding decrease in the expenditures of counties, municipalities, or districts, or will have the effect of increasing the expenditures of such entities, it shall send notice of such fact to the Governor and the presiding officers of the Legislature no later than 30 days prior to the convening of the legislative session. Such notice shall include an analysis of the action, along with a recommendation on sources of any additional state or local revenue to fund the increased costs or revenue loss.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, it is the legislative intent that the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 4. The Governor shall call the first meeting of the council by September 1, 1977.

Section 5. There is hereby appropriated from the unexpended funds of the Municipal Financial Assistance Trust Fund the sum of \$92,946, and an equal amount is hereby appropriated from the County Revenue Sharing Trust Fund, for a total of \$185,892, to fund the council's efforts and to implement the purposes of this act.

Section 6. This act shall take effect July 1, 1977.

Amendment 2—On page 1, strike all of lines 1 through 14 and insert: A bill to be entitled An act relating to local governmental and intergovernmental relations; creating part VI of chapter 163, Florida Statutes, entitled the "Advisory Council of Intergovernmental Relations Act," consisting of ss. 163.701-163.708, Florida Statutes; providing legislative findings and purpose; creating the Florida Advisory Council on Intergovernmental Relations; providing for membership of the council; providing its functions and duties; providing for public meetings, hearings, and committees of the council; providing for the employment of an executive director and employees of the council and for administrative support, office space, and equipment from the Joint Legislative Management Committee; providing for financing and members' per diem and travel expenses; requiring the council to analyze the financial effect on local governments as a result of executive, legislative, or judicial action, and to transmit said analysis to the Governor and to the President of the Senate and the Speaker of the House of Representatives; providing an appropriation; providing an effective date.

On motion by Senator Gorman, by two-thirds vote SB 1069 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Castor	Gorman	Poston	Tobiassen
Chamberlin	Graham	Renick	Trask
Childers, Don	Hair	Saylor	Vogt
Childers, W. D.	Holloway	Scarborough	Williamson
Dunn	Johnston	Scott	Wilson
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	
Glisson	Peterson	Thomas, Jon	

Nays—1

Zinkil

Votes after roll call:

Yea—Myers

Nay to Yea—Zinkil

Consideration of Senate Bills 1151, 1227 and 1247 was deferred.

The President presiding

By the Committees on Appropriations and Corrections, Probation and Parole and Senators Pat Thomas, Dunn, Renick, Hair, Jon Thomas, Vogt, Glisson, Chamberlin, Scott, MacKay and Myers—

CS for CS for SB 669—A bill to be entitled An act relating to corrections; creating the "Florida Youthful Offender Act"; providing legislative intent and definitions; providing for the adjudication of persons as youthful offenders; providing for judicial disposition of youthful offenders; providing for commitment to the custody of the department; providing for judicial consideration of aggravating and mitigating circumstances; providing for the suspension of sentence by the court; providing defendant access to certain information in the presentence report; providing for adoption of rules for the extension of the limits of confinement; providing for conditions under which youthful offenders are supervised; providing penalty for failure to return to confinement at designated time; providing for maximum terms of community control programs; providing for certification of institutional capacity by the Department of General Services; providing for payment for costs of incarceration or community control program by youthful offenders; providing for the sealing, expunction, and access of records; providing for granting and forfeiture of gain-time; amending ss. 959.115(1), (5), 959.116(1), Florida Statutes; providing for transfer of minors placed in a community control program by the court; providing for transfer of minors to youthful offender programs of the Department of Offender Rehabilitation; providing severability; providing an effective date.

—was read the first time by title and CS for SB 669 and SB 669 were laid on the table.

On motions by Senator Pat Thomas, by two-thirds vote CS for CS for SB 669 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 on passage was:

Yeas—33

Mr. President	Glisson	Poston	Trask
Barron	Gorman	Renick	Vogt
Castor	Graham	Saylor	Ware
Chamberlin	Holloway	Scott	Williamson
Childers, Don	Johnston	Skinner	Winn
Childers, W. D.	MacKay	Spicola	Zinkil
Dunn	McClain	Thomas, Jon	
Firestone	Peterson	Thomas, Pat	
Gallen	Plante	Tobiassen	

Nays—None

Vote after roll call:

Yeas—Hair and Wilson

SB 1364—A bill to be entitled An act relating to the Career Service Commission; amending s. 110.041, Florida Statutes; providing for a seven member commission and initial terms for two new members; authorizing the commission to elect a chairperson and other officers provided by its rules and to provide recognition to terminating members; providing for meetings in panels and staff; increasing the honorarium; authorizing the Department of Administration to pay for legal counsel for the commission; amending s. 110.061(2)(b), (c), (3), Florida Statutes, 1976 Supplement; providing for notice of appeal to be filed within 20 days from receipt of notice of the personnel action; providing hearings pursuant to subsection 120.57(1), Florida Statutes, for employees who are dismissed; authorizing the commission to reduce a dismissal to a suspension or to reduce the period of a suspension; providing an effective date.

—was read the second time by title. On motion by Senator Peterson, by two-thirds vote SB 1364 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	Renick	Trask
Barron	Graham	Saylor	Vogt
Castor	Holloway	Scarborough	Ware
Childers, Don	Johnston	Scott	Williamson
Childers, W. D.	MacKay	Skinner	Winn
Dunn	McClain	Spicola	Zinkil
Firestone	Peterson	Thomas, Jon	
Gallen	Plante	Thomas, Pat	
Glisson	Poston	Tobiassen	

Nays—None

Vote after roll call:

Yea—Hair

SB 1151 was taken up and on motion by Senator Plante, the rules were waived and by two-thirds vote HB 1421 was withdrawn from the Committee on Commerce and placed on the calendar. On motion by Senator Plante—

HB 1421—A bill to be entitled An act relating to banking; amending s. 659.06(2)(a), Florida Statutes, 1976 Supplement, to provide that certain facilities providing services to customers may be located on the property on which the main banking house of the parent or branch bank is situated or on property contiguous thereto, and defining contiguous property; declaring legislative intent; providing an effective date.

—a companion measure, was substituted for SB 1151 and read the second time by title. On motion by Senator Plante, by two-thirds vote HB 1421 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gorman	Renick	Tobiassen
Barron	Graham	Saylor	Trask
Castor	Holloway	Scarborough	Vogt
Chamberlin	Johnston	Scott	Ware
Childers, Don	MacKay	Skinner	Winn
Childers, W. D.	McClain	Spicola	Zinkil
Firestone	Plante	Thomas, Jon	
Glisson	Poston	Thomas, Pat	

Nays—1

Gallen

Votes after roll call:

Yeas—Hair, Peterson

SB 1151 was laid on the table.

SB 1227 was taken up and on motion by Senator Plante, the rules were waived and by two-thirds vote HB 1387 was withdrawn from the Committee on Commerce and placed on the calendar. On motion by Senator Plante—

HB 1387—A bill to be entitled An act relating to banks and banking; creating s. 674.106, Florida Statutes, under the

Uniform Commercial Code; defining the status of a branch or separate office of a bank for certain purposes; classifying a drive-in or walkup facility operated pursuant to s. 659.06(2)(b), Florida Statutes, 1976 Supplement, as a separate office for the purposes of this section; providing an effective date.

—a companion measure, was substituted for SB 1227 and read the second time by title. On motion by Senator Plante, by two-thirds vote HB 1387 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Gorman	Poston	Tobiassen
Castor	Graham	Renick	Trask
Chamberlin	Holloway	Sayler	Vogt
Childers, Don	Johnston	Scarborough	Ware
Childers, W. D.	Lewis	Scott	Winn
Dunn	MacKay	Skinner	Zinkil
Firestone	McClain	Spicola	
Gallen	Peterson	Thomas, Jon	
Glisson	Plante	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Hair

SB 1227 was laid on the table.

CS for SB 1247, by the Committee on Commerce and Senator Plante, was read the first time by title and SB 1247 was laid on the table.

Pending further consideration of CS for SB 1247, on motion by Senator Plante, the rules were waived and by two-thirds vote CS for HB 1422 was withdrawn from the Committee on Commerce and placed on the calendar. On motion by Senator Plante—

CS for HB 1422—A bill to be entitled An act relating to banks and banking; repealing s. 659.06(2)(b), Florida Statutes, 1976 Supplement, relating to drive-in and walkup facilities within 1 mile of the main banking facility; converting the facilities existing thereunder to branch banks on the effective date of this act; providing that such branches shall not be included in the limitation of s. 659.06(1)(a)1., Florida Statutes, on the number of branches which may be authorized for the calendar year in which such conversion occurs; providing an effective date.

—a companion measure, was substituted for CS for SB 1247 and read the second time by title. On motion by Senator Plante, by two-thirds vote CS for HB 1422 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Glisson	Peterson	Thomas, Jon
Barron	Gorman	Plante	Thomas, Pat
Castor	Graham	Poston	Tobiassen
Chamberlin	Henderson	Renick	Trask
Childers, Don	Holloway	Sayler	Vogt
Childers, W. D.	Johnston	Scarborough	Ware
Dunn	Lewis	Scott	Winn
Firestone	MacKay	Skinner	Zinkil
Gallen	McClain	Spicola	

Nays—None

Vote after roll call:

Yea—Hair

CS for SB 1247 was laid on the table.

SB 368—A bill to be entitled An act relating to federal apprenticeships; creating s. 446.075, Florida Statutes; authorizing the Division of Labor of the Department of Commerce to enter into contracts with the United States Department of Labor to act as registration agent for federal apprenticeship registration purposes; providing an effective date.

—was read the second time by title. On motion by Senator Spicola, by two-thirds vote SB 368 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Glisson	Plante	Thomas, Pat
Barron	Gorman	Poston	Tobiassen
Castor	Graham	Renick	Trask
Chamberlin	Holloway	Sayler	Vogt
Childers, Don	Johnston	Scarborough	Ware
Childers, W. D.	Lewis	Scott	Williamson
Dunn	MacKay	Skinner	Wilson
Firestone	McClain	Spicola	Winn
Gallen	Peterson	Thomas, Jon	

Nays—None

Vote after roll call:

Yea—Hair

SB 392—A bill to be entitled An act relating to apprenticeship sponsors; amending s. 446.071, Florida Statutes; providing for approval of sponsors by the Bureau of Apprenticeship of the Division of Labor of the Department of Commerce where justified if they meet the standards established by the division; providing that a sponsor may be a committee, a group of employers, an employer, or a group of employers or any combination thereof; providing for consideration of preapprenticeship trainees and credit to be awarded preapprentices entering apprenticeship programs; providing an effective date.

—was read the second time by title.

The Committee on Commerce offered the following amendment which was moved by Senator Spicola and adopted:

Amendment 1—On page 1, lines 23 and 24, strike “where justified” and insert: upon a determination of need

On motion by Senator Spicola, by two-thirds vote SB 392 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr. President	Gorman	Poston	Tobiassen
Castor	Graham	Renick	Trask
Chamberlin	Holloway	Sayler	Vogt
Childers, Don	Johnston	Scarborough	Williamson
Childers, W. D.	Lewis	Scott	Wilson
Dunn	MacKay	Skinner	Winn
Firestone	McClain	Spicola	Zinkil
Gallen	Myers	Thomas, Jon	
Glisson	Peterson	Thomas, Pat	

Nays—None

Vote after roll call:

Yea—Hair

On motion by Senator Zinkil, the Senate reconsidered the vote by which—

CS for SB 1285—A bill to be entitled An act relating to taxation of motor and other fuels which provides a price responsive adjustment for the taxes levied under ss. 206.41, 206.60, 206.605, and 206.87, Florida Statutes; and the deductions and credits permitted under ss. 206.31, 206.43, 206.50, 206.64, 206.625, and 215.22, Florida Statutes; by creating ss. 206.78, 206.781, 206.782, 206.98 and 206.981, Florida Statutes; providing an effective date.

—failed to pass.

On motion by Senator Gallen, the rules were waived and time of adjournment was extended until final action on CS for SB 1285 and Senate Bills 511, 512, 513 and 654.

The question recurred on CS for SB 1285 which failed to pass. The vote was:

Yeas—18

Mr. President	Firestone	MacKay	Scott
Castor	Hair	Myers	Thomas, Jon
Chamberlin	Holloway	Peterson	Zinkil
Childers, Don	Johnston	Plante	
Dunn	Lewis	Poston	

Nays—20

Barron	Graham	Skinner	Vogt
Childers, W. D.	McClain	Spicola	Ware
Gallen	Renick	Thomas, Pat	Williamson
Glisson	Sayler	Tobiassen	Wilson
Gorman	Scarborough	Trask	Winn

On motion by Senator MacKay the Senate reconsidered the vote by which—

CS for SB 1212—A bill to be entitled An act relating to the Beverage Law; adding s. 561.01(12), Florida Statutes; providing a definition for "net purchase price"; amending ss. 561.50, 561.55(1), Florida Statutes; providing that the beverage tax shall be paid as a percentage of the net purchase price of alcoholic beverages; providing for remittance of tax and filing of required reports to the Division of Beverage of the Department of Business Regulation for the previous calendar month; amending ss. 563.05, 564.06, 565.12, Florida Statutes; providing that the beverage tax on malts, wines, and liquors shall be a percentage of the net purchase price; providing an exemption; deleting requirement for payment of tax by vendors; providing for levy and payment of tax on alcoholic beverages in possession of a distributor on October 1, 1977; providing an effective date.

—passed as amended.

On motion by Senator Williamson, the Senate reconsidered the vote by which CS for SB 1212 was placed on third reading.

On motion by Senator Williamson, the Senate reconsidered the vote by which Amendment 1 was adopted.

On motion by Senator Williamson, the Senate reconsidered the vote by which Amendment 1A failed.

The question recurred on Amendment 1A which failed by the following vote:

Yeas—12

Mr. President	Gallen	MacKay	Scott
Chamberlin	Johnston	Myers	Vogt
Dunn	Lewis	Renick	Williamson

Nays—25

Barron	Hair	Scarborough	Ware
Castor	Henderson	Skinner	Wilson
Childers, Don	Holloway	Spicola	Winn
Childers, W. D.	McClain	Thomas, Jon	Zinkil
Glisson	Peterson	Thomas, Pat	
Gorman	Poston	Tobiassen	
Graham	Sayler	Trask	

Senators Lewis, Graham, MacKay and Spicola offered the following amendment to Amendment 1, which was moved by Senator MacKay and adopted:

Amendment 1B—On page 4, line 2, strike "October 1" and insert: July 1

On motion by Senator Gallen, the Senate recessed at 5:30 p.m. to reconvene at 6:00 p.m.

The Senate was called to order by the President at 6:00 p.m. A quorum present—39:

Mr. President	Childers, W. D.	Gorman	Johnston
Barron	Dunn	Graham	Lewis
Castor	Firestone	Hair	MacKay
Chamberlin	Gallen	Henderson	McClain
Childers, Don	Glisson	Holloway	Myers

Peterson	Scarborough	Thomas, Pat	Williamson
Plante	Scott	Tobiassen	Wilson
Poston	Skinner	Trask	Winn
Renick	Spicola	Vogt	Zinkil
Sayler	Thomas, Jon	Ware	

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Gallen, the rules were waived and by two-thirds vote SB 1235 was withdrawn from the Committees on Finance, Taxation and Claims; and Economic, Community and Consumer Affairs and by two-thirds vote placed on the Special Order Calendar.

The Senate resumed—

CS for SB 1212—A bill to be entitled An act relating to the Beverage Law; adding s. 561.01(12), Florida Statutes; providing a definition for "net purchase price"; amending ss. 561.50, 561.55(1), Florida Statutes; providing that the beverage tax shall be paid as a percentage of the net purchase price of alcoholic beverages; providing for remittance of tax and filing of required reports to the Division of Beverage of the Department of Business Regulation for the previous calendar month; amending ss. 563.05, 564.06, 565.12, Florida Statutes; providing that the beverage tax on malts, wines, and liquors shall be a percentage of the net purchase price; providing an exemption; deleting requirement for payment of tax by vendors; providing for levy and payment of tax on alcoholic beverages in possession of a distributor on October 1, 1977; providing an effective date.

Senator Graham moved the following amendment to Amendment 1:

Amendment 1C—On page 1, strike lines 10-15, and insert: ~~However, the excise taxes required to be paid by this section upon malt beverages containing alcohol of not more than 3.2 percent by weight shall not be required to be paid upon such beverages when the same are sold to port exchanges, ship service stores, and base exchanges located in military, naval, or air force reservations within this state.~~

Amendment 1C was adopted by the following vote:

Yeas—16

Castor	Glisson	McClain	Spicola
Childers, Don	Graham	Myers	Thomas, Jon
Dunn	Holloway	Poston	Williamson
Firestone	Johnston	Scarborough	Winn

Nays—15

Mr. President	Hair	Renick	Trask
Barron	Henderson	Scott	Wilson
Gallen	Lewis	Skinner	Zinkil
Gorman	Peterson	Thomas, Pat	

Senator Scarborough moved that the Senate reconsider the vote by which Amendment 1C was adopted. The motion was adopted by the following vote:

Yeas—21

Mr. President	Hair	Renick	Trask
Barron	Henderson	Scarborough	Ware
Childers, W. D.	Lewis	Scott	Zinkil
Gallen	McClain	Skinner	
Glisson	Peterson	Thomas, Pat	
Gorman	Plante	Tobiassen	

Nays—15

Castor	Graham	Myers	Williamson
Childers, Don	Holloway	Poston	Wilson
Dunn	Johnston	Spicola	Winn
Firestone	MacKay	Thomas, Jon	

The question recurred on Amendment 1C and Amendment 1C failed.

Senator Graham moved the following amendments to Amendment 1 which failed:

Amendment 1D—On page 4, between lines 1 and 2, insert: Section 4. Subsection 6 of section 563.06, section 564.05, and section 565.10, Florida Statutes are hereby repealed.

Amendment 1E—On page 4, between lines 1 and 2, add a new Section 4 and renumber subsequent Sections, and insert: (Section 4. Adding Section 561.32(3), Florida Statutes)

561.32 Transfer of licenses.—

(3) Upon the transfer of licenses issued under s. 561.20(1) an additional transfer fee equal to fifty percent of the difference between the book value and the current market value of the license to be transferred as determined by the division shall be paid.

Amendment 1 as amended was adopted.

Senator Lewis moved the following amendment which was adopted:

Amendment 2—On page 1 in title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Beverage Law; amending s. 563.05, Florida Statutes; changing the rate of tax on malt beverages; amending s. 564.06, Florida Statutes; changing the excise tax on wines; amending s. 565.12, Florida Statutes; changing the tax on liquors and beverages; providing an effective date.

On motion by Senator Lewis, by two-thirds vote CS for SB 1212 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—27

Mr. President	Glisson	McClain	Spicola
Castor	Graham	Myers	Thomas, Jon
Childers, Don	Hair	Peterson	Thomas, Pat
Childers, W. D.	Holloway	Poston	Tobiassen
Dunn	Johnston	Renick	Ware
Firestone	Lewis	Scott	Williamson
Gallen	MacKay	Skinner	

Nays—8

Barron	Henderson	Scarborough	Wilson
Gorman	Sayler	Trask	Zinkil

Vote after roll call:

Yea—Chamberlin

SB 654—A bill to be entitled An act relating to assessments of special classes of property; amending s. 193.511, Florida Statutes; changing the assessment on items of inventory from 25 percent to 10 percent; providing an effective date.

—was read the second time by title.

Senator Vogt offered the following amendment which was moved by Senator W. D. Childers and adopted:

Amendment 1—On page 1, between lines 14 and 15, insert: Section 2 The rate of assessment provided by this act shall commence with the next assessment made after the effective date of this act

(Renumber subsequent sections.)

On motion by Senator W. D. Childers, by two-thirds vote SB 654 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

Mr. President	Dunn	Graham	MacKay
Castor	Firestone	Hair	McClain
Childers, Don	Glisson	Holloway	Myers
Childers, W. D.	Gorman	Lewis	Plante

Poston	Skinner	Tobiassen	Winn
Renick	Spicola	Trask	Zinkil
Scarborough	Thomas, Jon	Wilson	
Scott	Thomas, Pat		

Nays—3

Henderson	Johnston	Williamson
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Votes after roll call:

Yeas—Barron, Chamberlin, Sayler, Vogt, Ware

The Senate resumed consideration of—

SB 511—A bill to be entitled An act relating to sales, storage, and use tax; amending s. 212.02(3)(c), Florida Statutes, 1976 Supplement, and s. 212.08(4), Florida Statutes, to exempt from taxation fuel and energy used in manufacturing or processing goods for sale or resale; providing an effective date.

—with pending Amendment 2. On motion by Senator Dunn, further consideration of Amendment 2 was deferred.

Senator MacKay moved the following amendment which was adopted:

Amendment 3—On page 3, line 8, strike “July 1, 1977” and insert: April 1, 1978

Senator Vogt offered the following amendment which was moved by Senator W. D. Childers and adopted:

Amendment 4—On page 1, line 29, strike “excluding” and insert: Including

On motion by Senator Dunn further consideration of SB 511 with pending Amendment 2 was deferred.

SB 1235—A bill to be entitled An act relating to taxation of motor fuels; amending s. 206.625, Florida Statutes, relating to return of the first gas tax and the additional gas tax to municipalities, to provide that counties performing similar services shall receive the same refund; providing an effective date.

—was read the second time by title.

Senator MacKay moved the following amendments which were adopted:

Amendment 1—On page 1, strike all of lines 12 through 29 and insert: Section 1. Section 206.606, Florida Statutes, is created to read:

206.606 Additional tax on motor fuel for public transportation purposes.—

(1) An additional excise or license tax of 1 cent per gallon is imposed, in addition to all other taxes imposed, upon every gallon of motor fuel sold or used in this state, or brought into this state for use, upon which such tax has not been paid, or the payment thereof not lawfully assumed by some person handling the same in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title within this state whether by a distributor or dealer, except as expressly provided in s. 206.41(2), who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(2) An additional excise or license tax of 1 cent per gallon is imposed, in addition to all other taxes imposed, upon every gallon of special fuels used or sold in this state for use. Unless expressly provided to the contrary in part II of this chapter, every sale shall be deemed to be for use in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title within this state by a dealer, except as expressly provided in part II of this chapter, who shall act as agent for the state in the collection of such tax whether he is the ultimate seller or not.

(3) The additional 1-cent tax per gallon imposed by this section on motor fuels and special fuels shall be collected by the department. Of the money collected 75 percent shall be paid into the State Treasury for deposit in the Department of Transportation Trust Fund to be used by the Department

of Transportation and 25 percent shall be returned to the county on which the tax was collected; provided, however, commencing July 1, 1978 all money collected from such 1-cent tax per gallon shall be returned to the county in which the tax was collected for transportation purposes.

Section 2. This act shall take effect July 1, 1977.

(Renumber subsequent section.)

Amendment 2—On page 1 in title, strike all of lines 1 through 8 and insert: A bill to be entitled An act relating to taxes on motor fuels and special fuels, creating s. 206.606, Florida Statutes; imposing an additional 1-cent tax per gallon on motor fuels and special fuels; providing for distribution of the revenues from such tax; providing an effective date

Senator Barron presiding

The President presiding

On motion by Senator MacKay, by two-thirds vote SB 1235 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—19

Mr. President	Gallen	MacKay	Renick
Castor	Hair	Myers	Scott
Chamberlin	Holloway	Peterson	Thomas, Jon
Dunn	Johnston	Plante	Ware
Firestone	Lewis	Poston	

Nays—15

Barron	Graham	Skinner	Wilson
Childers, Don	Henderson	Spicola	Winn
Glisson	Sayler	Thomas, Pat	Zinkil
Gorman	Scarborough	Williamson	

Votes after roll call:

Yea—McClain

Nays—W. D. Childers, Tobiassen, Vogt

Senator Plante presiding

By the Committee on Economic, Community and Consumer Affairs—

CS for SB 513—A bill to be entitled An act relating to the sales, storage, and use tax; amending s. 212.05(6), Florida Statutes, 1976 Supplement; reducing the tax for a prescribed period of time on the sale of certain machinery, equipment, parts and accessories therefor, used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or for use in furnishing research, communications, transportation or public utility services; providing a cap on the amount of such taxes; prescribing the period in which records are to be kept and audit authorized; providing an effective date.

—was read the first time by title and SB 513 was laid on the table.

On motion by Senator Vogt, by two-thirds vote CS for SB 513 was read the second time by title.

Senator Vogt moved the following amendment which was adopted:

Amendment 1—On page 2, strike line 3 and on page 3, strike all of lines 3 through 8 and to the period on line 9 and insert: on page 2, line 9 At the rate of 4

Senator MacKay moved the following amendment which was adopted:

Amendment 2—On page 3, line 20, strike "July 1, 1977" and insert: April 1, 1978

On motion by Senator Vogt, by two-thirds vote CS for SB 513 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—19

Mr. President	Gorman	Poston	Thomas, Pat
Dunn	Hair	Sayler	Trask
Firestone	Lewis	Scarborough	Vogt
Gallen	MacKay	Skinner	Wilson
Glisson	Peterson	Thomas, Jon	

Nays—17

Castor	Holloway	Renick	Winn
Chamberlin	Johnston	Scott	Zinkil
Childers, Don	McClain	Spicola	
Graham	Myers	Ware	
Henderson	Plante	Williamson	

Votes after roll call:

Yeas—W. D. Childers, Tobiassen

ENROLLING REPORTS

CS for SB 563

CS for SB 394

—have been enrolled, signed by the required Constitutional Officers and filed with the Governor on June 1, 1977.

Joe Brown, Secretary

CO-INTRODUCER

Senator Graham—Senate Bills 1384 and 122

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 31 was corrected and approved as follows: Page 672, column 1, strike line 11 and insert: On motion by Senator MacKay, by two-thirds vote SB 1012 was read the third time by title, passed and was

On motion by Senator Gallen, the Senate adjourned at 7:25 p.m. to convene at 9:00 a.m., June 2.