



Journal of the Senate

Number 1—Special Session A

Tuesday, March 1, 1983

At a Special Session of the Florida Legislature convened under Article III, Section 3(c)(1), of the Constitution of the State, as revised in 1968, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.

The Senate was called to order by the President at 12:00 noon. A quorum present—40:

Mr. President	Frank	Jennings	Myers
Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Rehm
Castor	Grant	Malchon	Scott
Childers, D.	Grizzle	Mann	Stuart
Childers, W.D.	Hair	Margolis	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein

Excused: Senator Meek at 5:15 p.m.

Prayer by Dr. Robert M. McMillan, pastor, First Baptist Church, Tallahassee:

We praise you Almighty God, ruler of all, for the privilege of serving others in society; for the genius of democratic government; for the ultimate legislation that comes out of diversity of thought and opinion.

We seek your blessings upon each Senator. Grant them the overpowering awareness that they represent the people, so that their motives in governing may never be merely personal.

Grant them also the wisdom they seek that, collectively, they might produce the legislation that will benefit all of us in our beloved State of Florida. In the Lord's name. Amen.

Senator Hill led the Senate in the pledge of allegiance to the flag of the United States of America.

By direction of the President, the Proclamation of the Governor convening the Legislature in Special Session and the amended Proclamation were read:

PROCLAMATION
State of Florida
Executive Department
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE HOUSE OF REPRESENTATIVES:

WHEREAS, the State of Florida is experiencing an accelerating deterioration of its transportation system: roads, expressways, bridges and public transit; and

WHEREAS, the cost of rebuilding Florida's roads, expressways and bridges is approximately six times greater than the cost of adequately maintaining them; and

WHEREAS, the timely and strategic construction of new transportation corridors is a primary tool for shaping patterns of orderly population growth; and

WHEREAS, the provision of adequate urban public transit facilitates an orderly growth program for Florida's urban areas and diminishes the development pressures on agricultural and environmentally sensitive land; and

WHEREAS, the provision of adequate transportation funding and planning is a paramount factor for businesses as they decide to relocate or expand in Florida; and

WHEREAS, thousands of jobs for Floridians and millions of dollars in Florida payrolls could be lost without adequate financing for Florida's transportation needs; and

WHEREAS, the improvement of Florida's roads, bridges and highways will require increased funding and related statutory changes;

NOW, THEREFORE, I, BOB GRAHAM, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

Section 1.

That the Legislature of the State of Florida is convened in Special Session commencing at noon, Tuesday, March 1, and extending through 6:00 p.m., Wednesday, March 2, 1983.

Section 2.

That the Legislature of the State of Florida is convened for the sole and exclusive purpose of considering the following matters:

- (a) Amendment of Chapter 212, Florida Statutes, to remove the sales tax exemption on Motor and Special Fuel and amendment of Chapter 206, Florida Statutes, repealing the first gas tax.
- (b) Amendment of Chapter 320, Florida Statutes, increasing Motor Vehicle Tag fees and reallocating Motor Vehicle License Tag Revenue.
- (c) Amendment of Chapter 206, Florida Statutes, to allow a local option Motor Fuel Tax.
- (d) Amendment of Chapter 212, Florida Statutes, to repeal the partial exemption for fuel purchases.
- (e) Amendment of those sections of Florida Statutes necessary for the implementation of the foregoing.
- (f) A bill requiring a performance audit and management review of operations of the State Department of Transportation.
- (g) A bill providing for repeal of Section 20.23(3), Florida Statutes, unless reenacted by October 1984 after presentation and consideration of performance audits and management reviews.
- (h) Amendment of 1982-83 General Appropriations Act.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed to this Proclamation convening the Legislature in Special Session at the Capitol, this 16th day of February 1983.

Bob Graham
GOVERNOR

ATTEST:
George Firestone
SECRETARY OF STATE

PROCLAMATION
State of Florida
Executive Department
Tallahassee

(Amendment to Proclamation dated February 16, 1983)

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE
AND THE HOUSE OF REPRESENTATIVES:

WHEREAS, on the 16th day of February, 1983, a proclamation of the Governor was issued convening a Special Session of the Florida Legislature commencing at noon, Tuesday, March 1, and extending through 6:00 p.m., Wednesday, March 2, 1983.

WHEREAS, it is necessary and in the best interest of the citizens of the State of Florida to amend the Proclamation of February 16, 1983 in order to expand the call of the Special Session so that the Legislature may consider the additional legislative business set forth below;

NOW, THEREFORE, I, BOB GRAHAM, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

1. That Section two (2) of the Proclamation of the Governor dated February 16, 1983 is hereby amended to read:

Section 2.

That the Legislature of the State of Florida is convened for the sole and exclusive purpose of considering the following matters:

- (a) Amendment of Chapter 212, Florida Statutes, to remove the sales tax exemption on Motor and Special Fuel and amendment of Chapter 206, Florida Statutes, repealing the first gas tax.
- (b) Amendment of Chapter 320, Florida Statutes, increasing Motor Vehicle Tag fees and reallocating Motor Vehicle License Tag Revenue.
- (c) Amendment of Chapter 336, Florida Statutes, to allow a local option Motor Fuel Tax.
- (d) Amendment of Chapter 212, Florida Statutes, to repeal the partial exemption for fuel purchases.
- (e) Amendment of those sections of Florida Statutes necessary for the implementation of the foregoing.
- (f) A bill requiring a performance audit and management review of operations of the State Department of Transportation.
- (g) A bill providing for repeal of Sections 20.23(2) and (3), Florida Statutes, unless reenacted by October 1984 after presentation and consideration of performance audits and management reviews.
- (h) A bill providing for a one-time transition tax on gas and motor fuel.
- (i) Amendment of the 1982-83 General Appropriations Act.

Except as amended by this Proclamation, the Proclamation of the Governor dated February 16, 1983, is ratified and confirmed.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed to this Amended Proclamation at the Capitol, this 1st day of March 1983.

Bob Graham
GOVERNOR

ATTEST:
George Firestone
SECRETARY OF STATE

INTRODUCTION AND REFERENCE OF BILLS

By Senators Margolis and Neal—

SB 1-A—A bill to be entitled An act relating to transportation finance and administration; adding s. 212.02(21), (22), Florida Statutes, 1982 Supplement; amending s. 212.05(1), Florida Statutes, 1982 Supplement, and adding subsection (4) to said section; amending s. 212.055(1), Florida

Statutes, as amended; amending ss. 125.0165(1) and 212.08(4), Florida Statutes, 1982 Supplement; creating part II of chapter 212, Florida Statutes; providing for the imposition of the tax on sales, use, and other transactions on the sale of motor and special fuels; deleting provisions which provide for the taxation of fuels used by certain vehicles licensed as common carriers, and vessels, engaged in interstate or foreign commerce on the basis of the ratio of intrastate to interstate mileage; creating ss. 212.60, 212.65, 212.70, 212.75, 212.90, 212.91, 212.95, 212.951-212.961, 212.970-212.975, 212.980-212.9813, Florida Statutes; providing legislative intent; providing definitions; specifying that the tax is upon the ultimate retail consumer; providing that the tax be paid upon the first sale or transfer of title or use; requiring that the tax be added to the sale price and stated separately on sales slips and invoices and prohibiting distributors, dealers, retail dealers, and retailers from claiming that they will absorb the tax; providing penalties; directing the Department of Revenue to determine the applicable tax per gallon of fuel annually; requiring retailers to display a notice with respect to such tax; providing that the tax be remitted at the same time and in the same manner as taxes under chapters 206 and 207; providing for the relationship between parts I and II of chapter 212 and providing for applicability of administrative and penalty provisions of chapter 206 to part II of chapter 212; exempting dealer-to-dealer sales; providing for distribution of the proceeds of the tax; providing for certain refunds of the tax; providing that the discretionary sales tax which certain charter counties are authorized to adopt shall not apply to motor and special fuels; amending s. 206.05(1), Florida Statutes; increasing the amount of surety bonds to be posted by distributors; amending s. 206.41(1), Florida Statutes, and repealing subsections (3) and (4) of said section; repealing the first gas tax on motor fuel and designating the second gas tax as the "constitutional gas tax"; renaming the additional seventh-cent tax as the "county tax on motor fuel" and the additional eighth-cent tax as the "municipal tax on motor fuel"; directing that conforming statutory changes be made; amending s. 206.87(1), Florida Statutes; providing that the excise tax on special fuel shall be 4 cents per gallon; repealing subsection (3) of said section relating to separate statement of price and tax under certain circumstances; amending ss. 206.43(1) and 206.91(1), Florida Statutes; revising the distributor's and dealer's credits for collecting said taxes on motor and special fuel; repealing ss. 206.29-206.40, Florida Statutes, which authorize a refund of 4 cents of said taxes on fuel used for city transit systems; repealing s. 206.415, Florida Statutes, which authorizes an exemption from the first gas tax for gasohol; amending s. 206.42, Florida Statutes; providing that aviation motor fuel is not exempt from the sales tax; repealing ss. 206.50-206.55, 206.602 and 206.603, Florida Statutes, which authorize a refund to retail dealers for evaporation and shrinkage, a refund for gasoline used in gasohol, and certain reimbursements for gasohol exemptions; repealing s. 206.57, Florida Statutes, relating to tax on fuel in reserve motor vehicle reservoirs; amending s. 213.11, Florida Statutes, which provides for transfer of a portion of first gas tax revenues to the Department of Natural Resources for aquatic weed control; amending s. 215.22(1), (2), (17), Florida Statutes; authorizing certain deductions from sales tax revenues on motor and special fuel deposited in the Gas Tax Collection Trust Fund; amending s. 339.08, Florida Statutes, 1982 Supplement; providing for use of the proceeds of the sales tax on motor and special fuel; amending s. 339.10(2), Florida Statutes; authorizing advances of proceeds of said tax; amending s. 339.24(3), Florida Statutes; authorizing expenditure of such proceeds for roadside parks and similar facilities; amending ss. 18.11(1)(f), 123.04(2), 206.45, 206.46, 206.47, 206.625(1), 206.64, 206.70(1), 206.875(2), 206.97, 207.003, 207.005(2), (3), 207.026, 215.36, 215.74, 336.41(3), 339.081(1)(a), 339.083(2), 339.089(1), 344.17, 348.217(10), (11), 348.219(3)(g), (k), 348.22(1), (3)(a), (4), 348.221(2)(b), 348.222(4), (5), 348.81(10), and 348.951(10), Florida Statutes, and s. 215.47(1)(d), Florida Statutes, 1982 Supplement; revising provisions relating to the excise tax on motor and special fuels, financial conforming and correcting language; correcting cross references; amending s. 320.20, Florida Statutes, changing the formula for distributing certain license tax revenues; amending s. 320.08(2), (4)(c), (d), (e), Florida Statutes, 1982 Supplement; providing an increase in the annual registration fee for certain vehicles; amending s. 316.535(6), Florida Statutes; authorizing local law enforcement officers to enforce certain weight limits; amending s. 316.545, Florida Statutes; providing for inspection of weights and loads by local law enforcement officers; providing penalties; amending s. 336.021(1) and (2), Florida Statutes, 1982 Supplement; providing for a voted gas tax on motor and special fuels; creating the Voted Gas Tax Trust Fund; creating s. 336.025, Florida Statutes; authorizing the levy of a 1 or 2 cent local option gas tax without referendum; providing for distribution of the revenues from such tax; providing for levy of transition taxes; providing for the waiver of cer-

tain bid procedures for implementation; providing an appropriation; providing effective dates.

—was read the first time by title and referred to the Committee on Finance, Taxation and Claims.

By Senator Beard—

SB 2-A—A bill to be entitled An act relating to the Department of Transportation; creating s. 334.235, Florida Statutes; requiring the Auditor General to perform specified performance audits of certain department functions and processes; requiring that such audits be provided to the Legislature; providing an appropriation; providing an effective date.

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

By Senator Beard—

SB 3-A—A bill to be entitled An act relating to the Department of Transportation; repealing s. 20.23(2), (3), Florida Statutes, authorizing six divisions and requiring at least six districts for the department; providing for legislative review; providing an effective date.

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

Senator Beard moved that SB 4-A be admitted for introduction by the required constitutional two-thirds vote of the Senate. The motion was adopted. The vote was:

Yeas— 35

Beard	Gersten	Jennings	Neal
Carlucci	Girardeau	Johnston	Plummer
Castor	Gordon	Kirkpatrick	Rehm
Childers, D.	Grant	Langley	Stuart
Childers, W.D.	Grizzle	Mann	Thomas
Crawford	Hair	Margolis	Thurman
Dunn	Henderson	Maxwell	Vogt
Fox	Hill	Meek	Weinstein
Frank	Jenne	Myers	

Nays—None

By Senators Beard and Jenne—

SB 4-A—A bill to be entitled An act relating to state agency contracts; creating s. 286.30, Florida Statutes; providing definitions; providing a hearing procedure; providing for denial or revocation of a contractor's certificate of qualification or privilege to provide services or commodities to any state agency or to bid on work let by any state agency for specified reasons; providing for a period of disqualification; providing for reapplication or reinstatement of a certificate of qualification or privilege; providing a hearing procedure; providing for a continuation of obligations under preexisting contracts; providing penalties; providing notification requirements; providing investigative authority; creating s. 286.31, Florida Statutes; providing for distribution of moneys recovered; creating s. 286.32, Florida Statutes; providing that a certificate of qualification or other form of authorization to bid on state contracts is not a license for purposes of the Administrative Procedure Act; prohibiting administrative stays of denial or revocation of certificates or other forms of authorization to bid; providing criteria for judicial stays and injunctive relief; providing that certain activities constitute an immediate danger to public safety, health and welfare; creating s. 286.33, Florida Statutes; providing a definite period of time during which a state agency's official project cost estimates and potential bidders' identities are exempt from the provisions of s. 119.07(1), Florida Statutes; exempting the Department of Transportation's bid analysis and monitoring system from the provisions of s. 119.07(1), Florida Statutes; creating s. 286.34, Florida Statutes; providing for continuation of certain state agency procedures; creating s. 286.35, Florida Statutes; providing for compilation and dissemination of contractor ineligibility information by the Department of General Services; providing an effective date.

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

On motions by Senator Beard, by two-thirds vote SB 4-A was withdrawn from the Committee on Transportation and taken up instanter.

On motion by Senator Beard, further consideration of SB 4-A was deferred.

By Senators Gordon, Castor, Jenne and Malchon—

SB 5-A—A bill to be entitled An act relating to license fees; adding s. 320.03(6), Florida Statutes, 1982 Supplement; requiring an additional 50-cent license registration fee; establishing in the Department of Environmental Regulation the Air Pollution Control Trust Fund; requiring deposit of such additional fee into the trust fund or into trust funds established by certain counties; limiting the use of moneys in such funds; providing an effective date.

—was read the first time by title and referred to the Committees on Finance, Taxation and Claims; and Appropriations.

Senator Barron presiding

On motion by Senator Maxwell, by the required constitutional two-thirds vote of the Senate the following resolution was admitted for introduction:

By Senators Maxwell and Peterson—

SR 6-A—A resolution commending Herman O. Myers.

WHEREAS, First Lieutenant Herman O. Myers, U. S. Army, left the Pacific Theater in 1946 to begin his career in the field of education as a teacher in the Pinellas County School District, and

WHEREAS, Herman Myers spent over two decades in the Department of Education where he served as Director of the Division of Finance and later as Associate Commissioner charged with coordinating the preparation of all school budgets, and

WHEREAS, in 1973 he brought his wealth of experience and knowledge to the Senate when he joined the staff of the Ways and Means Committee, and

WHEREAS, in 1975 he became Staff Director of the Senate Education Committee where he helped formulate education legislation, and

WHEREAS, Herman's career began shortly after the enactment of the Minimum Foundation Program, spanned the changes imposed by the Florida Education Finance Program, endured the rigors of the '60s and '70s, and survived the many crises of that period, and

WHEREAS, Herman O. Myers, a gracious gentleman of outstanding ability and integrity, has quietly and effectively devoted his talents toward successfully maintaining fiscal stability in the school system during that period of great upheaval and explosive change, and

WHEREAS, his achievements have been recognized by the Florida School Finance Officers Association with the award of Honorary Life Member, by the state as one of the first state employees to receive the State of Florida Award for Efficiency in Government, and most recently by the Florida School Boards Association which selected him to receive the first Annual Award for Outstanding Legislative Staff, and

WHEREAS, on January 31, 1983, Herman joined his wife, Alice, in retirement to pursue the joys of fishing and traveling, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the members of the Florida Senate do hereby recognize and commend Herman O. Myers for his thirty-one years of dedicated service to the State System of Public Education and express their appreciation for his counsel and assistance during his tenure with the Senate.

BE IT FURTHER RESOLVED that Herman O. Myers be presented a copy of this resolution, with the Seal of the Senate affixed, as a tangible token of the sentiments of the Senate.

—which was read the first time in full and referred to the Committee on Rules and Calendar.

On motions by Senator Peterson, by two-thirds vote SR 6-A was withdrawn from the Committee on Rules and Calendar and taken up instanter.

On motion by Senator Peterson, by two-thirds vote SR 6-A was read the second time by title and adopted. The vote on adoption was:

Yeas—38

Mr. President	Gersten	Johnston	Plummer
Beard	Girardeau	Kirkpatrick	Rehm
Carlucci	Gordon	Langley	Scott
Castor	Grant	Malchon	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W.D.	Hair	Margolis	Thurman
Crawford	Henderson	Maxwell	Vogt
Dunn	Hill	Meek	Weinstein
Fox	Jenne	Myers	
Frank	Jennings	Neal	

Nays—None

All Senators voting in the affirmative were recorded as co-introducers of SR 6-A.

The Senate resumed consideration of—

SB 4-A—A bill to be entitled An act relating to state agency contracts; creating s. 286.30, Florida Statutes; providing definitions; providing a hearing procedure; providing for denial or revocation of a contractor's certificate of qualification or privilege to provide services or commodities to any state agency or to bid on work let by any state agency for specified reasons; providing for a period of disqualification; providing for reapplication or reinstatement of a certificate of qualification or privilege; providing a hearing procedure; providing for a continuation of obligations under preexisting contracts; providing penalties; providing notification requirements; providing investigative authority; creating s. 286.31, Florida Statutes; providing for distribution of moneys recovered; creating s. 286.32, Florida Statutes; providing that a certificate of qualification or other form of authorization to bid on state contracts is not a license for purposes of the Administrative Procedure Act; prohibiting administrative stays of denial or revocation of certificates or other forms of authorization to bid; providing criteria for judicial stays and injunctive relief; providing that certain activities constitute an immediate danger to public safety, health and welfare; creating s. 286.33, Florida Statutes; providing a definite period of time during which a state agency's official project cost estimates and potential bidders' identities are exempt from the provisions of s. 119.07(1), Florida Statutes; exempting the Department of Transportation's bid analysis and monitoring system from the provisions of s. 119.07(1), Florida Statutes; creating s. 286.34, Florida Statutes; providing for continuation of certain state agency procedures; creating s. 286.35, Florida Statutes; providing for compilation and dissemination of contractor ineligibility information by the Department of General Services; providing an effective date.

On motion by Senator Beard, by two-thirds vote SB 4-A was read the second time by title.

The President presiding

Senator Neal moved the following amendment:

Amendment 1—On page 10, strike all of line 6 and insert: agency is exempt from the provisions of s. 119.07(1) for the period of time beginning 3 working days prior to the deadline for receiving bids and ending on the

Senator Kirkpatrick moved the following substitute amendment which was adopted:

Amendment 2—On page 10, lines 3-8, strike all of (2)

Senator Dunn moved the following amendment which failed:

Amendment 3—On page 3, line 5, strike "public contract" and insert: any contract for goods or services

Senator Carlucci moved the following amendment which failed:

Amendment 4—On page 10, between lines 14 and 15 insert: (4) The auditor general shall have access to all information made confidential by this section.

On motion by Senator Beard, by two-thirds vote SB 4-A as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Gersten	Johnston	Neal
Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Langley	Rehm
Carlucci	Grant	Malchon	Scott
Castor	Grizzle	Mann	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W.D.	Henderson	Maxwell	Thurman
Crawford	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein
Frank	Jennings	Myers	

Nays—1

Dunn

Senator Scott moved that SB 7-A be admitted for introduction by the required constitutional two-thirds vote of the Senate. The motion was adopted. The vote was:

Yeas—38

Mr. President	Frank	Kirkpatrick	Plummer
Barron	Gersten	Langley	Rehm
Beard	Gordon	Malchon	Scott
Carlucci	Grant	Mann	Stuart
Castor	Grizzle	Margolis	Thomas
Childers, D.	Hair	Maxwell	Thurman
Childers, W.D.	Hill	McPherson	Vogt
Crawford	Jenne	Meek	Weinstein
Dunn	Jennings	Myers	
Fox	Johnston	Neal	

Nays—None

By Senator Scott (by request)—

SB 7-A—A bill to be entitled An act relating to county commissions; adding s. 125.01(z), Florida Statutes; authorizing the county commissions to approve issuance of industrial development bonds upon a request of an industrial development authority; providing an effective date.

—was read the first time by title and referred to the Committee on Finance, Taxation and Claims.

On motion by Senator Scott, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to consider SB 7-A this day.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Barron, the rules were waived and the Committee on Transportation was granted permission to meet this day at 2:00 p.m. in Room B to consider Senate Bills 2-A and 3-A; the Committee on Finance, Taxation and Claims was granted permission to meet this day at 2:30 p.m. in Room A to consider SB 1-A in addition to SB 7-A.

On motions by Senator Barron, the rules were waived and the following committees were granted permission to meet March 2 at 9:00 a.m.: Education to consider SB 7; Judiciary-Civil to consider Senate Bills 159, 150, 155, 147, 11, CS for SB 57, Senate Bills 177, 47 and SJR 79; Natural Resources and Conservation to consider Senate Bills 44, 175, 188 and 113; and Transportation to consider Senate Bills 94, 97, 45 and PCB 3.

On motion by Senator Barron, the Senate recessed at 1:19 p.m. to reconvene at the call of the President.

The Senate was called to order by the President at 4:43 p.m. A quorum present—40:

Mr. President	Frank	Jennings	Myers
Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Rehm
Castor	Grant	Malchon	Scott
Childers, D.	Grizzle	Mann	Stuart
Childers, W.D.	Hair	Margolis	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein

REPORTS OF COMMITTEES

The Committee on Finance, Taxation and Claims recommends the following pass: SB 7-A with 3 amendments, SB 1-A with 26 amendments

The Committee on Transportation recommends the following pass: SB 2-A

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

COMMITTEE APPOINTMENTS

The President announced the appointment of Senator Langley to the Committee on Judiciary-Civil; Senator Thurman as Vice-Chairman of the Committee on Corrections, Probation and Parole; Senator Meek to the Committee on Economic, Community and Consumer Affairs in lieu of the Committee on Corrections, Probation and Parole.

On motion by Senator Barron, Senate Bills 2-A, 7-A and 1-A were established as a special order calendar.

SPECIAL ORDER

On motions by Senator Beard, by two-thirds vote—

SB 2-A—A bill to be entitled An act relating to the Department of Transportation; creating s. 334.235, Florida Statutes; requiring the Auditor General to perform specified performance audits of certain department functions and processes; requiring that such audits be provided to the Legislature; providing an appropriation; providing an effective date.

—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—40

Mr. President	Frank	Jennings	Myers
Barron	Gersten	Johnston	Neal
Beard	Girardeau	Kirkpatrick	Plummer
Carlucci	Gordon	Langley	Rehm
Castor	Grant	Malchon	Scott
Childers, D.	Grizzle	Mann	Stuart
Childers, W.D.	Hair	Margolis	Thomas
Crawford	Henderson	Maxwell	Thurman
Dunn	Hill	McPherson	Vogt
Fox	Jenne	Meek	Weinstein

Nays—None

On motion by Senator Scott, by two-thirds vote—

SB 7-A—A bill to be entitled An act relating to county commissions; adding s. 125.01(z), Florida Statutes; authorizing the county commissions to approve issuance of industrial development bonds upon a request of an industrial development authority; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Scott and adopted:

Amendment 1—On page 1, line 27, strike “authority of county commissions to approve, upon the request of an industrial development authority,” and insert: *authority of county commissions upon the request of an industrial development authority to approve or disapprove*

Amendment 2—On page 2, line 11, after the word “approve” insert: *or disapprove*

Senator Scott moved the following amendment which was adopted:

Amendment 3—In title on page 1, line 4, after the word “approve” insert: *or disapprove*

On motion by Senator Scott, by two-thirds vote SB 7-A as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Beard	Castor	Childers, W.D.
Barron	Carlucci	Childers, D.	Crawford

Dunn	Hair	Malchon	Plummer
Fox	Henderson	Mann	Rehm
Frank	Hill	Margolis	Scott
Gersten	Jenne	Maxwell	Stuart
Girardeau	Jennings	McPherson	Thomas
Gordon	Johnston	Meek	Thurman
Grant	Kirkpatrick	Myers	Vogt
Grizzle	Langley	Neal	Weinstein

Nays—None

On motion by Senator Margolis, by two-thirds vote—

SB 1-A—A bill to be entitled An act relating to transportation finance and administration; adding s. 212.02(21), (22), Florida Statutes, 1982 Supplement; amending s. 212.05(1), Florida Statutes, 1982 Supplement, and adding subsection (4) to said section; amending s. 212.055(1), Florida Statutes, as amended; amending ss. 125.0165(1) and 212.08(4), Florida Statutes, 1982 Supplement; creating part II of chapter 212, Florida Statutes; providing for the imposition of the tax on sales, use, and other transactions on the sale of motor and special fuels; deleting provisions which provide for the taxation of fuels used by certain vehicles licensed as common carriers, and vessels, engaged in interstate or foreign commerce on the basis of the ratio of intrastate to interstate mileage; creating ss. 212.60, 212.65, 212.70, 212.75, 212.90, 212.91, 212.95, 212.951-212.961, 212.970-212.975, 212.980-212.9813, Florida Statutes; providing legislative intent; providing definitions; specifying that the tax is upon the ultimate retail consumer; providing that the tax be paid upon the first sale or transfer of title or use; requiring that the tax be added to the sale price and stated separately on sales slips and invoices and prohibiting distributors, dealers, retail dealers, and retailers from claiming that they will absorb the tax; providing penalties; directing the Department of Revenue to determine the applicable tax per gallon of fuel annually; requiring retailers to display a notice with respect to such tax; providing that the tax be remitted at the same time and in the same manner as taxes under chapters 206 and 207; providing for the relationship between parts I and II of chapter 212 and providing for applicability of administrative and penalty provisions of chapter 206 to part II of chapter 212; exempting dealer-to-dealer sales; providing for distribution of the proceeds of the tax; providing for certain refunds of the tax; providing that the discretionary sales tax which certain charter counties are authorized to adopt shall not apply to motor and special fuels; amending s. 206.05(1), Florida Statutes; increasing the amount of surety bonds to be posted by distributors; amending s. 206.41(1), Florida Statutes, and repealing subsections (3) and (4) of said section; repealing the first gas tax on motor fuel and designating the second gas tax as the “constitutional gas tax”; renaming the additional seventh-cent tax as the “county tax on motor fuel” and the additional eighth-cent tax as the “municipal tax on motor fuel”; directing that conforming statutory changes be made; amending s. 206.87(1), Florida Statutes; providing that the excise tax on special fuel shall be 4 cents per gallon; repealing subsection (3) of said section relating to separate statement of price and tax under certain circumstances; amending ss. 206.43(1) and 206.91(1), Florida Statutes; revising the distributor’s and dealer’s credits for collecting said taxes on motor and special fuel; repealing ss. 206.29-206.40, Florida Statutes, which authorize a refund of 4 cents of said taxes on fuel used for city transit systems; repealing s. 206.415, Florida Statutes, which authorizes an exemption from the first gas tax for gasohol; amending s. 206.42, Florida Statutes; providing that aviation motor fuel is not exempt from the sales tax; repealing ss. 206.50-206.55, 206.602 and 206.603, Florida Statutes, which authorize a refund to retail dealers for evaporation and shrinkage, a refund for gasoline used in gasohol, and certain reimbursements for gasohol exemptions; repealing s. 206.57, Florida Statutes, relating to tax on fuel in reserve motor vehicle reservoirs; amending s. 213.11, Florida Statutes, which provides for transfer of a portion of first gas tax revenues to the Department of Natural Resources for aquatic weed control; amending s. 215.22(1), (2), (17), Florida Statutes; authorizing certain deductions from sales tax revenues on motor and special fuel deposited in the Gas Tax Collection Trust Fund; amending s. 339.08, Florida Statutes, 1982 Supplement; providing for use of the proceeds of the sales tax on motor and special fuel; amending s. 339.10(2), Florida Statutes; authorizing advances of proceeds of said tax; amending s. 339.24(3), Florida Statutes; authorizing expenditure of such proceeds for roadside parks and similar facilities; amending ss. 18.11(1)(f), 123.04(2), 206.45, 206.46, 206.47, 206.625(1), 206.64, 206.70(1), 206.875(2), 206.97, 207.003, 207.005(2), (3), 207.026, 215.36, 215.74, 336.41(3), 339.081(1)(a), 339.083(2), 339.089(1), 344.17, 348.217(10), (11), 348.219(3)(g), (k), 348.22(1), (3)(a), (4), 348.221(2)(b), 348.222(4), (5), 348.81(10), and 348.951(10), Florida Statutes, and s. 215.47(1)(d), Florida

Statutes, 1982 Supplement; revising provisions relating to the excise tax on motor and special fuels, financial conforming and correcting language; correcting cross references; amending s. 320.20, Florida Statutes, changing the formula for distributing certain license tax revenues; amending s. 320.08(2), (4)(c), (d), (e), Florida Statutes, 1982 Supplement; providing an increase in the annual registration fee for certain vehicles; amending s. 316.535(6), Florida Statutes; authorizing local law enforcement officers to enforce certain weight limits; amending s. 316.545, Florida Statutes; providing for inspection of weights and loads by local law enforcement officers; providing penalties; amending s. 336.021(1) and (2), Florida Statutes, 1982 Supplement; providing for a voted gas tax on motor and special fuels; creating the Voted Gas Tax Trust Fund; creating s. 336.025, Florida Statutes; authorizing the levy of a 1 or 2 cent local option gas tax without referendum; providing for distribution of the revenues from such tax; providing for levy of transition taxes; providing for the waiver of certain bid procedures for implementation; providing an appropriation; providing effective dates.

—was read the second time by title.

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

Amendment 1—On page 10, strike all of lines 23-25 and insert: *used to propel aircrafts and trains are taxable as provided in part II.* All other fuels are taxable as provided in this part, except that those used by vehicles, other than aircrafts and trains, which are

Senator Frank moved the following substitute amendment:

Amendment 2—Strike all after the enacting clause and insert: Section 1. Subsections (1) and (4) of section 206.41, Florida Statutes, are amended to read:

206.41 Gasoline taxes imposed.—

(1) An excise or license tax of 11 6 cents per gallon, herein termed "gas tax," is imposed upon every gallon of motor fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. This levy of tax is upon the consumer but shall be paid upon the first sale or transfer of title, or use, within this state whether by a distributor or dealer, except as expressly provided in subsection (2), who shall act as agent for the state in the collection of said tax whether he be the ultimate seller or not.

(4) The above gas tax is made up of two separate taxes:

(a) *First gas tax.*—A tax of 9 4 cents per gallon for the use of the Department of Transportation, except as provided in s. 206.625;

(b) *Second gas tax.*—A tax of 2 cents per gallon as levied by s. 16, Art. IX of the Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 Constitution, as amended.

Section 2. Subsection (1) of section 206.87, Florida Statutes, is amended to read:

206.87 Levy of tax.—

(1) An excise tax of 13 8 cents per gallon is hereby imposed upon every gallon of special fuel used or sold in this state for use. Unless expressly provided to the contrary in this part, every sale shall be deemed to be for use in this state. This levy of tax 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 this part, who shall act as agent for the state in the collection of said tax whether he be the ultimate seller or not.

Section 3. Subsection (1) of section 206.45, Florida Statutes, is amended to read:

206.45 Payment of tax into State Treasury.—All moneys derived from the gas taxes imposed by part I of this chapter shall be paid into the State Treasury by the department, for deposit in the Gas Tax Collection Trust Fund, which fund is created and from which the following transfers shall be made:

(1) The first gas tax shall, after withholding and transferring such funds as are required under the provisions of s. 213.11, and after withholding \$50,000 to be used as a revolving cash balance in the "Gas Tax Collection Trust Fund," and except as provided in s. 206.625, be transferred as follows:

(a) \$75,000,000 to the credit of the Local Government Matching Trust Fund, which is hereby created to be distributed to the several counties on a 50-50 matching basis from local gas tax revenues; and

(b) The remainder into the "State Transportation Trust Fund," which fund is created for use as provided by law. *Provided however, that 10 percent of the funds transferred to the State Transportation Trust Fund pursuant to this subsection shall be used by the department for mass transit purposes.*

Section 4. The Department of Transportation is hereby required to ensure that, of the increased revenues generated by the tax increase provided in this act, 90 percent of the funds generated from each county for a 5-year period are expended in said county.

Section 5. Subsections (2) and (3) of section 320.02, Florida Statutes, are renumbered as subsections (3) and (2) of said section and are amended to read:

320.20 Disposition of license moneys.—The revenues derived from the licensing of motor vehicles, excluding those collected and distributed under the provisions of s. 320.081, shall be distributed monthly, as collected, to the following funds:

(1) The first proceeds, to the extent necessary to comply with the provisions of s. 18 of Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII, 1968 revised constitution, and the additional provisions of s. 9(d) and s. 236 602, shall be deposited in the district Capital Outlay and Debt Service School Trust Fund.

(2)(3) ~~\$42.5 million~~ The remainder of such revenues shall be deposited in the Advanced Construction Interstate Revolving Trust Fund to be expended solely for the completion of the interstate highway system pursuant to an agreement with the Federal Government providing for repayment of such funds on the appropriate matching basis.

(3)(2) ~~The remainder~~ Thirty-six and five-tenths percent of such revenues shall be deposited in the State Transportation Trust Fund.

Section 6. The registration rates for all trucks and truck-tractors registered pursuant to s. 320 08(3)(d) and (4), Florida Statutes, 1982 Supplement, are hereby increased by 50 percent.

Section 7. Subsection (1) of section 336.021, Florida Statutes, 1982 Supplement, is amended to read:

336.021 County transportation system; levy of tax on motor fuels and special fuels.—

(1) Any county in the state, in the discretion of its governing body and subject to a referendum, may impose, in addition to all other taxes required by law, a 1-cent tax or a 2-cent tax upon every gallon of motor fuel and special fuel sold in such county and taxed under the provisions of chapter 206, for the purpose of paying the costs and expenses of establishing, operating, and maintaining a transportation system and related facilities and the cost of acquisition, construction, reconstruction, and maintenance of roads and streets. The governing body of the county may provide that the referendum be worded to limit the number of years such tax will remain in effect. The governing body of the county may, by joint agreement with one or more of the municipalities located therein, provide for these transportation purposes and the distribution of the proceeds of this tax within both the unincorporated and incorporated areas of the county. The tax shall be collected in the same manner as all other gas taxes pursuant to chapter 206 and shall be returned monthly to the county where collected. The provisions for refund provided in ss. 206.29, 206.50, 206.625, and 206.64 shall not be applicable to such tax levied by any county.

Section 8. Except to the extent that the Secretary of the Department of Transportation determines otherwise, not less than 10 per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8 (d) of

the Small Business Act (15 U.S.C. section 637 (d)) and relevant subcontracting regulations promulgated pursuant thereto.

Section 9. This act shall take effect upon becoming a law.

Senators Stuart, Malchon, Jenne, Dunn and Castor offered the following amendment to Amendment 2 which was moved by Senator Stuart and failed:

Amendment 2-A—On page 4, after line 10, add a new section: Section 5. Paragraph (d) of subsection (3) of section 341.051, Florida Statutes, is hereby repealed.

(Renumber subsequent sections.)

Senators D. Childers, Maxwell, Vogt and Thurman offered the following amendment to Amendment 2 which was moved by Senator D. Childers and failed:

Amendment 2-B—On page 1, line 6, strike "11" and insert: 9

Amendment 2 failed. The question recurred on Amendment 1 which failed.

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

Amendment 3—On page 17, between lines 6 and 7 insert a new section:

212.94 Gasohol; exemption from tax imposed by this part.—The sale or distribution for use in this state of motor fuel which contains a minimum of 10 percent blend by volume of ethyl alcohol with a purity of 99 percent, commonly known as "gasohol," shall be exempt from the tax levied pursuant to this part as follows:

(1) Each gallon of such gasohol sold in this state shall be exempt from the entire tax imposed by this part from April 1, 1983 through June 30, 1985.

(2) Each gallon of such gasohol sold in this state shall be exempt from 50 percent of such tax from July 1, 1985 through June 30, 1987.

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

Amendment 4—On page 69 through page 73, line 11 through line 25, strike all of sections 53 and 54 and renumber subsequent sections.

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

Amendment 5—On page 76, line 20, insert after the second comma as determined by the latest state population estimates,

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Gordon and adopted:

Amendment 6—On page 80, between lines 8 and 9 insert: Section 58. Subsection (6) is added to section 320.03, Florida Statutes, 1982 Supplement, to read:

320.03 License plates; duties of tax collectors.—

(6) *In addition to any fee required under s. 320.08, a fee of 50 cents shall be charged on all license registrations sold. Such fees shall be deposited in the Air Pollution Control Trust Fund hereby established in the Department of Environmental Regulation, except that, if any county has an approved local air pollution control program as provided in s. 403.182, such fees from license registrations sold in the county shall be deposited in a local air pollution control program trust fund which shall be established by such county. The department and any such county shall use the moneys in such trust funds only for purposes of air pollution control pursuant to chapter 403 or a similar local ordinance.*

(Renumber subsequent sections.)

Amendment 7—On page 80, line 19, strike the number "59" and insert: 60

Amendment 8—On page 81, line 8, strike "58" and insert: 59

Amendment 9—On page 81, line 10, insert: (5) Section 58 of this act shall take effect January 1, 1984.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Dunn and adopted:

Amendment 10—On page 78, strike all of line 26 and insert: (e) Traffic signs, traffic engineering, signalization, and pavement markings

Amendment 11—On page 78, line 3, after the word "funds" insert: , including interest,

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

Amendment 12—On page 80, line 18, strike Section 60. (a) This section, sections 1 through 6, and insert Section 60. A new paragraph (j) is added to subsection (1) of section 320.10, Florida Statutes, 1982 Supplement, and subsection (2) of said section is amended to read:

320.10 Exemptions. —

(1) The provisions of ss. 320.08 and 320.09 do not apply to:

(j) *Any truck-tractor which travels less than 2,000 miles annually.*

(2) Any such vehicle or mobile home, except one owned or operated exclusively by the Federal Government, shall be furnished a license plate, revalidation sticker, or mobile home sticker upon the proper application to the department and upon the payment of \$3 to cover the cost of same. For any motor vehicle or mobile home which is exempt under paragraph (1)(a), there shall be issued a license plate, revalidation sticker, or mobile home sticker prescribed by s. 320.06; and for any vehicle which is exempt under paragraphs (1)(c)-(j)(i), there shall be issued a license plate under series "X." Vehicles exempt under this provision must be equipped with proper plates showing such exempt status.

Senators Neal and Thomas offered the following amendment to Amendment 12 which was moved by Senator Neal and failed:

Amendment 12-A—On page 1, line 18, strike "2000" and insert: 5000

The question recurred on Amendment 12 which failed. The vote was:

Yeas—16

Mr. President	Girardeau	Kirkpatrick	Neal
Barron	Grant	Langley	Scott
Carlucci	Hill	Margolis	Thomas
Childers, W.D.	Jennings	Myers	Thurman

Nays—22

Beard	Frank	Johnston	Rehm
Castor	Gersten	Malchon	Stuart
Childers, D.	Gordon	Mann	Vogt
Crawford	Grizzle	Maxwell	Weinstein
Dunn	Hair	McPherson	
Fox	Jenne	Plummer	

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

Amendment 13—On page 80, line 18, strike "Section 60. (1) This section, sections 1 through 6," and insert: Section 60. A new subsection (5) is added to section 320.14, Florida Statutes, to read:

320.14 Fractional registration fee.—

(5) *Any truck-tractor which is used exclusively for hauling agricultural products may register for any 3-month or 6-month period and pay one-fourth or one-half, respectively, of the annual registration rate provided in s.320.08. The provisions of s. 320.06 (1)(d) relating to annual registration periods and dates shall not apply to registrations made pursuant to this section.*

Section 61. (1) This section, sections 1 through 6,

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

Amendment 14—On page 40, between lines 21 and 22, insert a new subsection: (2) *Those portions of the county gas tax imposed by s. 206.60 which result from the collection of such tax paid by a school dis-*

trict on gasoline for use in a motor vehicle operated by it shall be returned to the governing body of each such school district to be used to fund construction, reconstruction, and maintenance of roads and streets within the school district required as a result of new school construction or renovation of existing school. The school board shall select the projects to be funded; however, first priority shall be given to projects required as the result of new school construction, unless a waiver is granted by the affected county or municipal government.

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

Amendment 15—On page 40, line 14, before the “period” insert: *and school boards*

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

Amendment 16—On page 80, strike lines 18 and 19 and insert: Section 60. Except to the extent that the Secretary of the Department of Transportation determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under this act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8 (d) of the Small Business Act (15 U.S.C. section 637 (d)) and relevant subcontracting regulations promulgated pursuant thereto.

Section 61. (1) This section, sections 1 through 6 and sections 57, 59, and 60 of this act shall take effect March 14,

Senators Girardeau, Johnston, Neal, Jenne and Dunn offered the following amendment to Amendment 16 which was moved by Senator Girardeau and adopted:

Amendment 16-A—On page 1, line 8, after the word “thereto.” insert: The secretary of the Department of Transportation may fail to contract with an identified small business as defined by section 8(d) of the Small Business Act (15 U.S.C. Section 637 (d)) when in his determination such award would be more costly to the state than shown by similar bids for comparable projects.

Amendment 16 as amended was adopted.

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

Amendment 17—On page 81, line 2, after “Fund” insert: These moneys shall be considered repayment to the General Revenue Fund for loans made by the Department of Transportation from the General Revenue Fund and due July 1, 1983.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Jennings and adopted:

Amendment 18—On page 40, line 13, after the word “amended” insert: , present subsection (2) of said section is renumbered as subsection (3), and new subsection (2) is added to said section

Amendment 19—On page 40, line 14, after the word “municipalities” insert: *and counties*

Amendment 20—On page 40, between lines 21-22, insert a new subsection: (3) *Those portions of the county gas tax imposed by s. 206.60 which result from the collection of such tax paid by a county on gasoline for use in a motor vehicle operated by it shall be returned to the governing body of each such county. Tax revenue returned to a county under this section shall be used for the construction, reconstruction, and maintenance of road and streets within the county.*

Amendment 21—On page 40, line 13, after “amended” insert: , present subsection (2) of said section is renumbered as subsection (4), and new subsections (2) and (3) are added to said section

Senators Stuart, Malchon, Jenne, Dunn, Gordon and Frank offered the following amendment which was moved by Senator Stuart and failed:

Amendment 22—On page 80, between lines 17 and 18 insert: Section 60. Paragraph (d) of subsection (3) of section 341.051, Florida Statutes, is hereby repealed. The vote was:

Yeas—17

Castor	Girardeau	Malchon	Thurman
Dunn	Gordon	Margolis	Weinstein
Fox	Hair	Plummer	
Frank	Hill	Rehm	
Gersten	Jenne	Stuart	

Nays—20

Mr. President	Childers, W.D.	Johnston	McPherson
Barron	Crawford	Kirkpatrick	Myers
Beard	Grant	Langley	Neal
Carlucci	Grizzle	Mann	Scott
Childers, D.	Henderson	Maxwell	Thomas

Vote after roll call:

Yea—Jennings

Senator Dunn moved the following amendment which failed:

Amendment 23—On page 68, strike lines 22-30 and on page 69 strike lines 1-4 and insert:

(b) Net weight of less than 2,500 pounds: ~~\$14 40~~ ~~\$12.50~~ flat.

(c) Net weight of 2,500 pounds, or more, but less than 3,500 pounds: ~~\$23.60~~ ~~\$20.50~~ flat.

(d) Net weight of 3,500 pounds or more: ~~\$35.10~~ ~~\$30.50~~ flat.

(3) TRUCKS—

(d) Net weight more than 5,000 pounds: ~~\$20~~ ~~\$10~~ flat plus \$1.10 per cwt.

(4) TRUCK-TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(c) Gross weight of 44,000 pounds or more, but less than 53,000 pounds: ~~\$572~~ ~~\$360~~ flat.

(d) Gross weight of 53,000 pounds or more, but less than 62,000 pounds: ~~\$678~~ ~~\$420~~ flat.

(e) Gross weight of 62,000 pounds or more: ~~\$979~~ ~~\$460~~ flat.

However, a truck-tractor used exclusively for hauling forestry products shall, notwithstanding the GVW declared weights, be eligible for a license plate and for operation within a 150-mile radius of its home address upon payment of a fee of \$240 flat.

(5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(a) Semitrailers drawn by GVW truck-tractors by means of a fifth-wheel arrangement, regardless of weight: ~~\$20~~ ~~\$10~~ flat per registration year or any part thereof. There shall be no reduction for half-year or quarter-year licenses for trailers in this special class. The minimum-charge law for issuing license tags shall be inapplicable to the aforesaid special class.

Senator Jennings moved the following amendment which was adopted:

Amendment 24—On page 81, line 3, after “54” insert: and section 60

Senator Barron presiding

Senator Myers moved the following amendment which failed:

Amendment 25—On page 75, line 20, after “county” insert: *by an extraordinary majority vote*

Senator Rehm moved the following amendment which failed:

Amendment 26—On page 68, line 16, strike “\$7.50” and insert: ~~\$20.00~~

Senators Jenne and Stuart offered the following amendment which was moved by Senator Jenne:

Amendment 27—On page 68, line 22, strike “\$27.00” and insert: ~~\$22.50~~

Senator Carlucci moved the following substitute amendment which failed:

Amendment 28—On page 68, line 22, strike "\$27.00" and insert: \$15.00

The question recurred on Amendment 27 which failed.

The President presiding

Senator Maxwell moved the following amendment which was adopted:

Amendment 29—On page 25, lines 8, 18 and 28, after "fuel" insert: *or special fuel*

Senator Maxwell moved the following amendment which failed:

Amendment 30—On page 68, line 6, strike Subsection (2) and

Senators Frank and Grizzle were recorded as voting yea on Amendment 30.

Senators Hill, Meek and Margolis offered the following amendment which was moved by Senator Hill:

Amendment 31—On page 17, between lines 6 and 7, insert: 212.92 Partial exemption for aviation jet fuel purchased; economic development.—

(1) The Legislature hereby recognizes the economic and social benefit the citizens of this state receive from the location and prosperous operation of businesses in this state. To encourage economic development and the creation of jobs in Florida, there is hereby allowed a credit against the tax imposed by this part on aviation jet fuel purchased by any new business which establishes, or any existing business which maintains, its corporate or business home office in this state and maintains a workforce within this state of more than 1,500 employees, in Florida.

(2) The credit allowed by this section shall be equal to 50 percent of the taxes paid pursuant to this part on purchases of aviation jet fuel; provided however, that the taxes paid under this part shall not exceed \$5,000,000 in any state fiscal year period.

(3) The department shall promulgate any rules necessary to ensure the orderly implementation and administration of this section.

Senator Gersten moved the following substitute amendment:

Amendment 32—On page 10, lines 8 through 31, and on page 11, lines 1 through 16, strike all of section 5 and insert:

Section 5. Subsection (4) of section 212.08, Florida Statutes, 1982 Supplement, 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.

(4) EXEMPTIONS, ITEMS BEARING OTHER EXCISE TAXES, ETC.—Also exempt are water (not exempting mineral water or carbonated water), and ; all fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. ; and Motor fuels and special fuels on which a tax is imposed by chapter 206 or chapter 207 and aviation gasoline are taxable as provided in part II. All other fuels are taxable as provided in this part, except that those used by vehicles which are licensed as common carriers by the Interstate Commerce Commission or by the Civil Aeronautics Board to transport persons or property in interstate or foreign commerce and vessels used to transport persons or property in interstate or foreign commerce are taxable only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier, such ratio to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this subsection shall have the same meaning ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the Legislature that the classification of alcoholic beverages made in this subsection for the purpose of extending the tax imposed by this chapter is reasonable and just; and it is intended that such tax be separate from, and in addition to, any other tax imposed on alcoholic beverages.

Senator Carlucci moved the following amendment to Amendment 32 which failed:

Amendment 32-A—On page 10, lines 24-31, and on page 11, lines 1-7, strike all of said lines and insert: All other fuels are taxable as provided in this part, except that those used by vehicles which are licensed as common carriers by the Interstate Commerce Commission or by the Civil Aeronautics Board to transport persons or property in interstate or foreign commerce and vessels used to transport persons or property in interstate or foreign commerce are taxable only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier, such ratio to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter.

The question recurred on Amendment 32 which failed.

Senator Gersten moved the following amendment to Amendment 31 which was adopted:

Amendment 31-A—On page 1, line 22, strike "1500" and insert: 1200

Amendment 31 as amended was adopted.

Senator Stuart moved the following amendment which failed:

Amendment 33—On page 76, lines 1 - 3, strike all of said lines and insert: ; provided, however, under either paragraph (a), (b), or (c), those counties with a population over 675,000 according to the 1980 census and charter counties which have within them regular route public transportation service shall contribute at least 25 percent of the proceeds of the tax to local public transportation systems;

On motion by Senator Maxwell the Senate reconsidered the vote by which Amendment 12 failed.

Senators Maxwell and Thomas offered the following amendment to Amendment 12 which was moved by Senator Maxwell and adopted:

Amendment 12-B—On page 1, line 19, after "annually" insert: upon the filing of a notarized affidavit stating that such truck-tractor will not travel more than 2000 miles annually

Amendment 12 as amended was adopted.

Senators Hill, Meek and Margolis offered the following amendment which was moved by Senator Margolis and adopted:

Amendment 34—On page 11, line 19, after "212.91" insert: 212.92,

Senators Hill, Meek and Margolis offered the following amendment which was moved by Senator Hill and adopted:

Amendment 35—In title on page 1, line 20, after "212.91" insert: 212.92,

Senator Frank moved that the Senate reconsider the vote by which Amendment 30 failed. The motion failed.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Margolis and adopted:

Amendment 36—In title on page 5, line 11, before the word "providing" insert: amending s. 320.10, Florida Statutes, 1982 Supplement, providing an exemption from registration fees for certain truck-tractors;

Amendment 37—In title on page 5, line 8, after the semicolon ";," insert: adding s. 320.03(6), Florida Statutes, 1982 Supplement; requiring an additional 50-cent license registration fee, establishing in the Department of Environmental Regulation the Air Pollution Control Trust Fund; requiring deposit of such additional fee into the trust fund or into trust funds established by certain counties; limiting the use of moneys in such funds;

Amendment 38—In title on page 5, line 11, before the word "providing" insert: amending s. 320.14, Florida Statutes, providing for partial registrations;

Amendment 39—In title on page 4, line 19, after the semicolon, insert: renumbering s. 206.625(2), Florida Statutes, and adding a new subsection (2) thereto; prescribing amount of tax revenue to be returned to each county and prescribing uses for such revenue;

Amendment 40—In title on page 4, line 19, after the semicolon, insert: renumbering s. 206.625(2), Florida Statutes, and adding a new subsection (2) thereto; prescribing amount of tax revenue to be returned to each school board and prescribing uses for such revenue;

Amendment 41—In title on page 5, line 10, after the second semicolon, insert: requiring a specified amount of funds authorized to be appropriated to certain small business concerns;

Senator Margolis moved that the Senate reconsider the vote by which Amendment 26 failed. The motion failed.

On motion by Senator Margolis, by two-thirds vote SB 1-A 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	Gersten	Johnston	Myers
Barron	Girardeau	Kirkpatrick	Neal
Carlucci	Grizzle	Malchon	Rehm
Castor	Hair	Mann	Scott
Childers, D.	Henderson	Margolis	Thomas
Dunn	Hill	Maxwell	Weinstein
Fox	Jenne	McPherson	

Nays—10

Childers, W.D.	Gordon	Plummer	Vogt
Crawford	Grant	Stuart	
Frank	Langley	Thurman	

Vote after roll call:

Yea—Beard

Pair

The following pair was announced by the Secretary in accordance with Senate Rule 5.4: I am paired with Senator Meek on SB 1-A. If she were present she would vote yea and I would vote nay.

Senator Toni Jennings, 15th District

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

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

SB 2-A—A bill to be entitled An act relating to the Department of Transportation; creating s. 334.235, Florida Statutes, requiring the Auditor General to perform specified performance audits of certain department functions and processes; requiring that such audits be provided to the Legislature; providing an appropriation; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On page 1, line 12, strike everything after the enacting clause and insert the following:

Section 1. Section 334.235, Florida Statutes, is created to read:

334.235 Performance audits.—The Auditor General shall conduct periodic performance audits, as defined in s. 11.45, of the following functions and processes of the department. The audits shall include, at a minimum, a review of:

(1) CONSULTANT CONTRACTING.—The audit shall include a review of the need for consultants, the process used to select consultants and award contracts, the department's administration of contracts, and the internal review process used to develop contract terms and conditions. In evaluating the selection and award process, the Auditor General shall specifically address the relative merits of alternative processes used by other governmental agencies when contracting for similar work. In comparing the contracting methods used by the department with those of other governmental agencies, the Auditor General shall also make a detailed review of the determination of fees.

(2) CONSTRUCTION CONTRACTS.—The audit shall include a review of construction contract award processes and the internal process used to develop contract terms and conditions. The audit shall also include a review of the justification for supplemental agreements, time extensions, waivers of liquidated damage provisions, and the adequacy of construction engineering inspections by the department.

(3) QUALITY OF DESIGN PLANS.—The audit shall include an analysis of the quality of design plans used by the department. The Auditor General shall compare the relative merits and costs of performing design work in-house as opposed to contracting with private consultants. The audit shall include an analysis of the cost effectiveness of consolidating all or part of the department's design functions in a single unit.

(4) RIGHT-OF-WAY ACQUISITION PROCESS.—The audit shall include a review of the entire process used to acquire rights-of-way, and, at a minimum, shall specifically address the appraisal and condemnation processes.

(5) ENFORCEMENT OF OVERWEIGHT LAWS.—The audit shall include an analysis of the department's enforcement of overweight penalties. The audit shall also include an analysis of the adequacy of the state's overweight penalties.

(6) INSPECTOR GENERAL'S FUNCTIONS.—The audit shall include a review of the effectiveness of the department's inspector general program, and specifically address internal management reviews of consultant contracts and the department's use of internal audit recommendations in the award of contracts. The Auditor General shall also analyze the frequency with which such internal reviews are conducted and the department's efforts to implement recommendations made by its inspector general.

(7) MINORITY PROGRAMS.—The audit shall include a review and analysis of at least the last five years' performance of the department in employing minorities and the use of Minority Business Enterprises in implementing the expenditure of both Federal and State dollars. The audit should also include a comparison of the department's programs with those of other states and recommendations for improvements.

The performance audits required by this section shall first be submitted to the Legislature on or before February 1, 1984. Thereafter, the Auditor General shall make performance audits of the department's functions or programs identified in this section or of other of its functions or programs whenever directed to do so by the Legislature or the Joint Legislative Auditing Committee. The Auditor General shall also report to the Legislature on the efforts made by the department to rectify problems noted in prior audits.

Section 2. There is hereby appropriated from the State Transportation Trust Fund to the Auditor General the sum of \$258,267 to implement the provisions of this act.

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

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

Amendment 1 —On page 2, Section 2 of the amendment, strike "State Transportation Trust Fund" and insert: *General Revenue Fund*

On motion by Senator Beard, 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 2-A passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Mr. President	Fox	Jenne	Neal
Barron	Frank	Jennings	Plummer
Beard	Gersten	Johnston	Rehm
Carlucci	Girardeau	Kirkpatrick	Scott
Castor	Gordon	Langley	Stuart
Childers, D.	Grizzle	Mann	Thomas
Childers, W.D.	Hair	Maxwell	Thurman
Crawford	Henderson	McPherson	Weinstein
Dunn	Hill	Myers	

Nays—1

Grant

Senator Gordon announced cancellation of the Education Committee meeting scheduled for March 2.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 3-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Gustafson and others—

HB 3-A—A bill to be entitled An act relating to transportation; providing a short title; repealing s. 20.23(2) and (3), Florida Statutes, relating to the Department of Transportation; providing for legislative review of the department prior to such repeal; providing for the contingent transfer of funds of the department; providing an effective date.

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

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has passed as amended HB 4-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Kutun and others—

HB 4-A—A bill to be entitled An act relating to transportation finance and administration; adding subsections (21) and (22) to s. 212.02, Florida Statutes, 1982 Supplement; amending s. 212.05(1), Florida Statutes, 1982 Supplement, and adding subsection (4); amending s. 212.055(1), Florida Statutes, as amended; amending ss. 125.0165(1) and 212.08(4), Florida Statutes, 1982 Supplement; creating part II of chapter 212, Florida Statutes; providing for the imposition of the tax on sales, use, and other transactions on the sale of motor and special fuels; deleting provisions which provide for the taxation of fuels used by certain vehicles licensed as common carriers, and vessels, engaged in interstate or foreign commerce on the basis of the ratio of intrastate to interstate mileage; providing legislative intent; providing definitions; specifying that the tax is upon the ultimate retail consumer; providing that the tax be paid upon the first sale or transfer of title; requiring that the tax be added to the sale price and stated separately on sales slips and invoices and prohibiting distributors, dealers, retail dealers, and retailers from claiming that they will absorb the tax; providing penalties; directing the Department of Revenue to determine the applicable tax per gallon of fuel annually; requiring retailers to display a notice with respect to such tax; providing for consolidated reporting of the tax and taxes due under chapters 206 or 207; providing for the relationship between parts I and II of chapter 212 and providing for applicability of specified administrative and penalty provisions of chapter 206 to part II of chapter 212; exempting dealer to dealer sales of special fuel; providing for refunds for fuel used for public transit systems, for losses due to evaporation and shrinkage, for fuel used by a municipality in vehicles operated by it, and for fuel used for agricultural and commercial fishing purposes; providing for administration of refunds; requiring a bond under certain circumstances; requiring permits; providing for records; providing penalties; providing for transfer of a portion of the revenues from said tax to the Department of Natural Resources for aquatic weed control; providing an exemption for gasohol for a specified period; providing for distribution of the proceeds of the tax to the State Transportation Trust Fund; requiring that a portion of the proceeds be allocated for public transit and rail capital projects, unless otherwise provided in the General Appropriations Act; providing that the discretionary sales tax which certain charter counties are authorized to adopt shall not apply to motor and special fuels; amending s. 206.41(1), Florida Statutes, and repealing subsections (3) and (4); repealing the first gas tax on motor fuel and designating the second gas tax as the "constitutional gas tax"; renaming the additional seventh-cent tax as the "county tax on motor fuel" and the additional eighth-cent tax as the "municipal tax on motor fuel"; directing that conforming statutory changes be made; amending s. 206.87(1), Florida Statutes, and repealing subsection (3); providing that the excise tax on special fuel shall be 4 cents per gallon; deleting provisions which specify that the excise tax on motor and special fuel is on the ultimate consumer, shall be added to the sale price by the distributor or dealer, and stated separately on bills; amending ss. 207.003, 207.005(2) and (3), and 207.026, Florida Statutes; providing for inclusion of the sales tax in the calculation of the tax due under the Florida Special

Fuel and Motor Fuel Use Tax Act of 1981; excluding the sales tax from a credit thereunder; including distribution of the sales tax in provisions for allocation of said tax; amending ss. 206.05(1) and 206.90(1), Florida Statutes; revising limits of bond required of licensed distributors and dealers of motor and special fuel; amending ss. 206.43(1) and 206.91(1), Florida Statutes; revising the distributor's and dealer's credits for collecting said taxes on motor and special fuel; repealing ss. 206.29-206.40, Florida Statutes, which authorize a refund of 4 cents of said taxes on fuel used for city transit systems; repealing s. 206.415, Florida Statutes, which authorizes an exemption from the first gas tax for gasohol, and ss. 206.602 and 206.603, Florida Statutes, which provide for certain reimbursement and refunds with respect to the gasohol exemption; amending s. 206.42, Florida Statutes; providing that certain aviation motor fuel is not exempt from the sales tax; amending s. 206.46, Florida Statutes; specifying that moneys in the State Transportation Trust Fund shall be used for transportation purposes; repealing ss. 206.50-206.55, Florida Statutes, which authorize a refund to retail dealers for evaporation and shrinkage; repealing ss. 206.57 and 206.58, Florida Statutes, relating to tax on fuel in reserve motor vehicle reservoirs and penalties for nonpayment; amending s. 206.625(1), Florida Statutes, and repealing subsection (2); amending ss. 206.64 and 206.70(1), Florida Statutes; repealing ss. 206.65-206.76, Florida Statutes; deleting references to the first gas tax in provisions relating to return of tax paid by a municipality on fuel used in vehicles operated by it and provisions relating to refunds on fuel used for agricultural or commercial fishing purposes; deleting certain administrative provisions; repealing s. 213.11, Florida Statutes, which provides for transfer of a portion of first gas tax revenues to the Department of Natural Resources for aquatic weed control; amending s. 215.22(1), (2), and (17), Florida Statutes, and adding subsection (21); authorizing certain deductions from sales tax revenues on motor and special fuel deposited in the Gas Tax Collection Trust Fund and from the Local Option Gas Tax Trust Fund; amending s. 339.08, Florida Statutes, 1982 Supplement, and s. 339.081(1)(a), Florida Statutes; providing for use of the moneys in the State Transportation Trust Fund and for the advances therein; amending s. 339.10(2), Florida Statutes; authorizing advances of proceeds of the sales tax on motor and special fuel; amending s. 339.24(3), Florida Statutes; authorizing expenditure of such proceeds for roadside parks and similar facilities; amending ss. 18.11(1)(f), 123.04(2), 206.45, 206.47, 206.875(2), 206.97, 215.36, 215.74, 336.41(3), 339.083(2), 339.089(1), 344.17, 348.217(10) and (11), 348.219(3)(g) and (k), 348.22(1), (3)(a), and (4), 348.221(2)(b), 348.222(4) and (5), 348.81(10), and 348.951(10), Florida Statutes, and s. 215.47(1)(d), Florida Statutes, 1982 Supplement; revising provisions relating to the excise tax on motor and special fuels, financial matters, transportation finance, and expressway authorities; conforming and correcting language; correcting cross references; amending s. 320.08(3)(d), (4), (5), (6), and (8), Florida Statutes, 1982 Supplement; increasing the license taxes on certain trucks, truck-tractors, semi-trailers, and automobiles and trailers for hire; amending s. 320.20, Florida Statutes; revising distribution of the proceeds of motor vehicle license taxes; amending s. 336.021(1) and (2), Florida Statutes, 1982 Supplement; revising provisions which authorize counties to levy an additional tax on motor and special fuel for transportation purposes subject to referendum; renaming the trust fund into which proceeds are transferred; creating s. 336.025, Florida Statutes; authorizing imposition of a local option tax on motor and special fuel to be used for transportation expenditures under certain circumstances; providing time limitations; authorizing the county, municipalities, and independent transit authorities to participate in the distribution of proceeds thereof; providing distribution requirements; providing for notification to the Department of Revenue and for resolution of disputes; providing for collection and for application of administrative and penalty provisions of chapter 206; specifying that certain refund provisions shall not apply to the tax; providing eligibility requirements; assuring eligible municipalities a certain level of receipts; repealing s. 336.59, Florida Statutes, 1982 Supplement, relating to levy of a tax for road and bridge purposes; amending s. 129.011(1), Florida Statutes, to conform; amending s. 341.051(2)(a), (3)(b) and (4)(a), Florida Statutes, relating to financing of public transit projects; providing limitations on planned department participation; deleting certain limitations on expenditure and appropriation of funds; imposing transitional taxes on certain motor and special fuel held in inventory on April 1, 1983; providing penalties; providing for distribution of the proceeds; exempting the Department of Revenue from certain statutory requirements for a specified period; amending ss. 316.535(6) and 316.545(1), (3), (4) and (5), Florida Statutes, and repealing s. 316.545(6) and (7), Florida Statutes; authorizing local police officers to enforce provisions relating to maximum weights; increasing penalties for violation of such provisions; including local governments in provisions relating to liens; providing for use

of revenues from penalties imposed by local governments; removing provisions relating to a board of review and review of penalties imposed for violation of such provisions; providing an appropriation; providing that, unless determined otherwise, 10 percent appropriations authorized by this act shall be expended with small businesses owned by socially and economically disadvantaged individuals; providing effective dates.

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

On motions by Senator Barron, by two-thirds vote HB 4-A was withdrawn from the Committee on Transportation and taken up instanter.

On motion by Senator Barron, by two-thirds vote HB 4-A was read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 6, strike everything after the enacting clause and insert: Section 1. Subsections (21) and (22) are added to section 212.02, Florida Statutes, 1982 Supplement, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(21) *“Motor fuel” means and includes what is commonly known and sold as gasoline and fuels containing a mixture of gasoline and other products.*

(22) *“Special fuel” means any liquid product, gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term shall include, but not be limited to, all forms of fuel commonly or commercially known or sold as diesel fuel, kerosene, butane gas, or propane gas, and all other forms of liquefied petroleum gases.*

Section 2. Subsection (1) of section 212.05, Florida Statutes, 1982 Supplement, is amended, and subsection (4) is added to said section, 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.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable, ~~according to the applicable brackets set forth in s. 212.12,~~ as follows:

(a)1. At the rate of 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale. Each occasional or isolated sale of an aircraft, boat, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph.

2. This paragraph does not apply to the sale of a boat by or through a registered dealer under this chapter to a purchaser who removes such boat from this state within 10 days after the date of purchase or, when the boat is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat outside the state;

b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and

c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat from this state within 10 days after purchase or, when the boat is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat

to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

(b) At the rate of 5 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.

(c) At the rate of 5 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 when an admission is charged for viewing such film and except the lease or rental of a motor vehicle to one lessee or rentee for a period of not less than 12 months when tax was paid on the acquisition of such vehicle by the lessor, when 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 such business.

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

(e) At the rate of 5 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 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 paragraph 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.

(f) At the rate of 5 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.

(g) *At the rate of 5 percent of the price of each gallon of motor fuel or special fuel taxable pursuant to part II.*

(4) *The tax imposed pursuant to this part shall be due and payable according to the brackets set forth in s. 212.12.*

Section 3. Subsection (1) of section 212.055, Florida Statutes, as amended by chapter 82-154, Laws of Florida, 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, a discretionary 1-percent tax on all 3 or 5 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, *and except that such discretionary tax shall not apply to the sale of motor fuel and special fuel as defined in s. 212.02(21) and (22).*

Section 4. Subsection (1) of section 125.0165, Florida Statutes, 1982 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 3-percent or 5-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, *and the discretionary tax shall not apply to the sale of motor fuel and special fuel as defined in s. 212.02(21) and (22).*

Section 5. Subsection (4) of section 212.08, Florida Statutes, 1982 Supplement, 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.

(4) EXEMPTIONS, ITEMS BEARING OTHER EXCISE TAXES, ETC.—Also exempt are water (not exempting mineral water or carbonated water), and; all fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale; and Motor fuels and special fuels on which a tax is imposed by chapter 206 or chapter 207 and fuels used to propel aircraft are taxable as provided in part II. All other fuels are taxable as provided in this part, except that those used by vehicles, other than aircraft, which are licensed as common carriers by the Interstate Commerce Commission or by the Civil Aeronautics Board to transport persons or property in interstate or foreign commerce and vessels used to transport persons or property in interstate or foreign commerce are taxable only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier, such ratio to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this subsection shall have the same meaning ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the Legislature that the classification of alcoholic beverages made in this subsection for the purpose of extending the tax imposed by this chapter is reasonable and just; and it is intended that such tax be separate from, and in addition to, any other tax imposed on alcoholic beverages.

Section 6. Part II of chapter 212, Florida Statutes, consisting of sections 212.60, 212.65, 212.70, 212.75, 212.90, 212.91, 212.92, 212.95, 212.951, 212.952, 212.953, 212.954, 212.955, 212.956, 212.957, 212.958, 212.959, 212.960, 212.961, 212.970, 212.971, 212.972, 212.973, 212.974, 212.975, 212.980, 212.9801, 212.9802, 212.9803, 212.9804, 212.9805, 212.9806, 212.9807, 212.9808, 212.9809, 212.9810, 212.9811, 212.9812, and 212.9813, is created to read:

PART II TRANSPORTATION FINANCE AND ADMINISTRATION

212.60 Legislative findings and intent.—

(1) It is the intent of the Legislature that sales of motor fuel and special fuel shall be subject to the tax imposed by this chapter. However, in recognition of the unique business practices which characterize the sale of such fuel at the retail level, and of the existing public and private sector administrative structures which exist pursuant to chapter 206 for the collection of the motor fuel and special fuel excise tax, the Legislature hereby provides a method for imposing and collecting the sales tax on such fuel in a manner least likely to increase public and private costs of tax collection and administration.

(2) The Legislature hereby finds and declares that as a matter of convenience and necessity, the sales tax applicable to motor fuel and special fuel shall be levied and collected as provided exclusively in this part. Provisions of part I shall be applicable to the taxation of motor fuel and special fuel only by express reference to such fuels and this part.

212.65 Definitions.—As used in this part:

(1) "Distributor" means any person who holds a valid license as a distributor of motor fuel, issued by the department pursuant to s. 206.03, and who:

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

(b) Imports and withdraws for use within this state by himself or others any motor fuel from the tank car, truck, or other original container or package in which it was imported into this state;

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

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

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

(f) Was holding, on December 30, 1970, an unrevoked license issued by the department to engage in business as a distributor of motor fuel; or

(g) Purchases or receives in this state for resale to dealers motor fuel upon which the tax has not been paid.

(2) "Dealer" means any person who holds a valid license as a dealer of special fuel, issued by the department pursuant to s. 206.89, and who:

(a) Imports and sells at wholesale, retail, or otherwise within this state any special fuel;

(b) Imports, or causes to be imported, and withdraws for use within this state by himself or others any special fuel from the tank car, truck, or other original container or package in which it was imported into this state;

(c) Exports special fuel from this state to another state or foreign country;

(d) Manufactures, refines, produces, or compounds any special fuel within this state and sells the same at wholesale, retail, or otherwise within this state;

(e) Imports into this state from any other state or foreign country or receives by any means into this state and keeps in storage in this state for a period of 24 hours or more after the same loses interstate character as a shipment in interstate commerce any special fuel which is intended to be used in this state;

(f) Is primarily liable under the special fuel tax laws of this state for the payment of special fuel taxes;

(g) Purchases or receives in this state special fuel in bulk quantities for resale to service stations, to a user or another dealer, or to the ultimate consumer for nontaxable consumption upon which the tax has not been paid; or

(h) Has both a taxable use and nontaxable consumption of the same special fuel in this state. However, this paragraph shall not require a person to be a dealer when his only purchases of special fuel are delivered into reservoirs attached to motor vehicles to fuel internal combustion engines attached to said motor vehicles.

(3) "Retail dealer" means any person licensed pursuant to chapter 206 to sell motor fuel or special fuel at retail to the general public at posted retail prices.

(4) The definitions contained in s. 212.02(1), (2), (3), (4), (7), (8), (9), (10), (11), (13), (17), (21), and (22) shall apply to the same terms as used in this part.

212.70 Tax imposed on sale of motor fuel and special fuel; tax upon ultimate consumer; determination by department; notification.—

(1) A tax shall be imposed for the privilege of the sale at retail in this state of motor fuel and special fuel.

(2)(a) This levy of tax is upon the ultimate retail consumer. It is hereby provided as a matter of administrative convenience and necessity that the tax shall be paid upon the first sale or transfer of title within this state, whether by a distributor, dealer, or retail dealer, who shall act as agent for the state in the collection of said tax whether such distributor, dealer, or retail dealer is the ultimate seller or not.

(b) Distributors, dealers, and retail dealers shall add the amounts of the tax imposed under this part to the sale price and the tax shall be separately stated as Florida sales tax on charge tickets, sales slips, invoices, or other tangible evidence of sale to each subsequent purchaser. However, the sales tax imposed shall be disclosed to the ultimate retail consumer as provided in subsection (5).

(c) Distributors, dealers, retail dealers, or retailers shall not advertise or claim to the public by any manner whatsoever that they will absorb all

or any part of the tax, that they will relieve the purchaser or ultimate consumer of any portion of the tax, or that a portion of such tax will be refunded.

(d) Any distributor, dealer, retail dealer, or retailer who violates the provisions of paragraph (b) or paragraph (c) shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Prior to June 1 and December 1 of each year, the department shall determine the appropriate sales tax applicable to the retail price per gallon of motor fuel and special fuel as follows:

(a) The department shall determine the appropriate total motor fuel and special fuel retail price, including any federal, state, or local excise taxes on such fuel, for the forthcoming 6-month period beginning each June 1 and December 1, by adjusting the initially established price by the percentage change in the average monthly gasoline price component of the Consumer Price Index, issued by the United States Department of Labor, for the most recent 6-month period ending March 31 or September 30, compared to said average for the 6-month period ending March 31, 1984. However, the adjustment provided herein shall first be made for the forthcoming 6-month period beginning December 1, 1984.

(b) The tax per gallon shall be computed as 5 percent of said total retail price, rounded to the nearest one-tenth of one cent.

(c) The initially established price is \$1.128 per gallon.

(4) The department shall notify each distributor, dealer, and retail dealer of the amount of sales tax to be imposed and collected pursuant to this part on each gallon of motor fuel and special fuel for the 6-month period.

(5) Every retailer shall conspicuously display, on the outside housing of each pump or other dispensing device, a notice that the price stated on the pump includes applicable state sales taxes.

212.75 Tax remitted to department.—The taxes levied and assessed pursuant to this part shall be remitted to the department at the same time as motor fuel and special fuel taxes are required to be remitted under the provisions of chapters 206 and 207. The department shall prescribe forms which provide for consolidated reporting of taxes due under chapters 206 or 207 and this part.

212.90 Applicability of specified sections of chapter 206.—The provisions of ss. 206.055, 206.06, 206.07, 206.075, 206.08, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.19, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.28, 206.41(2), 206.44, 206.445, 206.48, 206.49, 206.56, 206.58, 206.59, 206.87(2)(a), (4)(d), and 206.94, shall, as far as lawful or practicable, be applicable to the levy and collection of taxes imposed pursuant to this part as if fully set out herein.

212.91 Dealer to dealer sales.—The tax imposed in this part shall not be paid on special fuels, otherwise taxable herein, when sold by a licensed dealer to a licensed dealer.

212.92 Partial exemption for aviation jet fuel purchased; economic development.—

(1) The Legislature hereby recognizes the economic and social benefit the citizens of this state receive from the location and prosperous operation of businesses in this state. To encourage economic development and the creation of jobs in Florida, there is hereby allowed a credit against the tax imposed by this part on aviation jet fuel purchased by any new business which establishes, or any existing business which maintains, its corporate or business home office in this state and maintains a workforce within this state of more than 1200 employees, in Florida.

(2) The credit allowed by this section shall be equal to 50 percent of the taxes paid pursuant to this part on purchases of aviation jet fuel; provided however, that the taxes paid under this part shall not exceed \$5,000,000 in any state fiscal year period.

(3) The department shall promulgate any rules necessary to ensure the orderly implementation and administration of this section.

212.94 Gasohol; exemption from tax imposed by this part.—The sale or distribution for use in this state of motor fuel which contains a minimum of 10 percent blend by volume of ethyl alcohol with a purity of 99 percent, commonly known as "gasohol," shall be exempt from the tax levied pursuant to this part as follows:

(1) Each gallon of such gasohol sold in this state shall be exempt from the entire tax imposed by this part from April 1, 1983 through June 30, 1985.

(2) Each gallon of such gasohol sold in this state shall be exempt from 50 percent of such tax from July 1, 1985 through June 30, 1987.

212.95 Distribution of proceeds.—Notwithstanding other provisions of law to the contrary, moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.45. Said moneys, exclusive of the service charge imposed by s. 215.20, shall be distributed monthly to the State Transportation Trust Fund.

212.951 Refunds to local transit operations; definitions.—

(1) "Transit system" as used in ss. 212.951-212.961 means any system of mass public transportation authorized to operate within any city, town, municipality, county, or transit transportation authority region in this state, as distinguished from any over-the-road or charter system of public transportation operating point to point between one or more cities, towns, or municipalities. However, a transit system as defined above may operate outside its limits when such operation outside its limits is found necessary to adequately and efficiently provide mass public transportation services for the city, town, or municipality involved. A transit system as defined above includes demand service that is an integral part of a city, town, municipality, county, or transit or transportation authority system but does not include independent taxicab or limousine operations.

(2) "City" or "cities," "county" or "counties," and "authority" or "authorities" as used in ss. 212.951-212.961 includes collectively or individually any city, town, municipality, county, or transit or transportation authority organized in this state by virtue of any general or special law enacted by the Legislature.

212.952 Legislative findings.—It is hereby expressly recognized and declared by the Legislature that mass public transportation is essential to the continued economic growth and development of the cities and counties of this state and therefore essential to the general welfare of the state; that the constant population growth throughout the state has brought an ever-increasing use of private individual means of transportation, resulting in the overburdening of traffic arteries within our cities and counties and thereby causing an increase in police requirements, higher cost of traffic regulation and law enforcement, and severe economic loss to and a blight on the central business districts in the cities; that relief of present traffic congestion is essential to the continued economic growth and development of the cities and counties of this state, and thus essential to the general welfare of this state; that further deterioration of the central areas of the cities must be prevented; that by reason of the heavy population growth and the increase in the use of private means of transportation, existing transit systems have had to reduce route mileage and areas served, limit the hours of operation, and raise rates to compensate for the loss in revenue; that by reason of the reduced operations of the transit systems as described herein, income and capital investment have declined while operating expenses have increased, resulting in the obsolescence of equipment and a further decline in services; that present excise taxes imposed on transit systems by this part constitute but a minor source of revenue to the state but constitute a major item of cost to each transit system; and that the vehicles used by the transit systems do not operate predominantly over state-maintained roads but operate primarily over streets and roads maintained by the cities and counties involved. In view of the foregoing facts, the Legislature finds that the improvement, revitalization, modernization, and expansion of the transit systems of this state are necessary and proper in the best interest of the state, and in order to obtain these objectives the Legislature finds it necessary to grant certain tax advantages to the transit systems as set forth below.

212.953 Refunds on fuel used for transit systems.—Any person who uses any motor fuel or special fuel for a transit system on which the taxes imposed by part II of this chapter have been paid shall be entitled to a refund of such state taxes. However, no refund shall be authorized unless sworn application therefor containing such information as the department may determine is filed with it no later than January 31 immediately following the year for which refund is claimed.

212.954 Powers and duties of department.—

(1) The department shall make such rules and regulations as are necessary to establish the procedure for procuring the refund provided for in s. 212.953 and to enforce the provisions of ss. 212.951-212.961.

(2) Agents of the department are authorized to go upon the premises of any person who has applied for or who has received a refund under s. 212.953, or of any licensed dealer or his duly authorized agent to make inspection to ascertain any matter connected with the operation of ss. 212.951-212.961 or the enforcement thereof. However, no agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

212.955 Permit for refunds required; procedure for issuance; bond.—

(1) No person shall secure a refund of tax under s. 212.953 unless such person is the holder of an unrevoked refund permit issued by the department before the purchase of the motor fuel, which permit shall be numbered and issued annually and entitle such person to make application for a refund under ss. 212.951-212.961.

(2) To procure a permit, a person shall file with the department an application, on forms furnished by the department, stating that he is engaged in the business of transit systems and that he intends to file an application for refund for the current calendar year, and shall furnish the department such other information as the department requests.

(3) No person shall, in any event, be allowed a refund unless he has filed the application provided for above with the department. The permit shall be effective on the date issued by the department.

(4) If an applicant for a refund permit has violated any provisions of ss. 212.951-212.961 or regulation pursuant thereto or has been convicted of bribery, theft, or false swearing within the period of 5 years preceding the application or if the department has evidence of the applicant's financial irresponsibility, the department may require the applicant to execute a corporate surety bond of \$1,000 to be approved by the department and conditioned upon the payment of all taxes, penalties, and fines for which such applicant may become liable under ss. 212.951-212.961.

212.956 Sales; invoices required.—When motor fuel or special fuel is sold to a person who claims to be entitled to refund under s. 212.953, the seller of such motor fuel or special fuel shall make out a motor fuel or special fuel invoice in accordance with such rules and in such form and containing such information as the department may require. No person shall execute a motor fuel or special fuel invoice who is not a distributor or a duly authorized agent thereof. No refund invoices shall be executed for purchases from retail service stations.

212.957 When refund claims allowed; procedure; right of refund non-assignable, exception; fee.—

(1) When the department is satisfied that a refund is proper, it shall authorize the refund. Every transit system holding a valid permit as of January 1, 1982, shall be eligible to file the application due by January 31, 1982. Those who did not timely receive the application forms shall immediately be mailed new application forms and allowed 30 days to complete and return those forms to the Department of Revenue. Proper and timely applications shall be honored by the department.

(2) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator or the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of such person entitled thereto.

(3) Claims shall be paid annually on a calendar year basis. Claims shall be filed not later than January 31 immediately following the year for which refund is claimed.

(4) The department shall deduct a fee of \$2 for each claim, which \$2 shall be deposited in the General Revenue Fund.

212.958 Appropriation for payment of claims.—The department is authorized to withhold from revenues collected pursuant to this part sufficient funds to make the refund provided for in s. 212.953.

212.959 False information in permit or refund application.—No person shall knowingly make a false or fraudulent statement in an application for a refund permit or in a motor fuel or special fuel refund invoice, or in an application for a refund of any taxes under this law; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought motor fuel or any part thereof to be used for any person other than as provided in s. 212.951.

212.960 Revocation, suspension of refund permit.—

(1) The refund permit of any person who violates any provisions of s. 212.959 shall be revoked by the department and may not be reissued until 2 years have elapsed from the date of such revocation, and such person, whether or not his permit has been revoked by the department, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The refund permit of any person who violates any provision of ss. 212.951-212.961, other than those contained in s. 212.959, may be suspended by the department for any period in its discretion not exceeding 6 months.

212.961 Violations by persons other than refund permitholders.—Any person other than the holder of a refund permit who shall knowingly violate any provision of ss. 212.951-212.961 shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

212.970 Retail gasoline dealers, refund allowed.—Every person licensed to sell motor fuel at retail to the general public at posted retail prices, hereinafter referred to as "retail dealers," shall be entitled to a refund of 2 percent on taxes collected pursuant to this part, imposed by the state, on such motor fuel purchased by such retail dealer to cover losses due to evaporation and shrinkage of such motor fuel, subject to the conditions set forth in the following sections.

212.971 Requirements for refund.—

(1) No retail dealer shall be entitled to a refund unless he is the holder of a current certificate of license as prescribed by s. 206.405.

(2) The department shall not approve refund payment to any person other than a currently licensed retail dealer except the executor or administrator of the estate of the deceased currently licensed retail dealer.

212.972 Application for refund.—

(1) Retail dealers holding a current certificate of license may file application for refunds provided by ss. 212.970-212.974 with the department. Said application shall be filed quarterly, within 6 months of date of purchase of motor fuel with respect to which refund is claimed, on forms prescribed by the department; shall be sworn to; and shall state total quantity of motor fuel purchased, location where purchased, period for which refund is claimed, date of purchase, from whom purchased, and any other information reasonably required by the department. Original or duplicate original invoice for each purchase of motor fuel made during the period for which refund is claimed shall be attached to said application.

(2) The department shall deduct a fee of \$1 for each claim, which shall be deposited in the General Revenue Fund.

212.973 Approval of application; payment of refund.—The department shall promptly examine each such application for refund and approve or disapprove it. If the department approves the application, it shall authorize the amount claimed to be refunded as other refunds are made, and the amount shall be refunded and deducted by it from current tax receipts pursuant to this part. After refund is made, the invoices required under s. 212.972 shall be perforated and returned to the applicant.

212.974 Refund overpayment; adjustment.—In the event of overpayment of any refund provided for in s. 212.973, the department shall refuse to make further refund until such overpayment is adjusted in a manner satisfactory to it.

212.975 False statement; penalty.—Any retail dealer who falsely swears to a refund application, knowing such statement to be false, is guilty of perjury; and upon conviction, in addition to the penalty prescribed by law, shall not be allowed to make future applications for refund during the current license year.

212.980 Return of tax to municipalities.—

(1) Those portions of the tax imposed pursuant to this part, which result from the collection of such tax paid by a municipality on gasoline for use in a motor vehicle operated by it shall be returned to the governing body of each such municipality for the construction, reconstruction, and maintenance of roads and streets within the municipality.

(2) The department shall promulgate such rules and regulations and shall prescribe such forms as shall be necessary to effectuate the purposes of this section.

212.9801 Definitions.—For the purposes of ss. 212.9802-212.9813, the following words and terms when used herein shall have the following meanings:

(1) "Agricultural purposes" shall be construed to mean motor fuel or special fuel used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which is used in any vehicle or equipment driven or operated upon the public highways of this state. This restriction shall not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper shall be also deemed an agricultural purpose.

(2) "Commercial fishing purposes" shall be construed to mean motor fuel or special fuel used in the operation of boats, vessels, and equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, and sponges from the salt and fresh waters under the jurisdiction of the state for resale to the public, but shall in no way be construed to include fuel used for sports or pleasure fishing, no part of which is used in any vehicle or equipment driven or operated upon the highways of this state.

212.9802 Refunds on fuel used for agricultural or commercial fishing purposes; limitation; claims.—Any person who uses any motor fuel or special fuel for agricultural purposes or commercial fishing purposes on which the tax, as imposed by this part, has been paid shall be entitled to a refund of the tax. However, no refund shall be authorized unless sworn applications therefor containing such information as the department may determine are filed with it not later than January 31 immediately following the year for which refund is claimed. When claim is filed after January 31 and there is presented to the department a justified excuse for late filing and the last preceding claim has been filed on time, such late filing may be accepted through February of the year filed. No refund shall be authorized for purchases of less than 26 gallons at any one time, and no refund shall be authorized unless the amount due is for \$5 or more in any 12-month period.

212.9803 Powers and duties of department.—Agents of the department are authorized to go upon the premises of any permitholder or any distributor or his duly authorized agent as defined in this part to make inspection to ascertain any matter connected with the operation of ss. 212.9801-212.9813 or the enforcement thereof. However, no agent shall enter the dwelling of any person without the occupant's consent or the authority from the court of competent jurisdiction.

212.9804 Permit for refunds required; procedure for issuance; bond.—

(1) No person shall secure a refund of tax under s. 212.9802 unless such person is the holder of an unrevoked refund permit issued by the department before the purchase of the motor fuel, which permit shall be numbered and issued annually and shall entitle such person to make application for a refund under ss. 212.9801-212.9813.

(2) To procure a permit every person shall file with the department an application, on forms furnished by the department, stating that he is engaged in the business of farming or commercial fishing and that he intends to file an application for refund for the current calendar year, and shall furnish the department such other information as the department shall request.

(3) No person shall in any event be allowed a refund unless he has filed the application provided for above with the department. The permit shall be effective on the date issued by the department and continuous from year to year so long as the permitholder files refund claims year to year. In the event he fails to file a claim for any year, then he must apply for a new permit.

(4) The department may, if applicant for a refund permit has violated any provision of ss. 212.9801-212.9813 or any regulation pursuant thereto, or been convicted of bribery, theft, or false swearing within the period of 5 years preceding the application or if the department has evidence of the applicant's financial irresponsibility, require the applicant to execute a corporate surety bond of \$1,000 to be approved by the department, conditioned upon the payment of all taxes, penalties, and fines for which such applicant may become liable under ss. 212.9801-212.9813.

212.9805 Permit numbers; tax refund blanks.—The department shall annually assign each permitholder a new file number and furnish the permitholder with blank gas tax refund applications.

212.9806 Sales; quantities limited; invoices required, requirements.—

(1) When motor fuel is sold to a person who claims to be entitled to refund under s. 212.9802, the seller of such motor fuel shall make out a sales invoice, which shall contain the following information:

- (a) The name and post-office and resident address of the purchaser;
- (b) The number of gallons purchased;
- (c) The date on which purchase was made;
- (d) The price paid for such refund motor fuel; and
- (e) The name and place of business of the seller of the refund motor fuel.

(2) The sales invoice shall be retained by the purchaser for an attachment to his application for refund as a part thereof. No refund shall be allowed unless the seller executes such invoices and proof of payment of such taxes for which refund is claimed is attached. The department may refuse to grant a refund if the invoice in any particular is incomplete and fails to contain the full information required under ss. 212.9801-212.9813. When refund payment is made the department shall perforate the invoices and return them to the permitholder.

(3) Refund motor fuel shall not be sold or delivered in quantities of less than 26 gallons.

(4) No person shall execute a sales invoice, as described in subsection (1), except a distributor or a dealer or a duly authorized agent thereof. No refund invoices shall be executed for purchases from retail service stations, except that the department shall have authority to designate certain retail service stations as agents of distributors when no distributors are available to serve commercial fishermen.

212.9807 Refund claim application forms.—The refund permitholder shall file with the department an application for refund on forms furnished by the department.

212.9808 When refund claims allowed; procedure; right of refund nonassignable, exception; fee.—

(1) When the department is satisfied that a refund is proper, it shall authorize the amount of the tax paid, to be refunded as other refunds are made; and the amount shall be refunded and deducted by it from current gas tax receipts in its possession. Such refunds shall be allowed only on motor fuel purchased in quantities of 26 gallons or more and used in machines, boats, and equipment listed by the claimant in his application for refund.

(2) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings, of such person entitled thereto.

(3) Claims shall be paid annually on a calendar-year basis. Claims shall be filed not later than January 31 immediately following the year for which refund is claimed.

(4) The department shall deduct a fee of \$2 for each claim, which \$2 shall be deposited in the General Revenue Fund.

212.9809 Appropriation for payment of claims.—The annual claims to be refunded shall not exceed \$500,000, which amount shall be withheld from tax revenues available for the purpose of refund. In the event claims exceed this amount, the department shall reduce such refunds proportionally so that each claim shall receive the same percentage reduction.

212.9810 Erroneous refunds.—If any taxes are erroneously refunded, the department shall advise the payee by registered mail of the erroneous refund. If the payee fails to reimburse the state within 15 days after the receipt of letter, an action may be instituted by the department against such payee in the circuit court, and the department shall recover from the payee the amount of the erroneous refund plus a penalty of 20 percent.

212.9811 Records of sales and purchases of motor fuel under refund permit.—

(1) Each distributor shall, in accordance with the department's requirements, keep at his principal place of business in this state, or at the bulk plant where the sale is made, a complete record or duplicate sales tickets of all such motor fuel sold by him for the refund provided for in s. 212.9807, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold, and the sale price. No distributor or his agent or employee shall acknowledge or assist in the preparation of any claim for tax refund.

(2) Every person to whom a refund permit has been issued under this part shall, in accordance with the department's requirements, keep at his residence or principal place of business in this state a record of each purchase of motor fuel from a distributor or the distributor's authorized agent, the number of gallons purchased, the name of the seller, the date of the purchase, and the sale price.

(3) The records required to be kept under subsections (1) and (2) of this section shall at all reasonable hours be subject to inspection by the department or by any person duly authorized by it. Such records shall be preserved and shall not be destroyed until 3 years after the date the motor fuel to which they relate was sold or purchased.

212.9812 False information in permit or refund application.—No person shall knowingly make a false or fraudulent statement in an application for refund permit or in an application for refund of any taxes under this part; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought motor fuel or any part thereof to be used for any purpose other than as provided in s. 212.9812.

212.9813 Revocation, suspension of refund permit.—The refund permit of any person who shall violate any provision of s. 212.9812 shall be revoked by the department and may not be reissued until 2 years have elapsed from the date of such revocation. The refund permit of any person who violates any other provision of this part may be suspended by the department for any period in its discretion not exceeding 6 months.

Section 7. Paragraph (f) of subsection (1) of section 18.11, Florida Statutes, is amended to read:

18.11 Security to be given.—

(1) The security to be given by such banks as may be designated under ss. 18.10 and 18.101 shall consist of:

(f) Bonds, notes, or certificates of any county, board, commission, authority, agency, or other instrumentality of the state which contain a pledge of, and are solely payable from, the 80-percent surplus 2-cent constitutional second gasoline tax accruing under s. 16, Art. IX of the State Constitution of 1885, as adopted by the 1968 revised constitution and s. 9, Art. XII of said revision, provided that such securities have been approved by the State Board of Administration as to their legal and fiscal sufficiency.

Section 8. Subsection (2) of section 123.04, Florida Statutes, is amended to read:

123.04 Qualifications for retirement.—

(2) A board to consist of the Governor, the State Comptroller, and the State Treasurer shall be authorized and empowered to invest in bonds of the United States, in bonds the payment of which is secured by s. 16 of Art. IX of the Constitution of 1885, as adopted by the 1968 revised constitution or by s. 9, Art. XII of said revision, in bonds the payment of which is secured by s. 18 of Art. XII of the Constitution of 1885, as adopted by s. 9, Art. XII of the 1968 revised constitution, in county bonds containing a pledge of the full faith and credit of the county or district involved, provided that such bonds are approved by the State Board of Administration as to legal and fiscal sufficiency, in bonds of the Florida State Improvement Commission or any other state agency, which have been approved as to legal and fiscal sufficiency by the State Board of Administration and which contain a sole pledge of the 80-percent surplus 2-cent constitutional second gasoline tax accruing under the provisions of s. 16 of Art. IX of the Constitution of 1885, as adopted by the 1968 revised constitution, or of s. 9, Art. XII of said revision, or in such other securities in which domestic life insurance companies are permitted to invest by Florida law any of the funds of the Judicial Retirement Trust Fund as they may deem necessary and feasible.

Section 9. Subsection (1) of section 206.05, Florida Statutes, is amended to read:

206.05 Bond required of licensed distributors.—

(1) Each distributor, except a municipality, county, school board, or special district which is licensed as a distributor under this part, shall file with the department a bond in a penal sum of not less than \$10,000 \$3,000 or more than \$100,000 \$35,000, said sum to be approximately 3 times the average monthly gas tax paid by, or due from, such distributor during the preceding 12 calendar months under the laws of this state.

The bond shall be in such form as may be approved by the department, executed by some surety company duly licensed to do business under the laws of the state as surety thereon, and conditioned upon the prompt filing of true reports and the payment by such distributor to the department of any and all gas taxes which are now or which hereafter may be levied or imposed by the state, together with any and all penalties and interest thereon, and generally upon faithful compliance with the provisions of the gas tax laws of the state. The distributor shall be the principal obligor, and the state shall be the obligee.

Section 10. Sections 206.32, 206.34, 206.36, 206.37, 206.38, and 206.40, Florida Statutes, and sections 206.29, 206.30, 206.31, 206.33, and 206.35, Florida Statutes, as amended by chapter 82-139, Laws of Florida, are hereby repealed.

Section 11. Subsections (3) and (4) of section 206.41, Florida Statutes, are hereby repealed, and subsection (1) of said section is amended to read:

206.41 Constitutional gas tax Gasoline taxes imposed.—

(1) An excise or license tax of 2 6 cents per gallon, ~~herein termed "gas tax,"~~ is imposed upon every gallon of motor fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. *This tax, which is the tax as levied by s. 16, Art. IX of the Constitution of 1885, as amended, and continued by s. 9(c), Art. XII of the 1968 Constitution, as amended, and which is therein referred to as the "second gas tax," is hereby designated the "constitutional gas tax."* This levy of tax is ~~upon the consumer but~~ shall be paid upon the first sale or transfer of title, or use, within this state whether by a distributor or dealer, except as expressly provided in subsection (2), who shall act as agent for the state in the collection of said tax whether he be the ultimate seller or not.

Section 12. Section 206.415, Florida Statutes, as created by chapter 80-77, Laws of Florida, is hereby repealed.

Section 13. Section 206.42, Florida Statutes, is amended to read:

206.42 Aviation motor fuel exempt from excise tax.—Each and every dealer in aviation motor fuel in the state by whatever name designated who sells aviation motor fuel testing 78 octane number (A.S.T.M. method D-357-33T) or higher, of such quality not adapted for use in ordinary motor vehicles, being designed for and sold and exclusively used for aircraft motors, is exempted from the payment of any and all excise taxes levied by the state upon such motor fuel, *except the tax levied under part II of chapter 212.*

Section 14. Subsection (1) of section 206.43, Florida Statutes, is amended to read:

206.43 Distributor to report to department monthly; deduction.—The taxes levied and assessed as provided in part I of this chapter shall be paid to the department monthly in the following manner:

(1) On or before the 20th day of each month the distributor shall mail to the department verified reports on forms prescribed by the department of the number of gallons of such products sold by him during the preceding month and shall at the same time pay to the department the amount of tax computed to be due. However, if the 20th day falls on a Saturday, a Sunday, or a federal or state legal holiday, returns shall be accepted if postmarked on the next succeeding workday. The distributor shall deduct from the amount of tax shown by the report to be payable an amount equivalent to 4 2 percent of the tax on motor fuels *imposed by this part* not exceeding 500,000 taxable gallons, and less an amount equivalent to 2 1 percent of the tax on motor fuels *imposed by this part* in excess of 500,000 gallons but not exceeding 1 million taxable gallons, which is hereby allowed to the distributor on account of services and expenses in complying with the provisions of the law. However, this allowance shall not be deductible unless payment of tax is made on or before the 20th day of the month as herein required. The United States post-office date stamped on the envelope in which the report is submitted shall be considered as the date the report is received by the department.

Section 15. Section 206.45, Florida Statutes, is amended to read:

206.45 Payment of tax into State Treasury.—All moneys derived from the gas taxes imposed by part I of this chapter shall be paid into the State Treasury by the department, for deposit in the Gas Tax Collection Trust Fund, which fund is created and from which the following transfers shall be made:

~~(1) The first gas tax shall, after withholding and transferring such funds as are required under the provisions of s. 213.11, and after withholding \$50,000 to be used as a revolving cash balance in the "Gas Tax Collection Trust Fund," and except as provided in s. 206.625, be transferred into the "State Transportation Trust Fund," which fund is created for use as provided by law.~~

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

(2)(3) The county additional seventh-cent gas tax collected pursuant to s. 206.60, as such may be amended by the 1971 Legislature, shall be distributed as therein provided.

(3)(4) The municipal additional eighth-cent gas tax collected pursuant to s. 206.605 shall be distributed as therein provided.

Section 16. Section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund; ~~construction, etc., of roads.~~—All moneys in the State Transportation Trust Fund, which is hereby created, shall be used for transportation purposes ~~the construction and maintenance of state roads,~~ as otherwise provided by law, under the direction of the Department of Transportation, which department may from time to time make requisition on the Comptroller for such funds to pay for the construction and maintenance of state roads. Money from said fund shall be drawn by the Comptroller by warrant upon the State Treasury pursuant to vouchers and shall be paid in like manner as other state warrants are paid out of the appropriated fund against which same are drawn. All sums of money necessary to provide for the payment of the warrants by the Comptroller drawn upon said fund are appropriated annually out of the fund for the purpose of making such payments from time to time.

Section 17. Section 206.47, Florida Statutes, is amended to read:

206.47 Distribution of constitutional second gas tax pursuant to State Constitution.—

(1) The constitutional second gas tax shall be allocated among the several counties in accordance with the formula stated in s. 16 of Art. IX of the State Constitution of 1885, as amended, to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates, and tax anticipation certificates or any refundings thereof secured by any portion of the constitutional second gas tax allocated under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended.

(2) The Department of Revenue will transmit the constitutional second gas tax as collected monthly to the State Board of Administration allocated and distributed to the credit of the several counties of the state based on the formula of distribution contained in s. 16, Art. IX of the Constitution of 1885, as amended.

(3) The State Board of Administration will calculate a distribution of the constitutional second gas tax received from the Department of Revenue under subsection (2), based on the formula contained in s. 9(c)(4), Art. XII of the revised State Constitution of 1968.

(4) The State Board of Administration shall allocate the constitutional second gas tax beginning with the tax collected January 1969 on the formula contained in s. 9(c)(4), Art. XII of the revised State Constitution of 1968, subject only to the debt service requirements of bonds pledging all or part of the constitutional second gas tax allocated under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended.

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

(6) The State Board of Administration will calculate a monthly allocation of the constitutional second gas tax received from the Department of Revenue based on the formula contained in s. 9(c)(4), Art. XII of the

revised State Constitution of 1968, and credit to the account of each county the amount of the constitutional second gas tax to be allocated under said formula.

(7) The gas tax funds credited to each county will be first distributed to meet the debt service requirements, if any, of the s. 16, Art. IX debt assumed or refunded by the State Board of Administration payable from the constitutional second gas tax. The remaining gas tax funds credited to each county are surplus gas tax funds and shall be divided, 80 percent to the Department of Transportation and 20 percent to the board of county commissioners of the county for the acquisition and construction of roads. As provided in s. 339.08(4), the department is authorized to maintain on deposit with the State Board of Administration all proceeds of the 80-percent surplus of the constitutional second gas tax.

(8) The State Board of Administration shall retain a reasonable percentage of the total surplus gas tax in an amount to be determined by the board in each fiscal year and shall hold said funds in a reserve account to make any adjustments required for the distribution of the gas tax for the fiscal year. Funds in the reserve account may be invested in direct obligations of the United States maturing not later than June 30 of each fiscal year.

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

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

(11) After receiving the gas tax collections for the 12th month of each fiscal year, the State Board of Administration shall make a complete and total distribution of all earnings on investments and remaining gas tax collected during the fiscal year, taking into account all the requirements of s. 16, Art. IX of the State Constitution of 1885, as amended, of bonds pledging all or any portion of the constitutional second gas tax accruing thereunder, and s. 9(c), Art. XII of the revised State Constitution of 1968, as amended.

Section 18. Sections 206.50, 206.51, 206.52, 206.53, 206.54, 206.55, 206.57, 206.602, and 206.603, Florida Statutes, are hereby repealed.

Section 19. The Statutory Revision Division is directed to change the catchline of s. 206.60, Florida Statutes, to "County tax on motor fuel" and the catchline of s. 206.605, Florida Statutes, to "Municipal tax on motor fuel."

Section 20. Subsection (1) of section 206.625, Florida Statutes, is amended, present subsection (2) of said section is renumbered as subsection (4) and new subsections (3) and (4) are added to said section to read:

206.625 Return of tax to municipalities and school boards and counties.—

(1) Those portions of the county first gas tax, imposed by s. 206.41, and the additional gas tax, imposed by s. 206.60, which result from the collection of such tax taxes paid by a municipality on gasoline for use in a motor vehicle operated by it shall be returned to the governing body of each such municipality for the construction, reconstruction, and maintenance of roads and streets within the municipality.

(2) Those portions of the county gas tax imposed by s. 206.60 which result from the collection of such tax paid by a school district on gasoline for use in a motor vehicle operated by it shall be returned to the governing body of each such school district to be used to fund construction, reconstruction, and maintenance of roads and streets within the school district required as a result of new school construction or renovation of existing school. The school board shall select the projects to be funded; however, first priority shall be given to projects required as the result of new school construction, unless a waiver is granted by the affected county or municipal government.

(3) Those portions of the county gas tax imposed by s. 206.60 which result from the collection of such tax paid by a county on gasoline for use in a motor vehicle operated by it shall be returned to the governing body of each such county. Tax revenue returned to a county under this section shall be used for the construction, reconstruction, and maintenance of road and streets within the county.

Section 21. Section 206.64, Florida Statutes, is amended to read:

206.64 Refunds on fuel used for agricultural or commercial fishing purposes; limitation; claims.—Any person who uses any motor fuel for agricultural purposes or commercial fishing purposes on which the tax, as imposed by this part, has been paid shall be entitled to a refund of the municipal tax imposed by s. 206.605 state tax ~~except the 2 cents per gallon gas tax known as the second gas tax and the seventh cent gas tax as provided by s. 206.60.~~ However, no refund shall be authorized unless sworn applications therefor containing such information as the department may determine are filed with it not later than January 31 immediately following the year for which refund is claimed. When claim is filed after January 31 and there is presented to the department a justified excuse for late filing and the last preceding claim has been filed on time, such late filing may be accepted through February of the year filed. No refund shall be authorized for purchases of less than 26 gallons at any one time, and no refund shall be authorized unless the amount due is for \$5 or more in any 12-month period.

Section 22. Subsection (1) of section 206.70, Florida Statutes, is amended to read:

206.70 When refund claims allowed; procedure; right of refund nonassignable, exception; fee.—

(1) When the department is satisfied that a refund is proper, it shall authorize the amount of the ~~municipal tax imposed by s. 206.605 state gas tax paid except the 2 cents per gallon gas tax known as the "second gas tax" and the seventh cent gas tax as provided by s. 206.60,~~ to be refunded as other refunds are made; and the amount shall be refunded and deducted by it from current gas tax receipts in its possession. Such refunds shall be allowed only on motor fuel purchased in quantities of 26 gallons or more and used in machines, boats, and equipment listed by the claimant in his application for refund.

Section 23. Subsection (3) of section 206.87, Florida Statutes, is hereby repealed, and subsection (1) of said section is amended to read:

206.87 Levy of tax.—

(1) An excise tax of 4 8 cents per gallon is hereby imposed upon every gallon of special fuel used or sold in this state for use. Unless expressly provided to the contrary in this part, every sale shall be deemed to be for use in this state. This levy of tax 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 this part, who shall act as agent for the state in the collection of said tax whether he be the ultimate seller or not.

Section 24. Subsection (2) of section 206.875, Florida Statutes, is amended to read:

206.875 Allocation of tax.—

(2) It is the intent of the Legislature that this section be construed to provide for the distribution of the appropriate portion of the special fuels tax imposed by this part, in the same manner as provided by ss. ~~206.29, 206.30, 206.31, 206.32, 206.33, 206.34, 206.35, 206.36, 206.37, 206.38, 206.39, 206.40, 206.41, 206.45, 206.60, 206.605, and 206.625.~~

Section 25. Subsection (1) of section 206.90, Florida Statutes, is amended to read:

206.90 Bond required of licensed dealers.—

(1) Every dealer, except a municipality, county, school board or special district which is licensed as a dealer under this part, shall file with the department a bond or bonds in the penal sum of not less than \$10,000 or more than \$100,000 ~~\$35,000~~. The sum of said bond shall be approximately 3 times the average monthly special fuels tax paid or due by such dealer during the preceding 12 calendar months under this part, with a surety approved by the department, upon which the dealer shall be the principal obligor and the state shall be the obligee, conditioned upon the faithful compliance with the provisions of this part. If the sum of 3 times a dealer's average monthly tax is less than \$50, no bond shall be required.

Section 26. Subsection (1) of section 206.91, Florida Statutes, is amended to read:

206.91 Tax reports; computation and payment of tax.—

(1) For the purpose of determining the amount of tax imposed by s. 206.87, each dealer shall, not later than the 20th day of each calendar month, mail to the department, on forms prescribed by the department, monthly reports which shall show inventories, purchases, nontaxable disposals, and taxable sales in gallons of each type of special fuel, including, but not limited to, diesel and heating fuel, kerosene, butane gas, propane gas, and all other forms of liquefied petroleum gases, for the preceding calendar month. However, if the 20th day falls on a Saturday, a Sunday, or a federal or state legal holiday, returns shall be accepted if postmarked on the next succeeding workday. The reports shall contain or be verified by a written declaration that such report is made under the penalties of perjury. The dealer shall deduct from the amount of tax shown by the report to be payable an amount equivalent to 4 2 percent of the tax on special fuels ~~imposed by this part~~ not exceeding 500,000 taxable gallons, and less an amount equivalent to 2 1/2 percent of the tax on special fuels ~~imposed by this part~~ in excess of 500,000 taxable gallons but not exceeding 800,000 taxable gallons, which is hereby allowed to the dealer on account of services and expenses in complying with the provisions of this part. This allowance shall not be deductible unless payment of tax is made on or before the 20th day of the month as herein required.

Section 27. Section 206.97, Florida Statutes, is amended to read:

206.97 Applicability of specified sections of part I.—The provisions of ss. 206.04, 206.055, 206.07, 206.075, 206.08, 206.09, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.19, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.23, 206.24, 206.25, ~~206.26, 206.28, 206.41(4)(5), 206.49, 206.56, 206.57, 206.58, 206.59, 206.61, 206.62~~ of part I of this chapter, shall, as far as lawful or practicable, be applicable to the tax herein levied and imposed and to the collection thereof as if fully set out in this part II. However:

(1) "Distributor" means "dealer."

(2) "Motor fuel" means "special fuel."

(3) No provision of any such section shall apply if it conflicts with any provision of part II of this chapter.

Section 28. Section 207.003, Florida Statutes, is amended to read:

207.003 Privilege tax levied.—A tax for the privilege of operating any commercial motor vehicle upon the public highways of this state shall be levied upon every motor carrier at a rate which includes the rate provided in chapter 206, and including the sales tax which may be imposed by ~~part II of in the future by the repeal of the current exemption in chapter 212,~~ on each gallon of special fuel or motor fuel used for the propulsion of a commercial motor vehicle by such motor carrier within the state.

Section 29. Subsections (2) and (3) of section 207.005, Florida Statutes, are amended to read:

207.005 Returns and payment of tax; delinquencies; calculation of fuel used during operations in the state; credit; bond.—

(2) The amount of fuel used in the propulsion of any commercial motor vehicle within this state may be calculated, if the motor carrier maintains adequate records, by applying total interstate vehicular consumption of all special fuel and motor fuel used as related to total miles traveled and applying such rate to total miles traveled within this state. ~~If the motor carrier maintains records which show the actual amount paid for all special fuel and motor fuel used in this state, regardless of where the fuel was purchased, that amount shall be multiplied by the tax rate levied on motor fuels under chapter 212.~~ In the absence of adequate documentation by the motor carrier, the department is authorized to promulgate rules converting miles driven to gallons used ~~and to establish a retail price per gallon reported or computed to be due.~~

(3) For the purpose of computing the carrier's liability for the road privilege tax, the total gallons of fuel used in the propulsion of any commercial motor vehicle in this state shall be multiplied by the rates ~~rate~~ provided in chapter 206 and part II of chapter 212. From the sum determined by this calculation, there shall be allowed a credit equal to the amount of the tax per gallon under chapter 206 and part II of chapter 212 for each gallon of fuel purchased in this state during the reporting period when the special fuel or motor fuel tax was paid at the time of pur-

chase. If the tax paid under chapter 206 exceeds the total tax due under this chapter, the excess may be allowed as a credit against the tax due during the succeeding 12-month reporting period. Under no circumstances shall a refund be made for this credit.

Section 30. Section 213.11, Florida Statutes, is amended to read:

213.11 Gasoline tax; transfer to Department of Natural Resources.—The Department of Revenue is directed to pay and transfer to the Department of Natural Resources, or to such other successor agency as may be charged with controlling noxious aquatic vegetation in this state, a sum equal to 2 percent of all revenue, *not to exceed a maximum of \$2,800,000 annually, collected under part II of chapter 212 the first gasoline tax, imposed by chapter 206. However, such revenue collected under the first gas tax shall not exceed \$2,800,000 annually.* Such sum shall be transferred by the Department of Revenue at the same time the remainder of the revenues collected pursuant to Part II of chapter 212 are first gasoline tax is transferred into the State Transportation Trust Fund, as provided for in s. 206.45(1). All funds so transferred to the Department of Natural Resources or other agency shall be used for eradication, control, and research of water hyacinths and noxious aquatic vegetation.

Section 31. Section 207.026, Florida Statutes, is amended to read:

207.026 Allocation of tax.—All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Special Fuel and Motor Fuel Use Tax Clearing Trust Fund, from which the following transfers shall be made: After withholding \$50,000 from the proceeds therefrom, to be used as a revolving cash balance, the funds for the purpose of conducting the study as set forth in s. 4 of chapter 80-415, Laws of Florida, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in s. 206.41, s. 206.45, s. 206.60, and s. 206.605, and s. 212.95.

Section 32. Subsections (1), (2), and (17) of section 215.22, Florida Statutes, are amended to read:

215.22 Certain moneys and certain trust funds enumerated.—The following described moneys and trust funds, by whatever name designated, shall be those from which the deductions authorized by s. 215.20 shall be made:

(1) The moneys deposited in the Gas Tax Collection Trust Fund first gas tax levied pursuant to the provisions of s. 212.95 206.41.

(2) The county seventh-cent additional tax upon gasoline or other like products of petroleum levied pursuant to the provisions of s. 206.60.

(17) All income derived from outdoor advertising and overweight violations which is deposited in the State Transportation Trust Fund created in s. 206.46 206.45.

The enumeration of the above moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 said money or trust fund should be exempt herefrom, as it is the purpose of this law to exempt all trust funds from its force and effect where, by the operation of this law, federal matching funds or contributions to any trust fund would be lost to the state.

Section 33. Section 215.36, Florida Statutes, is amended to read:

215.36 State funds; laws not repealed.—Nothing in ss. 215.31-215.32, 215.34-215.36 shall be construed as repealing ss. 215.20, 215.22 to 215.25, inclusive, or as affecting the proceeds of 2 cents per gallon of the total tax levied by state law upon gasoline and other like products of petroleum now known as the constitutional second gas tax, and upon other fuels used to propel motor vehicles, placed in the State Treasury and divided and distributed as required by s. 16 of Art. IX of the Constitution of 1885 as adopted by the 1968 revised constitution or by s. 9, Art. XII of said revision.

Section 34. Paragraph (d) of subsection (1) of section 215.47, Florida Statutes, 1982 Supplement, is amended to read:

215.47 Investments; authorized securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(1) Without limitation in:

(d) Bonds issued or administered by the State Board of Administration secured solely by a pledge of all or part of the 2-cent constitutional second gas tax accruing under the provisions of s. 16, Art. IX of the State Constitution of 1885, as amended, or of s. 9, Art. XII of the 1968 revised State Constitution.

Section 35. Section 215.74, Florida Statutes, is amended to read:

215.74 Pledge of constitutional second gas tax; consent by counties and state agency supervising state road system.—Any portion of the constitutional second gas tax provided for and allocated to the account of each of the several counties by s. 9(c), Art. XII of the State Constitution may be pledged and used for the payment of bonds issued by the division; provided, however, that such funds shall only be pledged and used with the consent of the state agency supervising the state road system and the governing body of the county to the account of which such portion of the constitutional second gas tax is allocated.

Section 36. Subsection (3) of section 336.41, Florida Statutes, is amended to read:

336.41 Counties; employing labor and providing road equipment; definitions.—

(3) All construction and reconstruction of roads and bridges, including resurfacing, full scale mineral seal coating, and major bridge and bridge system repairs, to be performed utilizing the proceeds of the 80 percent portion of the surplus of the constitutional second gas tax shall be let to contract to the lowest responsible bidder by competitive bid, except for:

(a) Construction and maintenance in emergency situations; and

(b) In addition to emergency work, construction and reconstruction, including resurfacing, mineral seal coating, and bridge repairs, having a total cumulative annual value not to exceed 5 percent of its 80 percent portion of the constitutional second gas tax or \$50,000, whichever is greater,

for which the county may utilize its own forces. However, if, after proper advertising, no bids are received by a county for a specific project, the county may use its own forces to construct the project, notwithstanding the limitation of this subsection. Nothing in this section shall prevent the county from performing routine maintenance as authorized by law.

Section 37. Section 339.08, Florida Statutes, 1982 Supplement, is amended to read:

339.08 Use of gas tax revenue by department.—

(1) The department shall by regulation provide for the expenditure of the moneys in the State Transportation Trust Fund proceeds of the first gas tax accruing to the Division of Road Operations, in accordance with its annual budget.

(2) Such regulations shall provide that the use of said moneys the first gas tax be restricted to the following purposes:

(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state road districts.

(b) To pay the cost of construction of the State Highway System and State Park Road System, including amounts necessary to match federal aid funds for such purposes. The department shall also match federal aid highway funds allocated to the county road and city street systems.

(c) To pay the cost of maintaining the State Highway System and State Park Road System.

(d) To make such other lawful expenditures of the department for the payment of which no other funds may be specified, including the payment of compensation to employees of the Division of Road Operations except those employees whose jobs are designated as "J" in the official Florida merit system pay plan for overtime work in excess of 40 hours per week or other accepted standard work week, in cash or by way of compensatory time as may be prescribed by regulation of the department. Any other laws in conflict herewith are hereby repealed.

(e) To pay the cost of maintaining state roads which were classified or maintained as primary roads on January 1, 1956, and not included by the road board in the state primary highway system when said system was reclassified by the road board in June 1956, pursuant to the provisions of this code.

(3)(a) The department may use available funds for the preparation of preliminary engineering plans with valid cost estimates, which plans and estimates shall be completed prior to the issuance of any bonds on all revenue-producing transportation projects. However, the department shall be reimbursed for the costs incurred for such preparation from the proceeds of the bond issue.

(b) The department shall not use or pledge the *moneys in the State Transportation Trust Fund* ~~proceeds of the first gas tax~~ on any revenue-producing transportation project without legislative approval. This limitation on pledging the proceeds of *said moneys* ~~the first gas tax~~ shall in no way impair the ability of the department or the counties to enter into covenants to complete transportation projects from all other legally available funds.

(c) No state bonds shall be sold for any revenue-producing transportation project if the proceedings authorizing such bonds include a covenant to complete by the department from the *moneys in the State Transportation Trust Fund* ~~proceeds of the first gas tax~~ until the department shall have made cost estimates based on the most current information available after approval of the final environmental impact statement for such project and shall have determined based on such estimates that the projected available funds for any such project, excluding the use of any proceeds from *said moneys* ~~the first gas tax~~ pursuant to a covenant to complete, are sufficient to pay for such project. No additions shall be made to any revenue-producing project for which a covenant to complete from *said moneys* ~~the first gas tax~~ has been made which would expand the scope of such project unless such additions are specifically approved by the Legislature. For the purposes of this subsection, "project scope" shall mean the terminal points, the number of interchanges, and grade separations as approved by the Legislature. No contingency funds in the construction trust fund for any revenue-producing project for which a covenant to complete from *said moneys* ~~the first gas tax~~ has been made shall be expended for any purpose other than such project until the completion of such project; however, such funds may be expended for other purposes if permitted by the proceedings authorizing such bonds and if the department certifies to the Executive Office of the Governor that such contingency funds are not required for the completion of the project and are available and sufficient for such other purposes and the Executive Office of the Governor approves such certification in writing to the department.

(d) In any lease-purchase agreement, which includes a covenant to complete by the department from the *moneys in the State Transportation Trust Fund* ~~proceeds of the first gas tax~~, the department shall provide for the expeditious repayment of any and all costs incurred by the department as a result of the covenant to complete the transportation project. Such agreement shall provide for such repayment from excess tolls or *constitutional second gas tax* proceeds not required for payment of principal, interest, reserves, and other required deposits for the bonds and for the annual reimbursement from tolls or other local moneys or both, to the extent legally available, of all operating and maintenance costs of the facilities, as provided by the applicable provisions of the State Constitution and the bond proceedings.

(e) The provisions of subsections (c) and (d) shall not apply to any revenue-producing project approved by the Legislature prior to July 1, 1978.

(4)(a) Beginning July 1, 1977, the department shall develop and implement a phased transfer of the administrative responsibility for construction programs financed by the 80-percent portion of the *constitutional second gas tax* to the respective counties. In counties of over 100,000 population, this transfer of responsibility shall be made at the rate of not less than 20 percent per year and shall be completed by July 1, 1980. In counties having less than 100,000 population, there shall be an orderly transfer of responsibility, but in no case shall the transfer extend beyond July 1, 1980.

(b) All projects let to construction contract on or before June 30, 1977, shall be completed by the department. If requested by a county, the department may undertake or complete all stages of a project if it can be completed through the construction stage by July 1, 1980. Adequate arrangements shall be agreed to between the counties and the department to ensure that the department has sufficient funds to complete its projects as previously indicated.

(c) The Department of Transportation shall, until July 1, 1980, lend its assistance, advice, and counsel to the counties, when requested, in or-

der to assist in the development of a program for the management of the county road program. This assistance may include such areas as consultant procurement, right-of-way acquisition, specifications, and construction inspection. After July 1, 1980, a county may enter into an agreement with the department to provide for the department to acquire rights-of-way for the county, provided the highway project is to be funded by the 80-percent portion of the *constitutional second gas tax* allocated to that county and requires the acquisition of at least 10 parcels of land, the total cost of which will equal or exceed \$100,000.

(5) The department is required to maintain on deposit with the State Board of Administration all proceeds of the 80-percent surplus of the *constitutional second gas tax*. The department shall by regulation provide for the transfer of the proceeds of the 80-percent surplus of the *constitutional second gas tax* in each county's account necessary to meet the current expenditures of the several counties. No county shall submit a voucher for transfer of funds unless such funds are to reimburse a prior expenditure or to maintain sufficient funds to meet anticipated expenditures for the next 60 days. Such transfers shall be processed by the department within 3 working days of receipt of the county's voucher. Such regulations shall not provide for department approval or control over county expenditures, but are to provide for routine processing of transfer vouchers from the State Board of Administration to the counties and for the investment of said *constitutional second gas tax* funds so as to maximize investment earnings to the counties. The department shall not charge any fees or allocate department overhead to the counties for these services.

(6) The department is authorized to advance *constitutional second gas tax* trust funds to the Working Capital Trust Fund in an amount not to exceed \$22,500,000. However, nothing herein contained shall in any way impair the present county road and bridge district bonds, revenue certificates, or other valid obligations of the respective counties. The department shall replace the *constitutional second gas tax* funds in the Working Capital Trust Fund by July 1, 1983. Effective July 1, 1983, the State Board of Administration shall assume the responsibilities for distribution of the counties' 80-percent share of the *constitutional second gas tax* in the same manner as the 20-percent share is currently distributed pursuant to s. 206.47; however, the State Board of Administration shall assure that county funds are made available to the Department of Transportation to be held in escrow for any construction underway on behalf of the county pursuant to resolution of the county governing body.

Section 38. Paragraph (a) of subsection (1) of section 339.081, Florida Statutes, is amended to read:

339.081 State Transportation Trust Fund; accounts.—

(1) The State Comptroller shall maintain within the State Transportation Trust Fund the following accounts:

(a) The restricted state roads moneys account to which shall be credited the proceeds of the *gas tax taxes* referred to in s. 339.08 ~~(3) and (4)~~. No moneys shall be paid out or transferred from this account except pursuant to a duly adopted resolution of the appropriate board of county commissioners which resolution shall be filed with the Comptroller; provided, however, nothing herein shall prohibit transfers made pursuant to s. 215.18.

Section 39. Subsection (2) of section 339.083, Florida Statutes, is amended to read:

339.083 County transportation trust fund; controls and administrative remedies.—

(2) The Auditor General shall conduct an audit of each such special trust fund at such intervals of time as practicable and in accordance with s. 11.45, to assure that the surplus of the *constitutional second gas tax* distributed to each county is being expended in accordance with law. If, as a result of an audit, the Auditor General determines that a county has violated the constitutional or statutory requirements for expenditure of transportation funds, he shall immediately notify the county. The county shall have an opportunity to respond to the auditor's report within 30 days after the date of written notification to the county. If the Auditor General refuses to modify or repeal his findings, the county may have such findings reviewed pursuant to the provisions of the Administrative Procedure Act, chapter 120. If the findings of the Auditor General are upheld after exhaustion of all administrative and legal remedies of the county, no further surplus *constitutional second gas tax* funds in excess of funds for committed projects shall be distributed to the violating coun-

ty until the county corrects the matters cited by the Auditor General and such corrections have been certified by the Auditor General as having been completed.

Section 40. Subsection (1) of section 339.089, Florida Statutes, is amended to read:

339.089 Use by counties of the surplus from the *constitutional second* gas tax.—

(1) Any county which has agreed prior to July 1, 1977, by resolution, to use the surplus of the *constitutional second* gas tax to provide a connecting road to a planned interchange on the interstate system shall provide such connecting road.

Section 41. Subsection (2) of section 339.10, Florida Statutes, is amended to read:

339.10 Confirming advances of first gas tax funds to counties; authorizing advances of proceeds of part II, chapter 212 tax in the future.—

(2) The department, whenever it deems it advisable and in the best interest of the state because of the financial inability of a county to provide the necessary funds or in order to anticipate future surplus gasoline tax funds accruing to the county, may make advances of the proceeds of the tax imposed under part II of chapter 212 ~~first gas tax funds~~ to a county for the acquisition of rights-of-way for roads of the state primary highway system therein or for the construction of road projects of the state primary highway system therein to be repaid out of any future accruals to the county of gasoline tax funds to be expended therein by the county or by the department.

Section 42. Subsection (3) of section 339.24, Florida Statutes, is amended to read:

339.24 Beautification of roads by department, counties, and cities; wayside parks; rules and regulations; enforcement; penalty.—

(3) The department is authorized to expend proceeds of the tax imposed under part II of chapter 212 ~~first gas tax funds~~ to acquire, by donation or purchase, and to lay out, develop, improve, operate, and maintain, appropriate roadside or wayside parks, rest areas, boat ramps, and similar facilities under its jurisdiction at sites selected by the department.

Section 43. Section 344.17, Florida Statutes, is amended to read:

344.17 Depositories and investments.—All moneys received by the treasurer of the State Board of Administration, a body corporate under s. 9, Art. XII of the State Constitution, shall be deposited by him in a solvent bank or banks, to be approved and accepted for such purposes by the said board. In making such deposits he shall follow the method for the deposit of state funds. Each bank receiving any portion of the said funds shall be required to deposit with the treasurer of said board satisfactory bonds or treasury certificates of the United States, bonds of the several states, special tax school district bonds, bonds of any municipality eligible to secure state deposits as provided by law, bonds of any county or special road and bridge district of this state entitled to participate under the provisions of s. 16, Art. IX of the Constitution of 1885, as adopted by the 1968 revised constitution, and of s. 9, Art. XII of said revision, bonds issued under the provisions of s. 18, Art. XII, of the Constitution of 1885 as adopted by s. 9, Art. XII of the 1968 revised constitution, or bonds, notes or certificates issued by the Florida State Improvement Commission or its successors, the Florida Development Commission and the Division of Bond Finance of the Department of General Services, which contain a pledge of the 80-percent surplus 2-cent *constitutional second* gasoline tax accruing under s. 16, Art. IX of the Constitution of 1885, as adopted by the 1968 revised constitution, and under s. 9, Art. XII of said revision, which shall be equal to the amount deposited with said bank. Such security shall be in the possession of the treasurer of said board or the treasurer of said board is hereby authorized to accept in lieu of the actual depositing with him of such security, trust or safekeeping receipts issued by any Federal Reserve Bank, or member bank thereof, or by any bank incorporated under the laws of the United States; provided, however, that the member bank or bank incorporated under the laws of the United States shall have been previously approved and accepted for such purposes by the State Board of Administration, and provided, further, that said trust or safekeeping receipt shall be in substantially the same form as that which the State Treasurer is authorized to accept in lieu of securities given to cover deposits of state funds.

Section 44. Subsections (10) and (11) of section 348.217, Florida Statutes, are amended to read:

348.217 Definitions.—As used in part I of this chapter unless the context clearly indicates otherwise:

(10) "*Constitutional second* gas tax" means and includes the 20-percent and 80-percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Brevard County under the provisions of s. 9(c)(2), Art. XII of the State Constitution, after deduction only of any amounts of said gasoline tax funds heretofore pledged by the Department of Transportation or the county for outstanding obligations, or all other such funds as may otherwise be provided by the constitution for use in Brevard County.

(11) "*County seventh-cent* gas tax" means all the gasoline tax funds accruing in each year for use in Brevard County under the provisions of s. 206.60.

Section 45. Paragraphs (g) and (k) of subsection (3) of section 348.219, Florida Statutes, are amended to read:

348.219 Purposes and powers.—

(3) The authority is hereby granted, and shall have and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but without being limited to, the following rights and powers:

(g) To borrow money and make and issue negotiable notes, bonds, re-funding bonds, and other evidences of indebtedness or obligations, either in temporary or definitive form, hereinafter in this part sometimes called "bonds," of the authority for the purpose of financing all or part of the improvement, extension, or construction of the Brevard County Expressway System and appurtenant facilities, including all approaches, streets, roads, bridges, and avenues of access for said Brevard County Expressway System and for any other purpose authorized by this part, said bonds to mature in not exceeding 40 years from the date of issuance thereof, and to secure the payment of such bonds or any part thereof by a pledge of any or all of its revenues, rates, fees, rentals, or other charges, including all or any portion of the *constitutional second* gas tax or the *county seventh-cent* gas tax, or both, and in general to provide for the security of said bonds and the rights and remedies of the holders thereof. The pledge of said *constitutional second* gas tax or said *county seventh-cent* gas tax, or both, and the amount and conditions of such pledge shall be first approved by the Board of County Commissioners of Brevard County. However, no portion of said *constitutional second* gas tax or said *county seventh-cent* gas tax, or both, shall be pledged for the construction of any project for which a toll is to be charged unless the anticipated tolls are reasonably estimated by the board of county commissioners, at the date of its resolution pledging said funds, to be sufficient to cover the principal and interest of such obligations during the period when said pledge of funds shall be in effect.

1. The authority shall reimburse Brevard County for any sums expended from said gasoline tax funds used for the payment of such obligations. Any gasoline tax funds so disbursed shall be repaid when the authority deems it practicable, together with interest at the highest rate applicable to any obligations of the authority.

2. In the event the authority determines to fund or refund any bonds theretofore issued by said authority or by said commission as aforesaid prior to the maturity thereof, the proceeds of such funding or refunding bonds shall, pending the prior redemption of the bonds to be funded or refunded, be invested in direct obligations of the United States, and it is the express intention of this part that such outstanding bonds may be funded or refunded by the issuance of bonds pursuant to this part, notwithstanding that part of such outstanding bonds will not mature or become redeemable until 10 years after the date of issuance of bonds pursuant to this part to fund or refund such outstanding bonds.

(k) To pledge, hypothecate, or otherwise encumber all or any part of the revenues, rates, fees, rentals, or other charges or receipts of the authority, including all or any portion of the *constitutional second* gas tax or the *county seventh-cent* gas tax, or both, subject to the prior approval of the Board of County Commissioners of Brevard County as provided herein, as security for all or any of the obligations of the authority.

Section 46. Subsections (1) and (4) and paragraph (a) of subsection (3) of section 348.22, Florida Statutes, are amended to read:

348.22 Bonds of the authority.—

(1) The bonds of the authority issued pursuant to the provisions of this part, whether on original issuance or on refunding, shall be authorized by resolution of the members thereof, may be either term or serial bonds, and shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, not exceeding 8 percent per annum, payable semiannually, be in such denominations, be in such form, either coupon or fully registered, carry such registration or exchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities on the revenues, rates, fees, rentals or other charges or receipts of the authority, including the *constitutional second* gas tax or the *county seventh-cent* gas tax, or both, subject to the prior approval of the Board of County Commissioners of Brevard County, as provided herein. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, provided such bonds bear at least one signature which is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(3) Any such resolution or resolutions authorizing any bonds hereunder may contain provisions which shall be part of the contract with the holders of such bonds, as to:

(a) The pledging of all or any part of the revenues, rates, fees, rentals, including all or any portion of the *constitutional second* gas tax or the *county seventh-cent* gas tax, or both, subject to the prior approval of the Board of County Commissioners of Brevard County, as provided herein, or other charges or receipts of the authority derived from the system.

(4) The authority may employ fiscal agents as provided by this part or the State Board of Administration may, upon request of the authority, act as fiscal agent for the authority in the issuance of any bonds which may be issued pursuant to this part, and the State Board of Administration may, upon request of the authority; take over the management, control, administration, custody, and payment of any or all debt services of funds or assets now or hereafter available for any bonds issued pursuant to this part. The authority may enter into any deeds of trust, indentures, or other agreements within or without the state, as security for such bonds, and may, under such agreements, sign and pledge all or any of the revenues, rates, fees, rentals or other charges, or receipts of the authority, including the *constitutional second* gas tax or the *county seventh-cent* gas tax, or both, subject to the prior approval of the Board of County Commissioners of Brevard County, as provided herein. Such deed of trust, indenture, or other agreement may contain such provisions as are customary in such instruments or as the authority may authorize, including, but without limitation, provisions as to:

(a) The completion, improvement, operation, extension, maintenance, repair, and lease of, or lease-purchase agreement relating to, the Brevard County Expressway System and the duties of the authority and others, including the Department of Transportation, with reference thereto.

(b) The application of funds and the safeguarding of funds on hand or on deposit.

(c) The rights and remedies of the trustee and the holders of the bonds.

(d) The terms and provisions of the bonds or the resolutions authorizing the issuance of same.

Section 47. Paragraph (b) of subsection (2) of section 348.221, Florida Statutes, is amended to read:

348.221 Remedies of the bondholders.—

(2) Such trustee, and any trustee under any deed of trust, indenture, or other agreement, may, and upon written request of the holders of 25 percent, or such other percentage as may be specified in any deed of trust, indenture, or other agreement aforesaid, in principal amount of the bonds then outstanding, shall, in any court of competent jurisdiction, in his or its own name:

(b) By mandamus or other suit, action, or proceeding at law or in equity, enforce all rights of the bondholders under or pursuant to any lease-purchase agreement between the authority and the Department of Transportation, including the right to require the Department of Trans-

portation to make all rental payments required to be made by it under the provisions of any such lease-purchase agreement, whether from the Brevard County *constitutional second* gas tax or *county seventh-cent* gas tax, or both, or other funds of the department so agreed to be paid and to require the Department of Transportation to carry out any other covenants and agreements with, or for the benefit of, the bondholders and to perform its and their duties under this part.

Section 48. Subsections (4) and (5) of section 348.222, Florida Statutes, are amended to read:

348.222 Lease-purchase agreement.—

(4) The Department of Transportation, as lessee under such lease-purchase agreement, is hereby authorized to pay, as rentals thereunder, any rates, fees, charges, funds, moneys, receipts, or income accruing to the Department of Transportation from the operation of the Brevard County Expressway System and the *constitutional second* gas tax or the *county seventh-cent* gas tax, or both, and may also pay, as rentals, any appropriations received by the Department of Transportation pursuant to any act of the Legislature heretofore or hereafter enacted. However, nothing herein or in such lease-purchase agreement is intended to, nor shall this part or such lease-purchase agreement, require the making or continuance of such appropriations, nor shall any holder of bonds issued pursuant to this part ever have any right to compel the making or continuance of such appropriations.

(5) No pledge of said *constitutional second* gas tax or said *county seventh-cent* gas tax, or both, as rentals under such lease-purchase agreement shall be made without the consent of Brevard County, evidenced by a resolution duly adopted by the board of county commissioners of said county at a public hearing held pursuant to due notice thereof published at least once a week for 3 consecutive weeks before the hearing in a newspaper of general circulation in the county. Said resolution, among other things, shall provide that any excess of said pledged *constitutional second* gas tax or *county seventh-cent* gas tax, or both, which are not required for debt service or reserves for such debt service for any bonds issued by said authority shall be distributed annually to Brevard County as provided by law. The Department of Transportation shall have power to covenant in any lease-purchase agreement that it will pay all or any part of the cost of the operation, maintenance, repair, renewal, and replacement of said system, and any part of the cost of completing said system, to the extent that the proceeds of bonds issued therefor are insufficient, from sources other than the revenues derived from the operation of said system and said *constitutional second* gas tax or said *county seventh-cent* gas tax, or both. The Department of Transportation may also agree to make such other payments from any moneys available to Brevard County, in connection with the construction or completion of said system, as shall be deemed by the Department of Transportation to be fair and proper under any such covenants heretofore or hereafter entered into.

Section 49. Subsection (10) of section 348.81, Florida Statutes, is amended to read:

348.81 Definitions.—As used in part IV of this chapter, unless the context clearly indicates otherwise:

(10) "Pasco County gasoline tax funds" means all the 80-percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Pasco County under the provisions of s. 9, Art. XII of the State Constitution or all such *constitutional secondary* gas funds as may otherwise be provided now or hereafter by the constitution or by statute for use in Pasco County, after deduction only of any amounts of said gasoline tax funds heretofore pledged by the Department of Transportation or the county for outstanding obligations.

Section 50. Subsection (10) of section 348.951, Florida Statutes, is amended to read:

348.951 Definitions.—As used in this part, unless the context clearly indicates otherwise:

(10) "Seminole County gasoline tax funds" means all the 80-percent surplus gasoline tax funds accruing in each year to the Department of Transportation for use in Seminole County under the provisions of s. 9, Art. XII of the State Constitution, or all such *constitutional secondary* gas funds as may otherwise be provided now or hereafter by the constitution or by statute for use in Seminole County, after deduction only of any amounts of said gasoline tax funds heretofore pledged by the Department of Transportation or the county for outstanding obligations.

Section 51. Subsections (2) and (3) of section 320.20, Florida Statutes, are renumbered as subsections (3) and (2) of said section and are amended to read:

320.20 Disposition of license moneys.—The revenues derived from the licensing of motor vehicles, excluding those collected and distributed under the provisions of s. 320.081, shall be distributed monthly, as collected, to the following funds:

(1) The first proceeds, to the extent necessary to comply with the provisions of s. 18 of Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII, 1968 revised constitution, and the additional provisions of s. 9(d) and s. 236.602, shall be deposited in the district Capital Outlay and Debt Service School Trust Fund.

(2)(3) ~~\$42.5 million~~ The remainder of such revenues shall be deposited in the Advanced Construction Interstate Revolving Trust Fund to be expended solely for the completion of the interstate highway system pursuant to an agreement with the Federal Government providing for repayment of such funds on the appropriate matching basis.

(3)(2) ~~The remainder~~ Thirty-six and five-tenths percent of such revenues shall be deposited in the State Transportation Trust Fund.

Section 52. Subsection (2) and paragraphs (c), (d), and (e) of subsection (4) of section 320.08, Florida Statutes, 1982 Supplement, are amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles and mobile homes, as defined in s. 320.01, and mopeds, as defined in s. 316.003(2), which shall be paid to and collected by the department upon the registration or reregistration of the following:

(2) AUTOMOBILES FOR PRIVATE USE.—

(a) Antique automobiles: \$7.50 flat. An "antique automobile" is defined as any passenger automobile manufactured more than 20 years prior to the current date and equipped with an engine manufactured more than 20 years prior to the current date or an engine manufactured to the specifications of the original engine.

(b) ~~All other automobiles: \$27.00 Net weight of less than 2,500 pounds: \$12.50 flat.~~

(c) ~~Net weight of 2,500 pounds or more, but less than 3,500 pounds: \$20.50 flat.~~

(d) ~~Net weight of 3,500 pounds or more: \$30.50 flat.~~

(4) TRUCK-TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(c) Gross weight of 44,000 pounds or more, but less than 53,000 pounds: \$572 ~~\$360~~ flat.

(d) Gross weight of 53,000 pounds or more, but less than 62,000 pounds: \$678 ~~\$420~~ flat.

(e) Gross weight of 62,000 pounds or more: \$979 ~~\$460~~ flat.

However, a truck-tractor used exclusively for hauling forestry products shall, notwithstanding the GVW declared weights, be eligible for a license plate and for operation within a 150-mile radius of its home address upon payment of a fee of \$240 flat.

Section 53. Subsections (1) and (2) of section 336.021, Florida Statutes, 1982 Supplement, are amended to read:

336.021 County transportation system; levy of *voted gas tax* on motor ~~fuel fuels~~ and special ~~fuel fuels~~.—

(1) Any county in the state, in the discretion of its governing body and subject to a referendum, may impose, in addition to all other taxes required or allowed by law, a 1-cent *voted gas tax* upon every gallon of motor fuel and special fuel sold in such county and taxed under the provisions of chapter 206, for the purpose of paying the costs and expenses of establishing, operating, and maintaining a transportation system and related facilities and the cost of acquisition, construction, reconstruction, and maintenance of roads and streets. The governing body of the county may provide that the referendum be worded to limit the number of years such tax will remain in effect. The governing body of the county may, by joint agreement with one or more of the municipalities located therein,

provide for these transportation purposes and the distribution of the proceeds of this tax within both the unincorporated and incorporated areas of the county. The tax shall be collected in the same manner as all other gas taxes pursuant to chapter 206 and shall be returned monthly to the county where collected. The provisions for refund provided in ss. ~~206.29, 206.50, 206.625, and 206.64~~ shall not be applicable to such tax levied by any county.

(2) The additional tax collected by the department pursuant to subsection (1) shall be transferred to a ~~Voted Gas Local Transportation Tax Trust Fund~~, which fund is created for distribution to the county in which the tax was collected ~~as provided for in subsection (1)~~. The department shall have the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax levied by any county and shall promulgate such rules as may be necessary for the enforcement of this section, which rules shall have the full force and effect of law. ~~Each distributor of motor fuel and dealer of special fuel shall, on or before the 20th day of the month, file a report and remit the tax collected to the department. If the 20th day of the month falls on Saturday, Sunday, or a federal or state legal holiday, the report shall be accepted if postmarked by the United States Post Office on the next succeeding workday.~~ The sections of chapter 206, including, but not limited to, *timely filing of reports and tax collected*, suits for collection of unpaid taxes, department warrants for collection of unpaid taxes, penalties, interest, retention of records, inspection of records, liens on property, foreclosure, and other sections relating to enforcement and collection shall also apply to the tax authorized in this section.

Section 54. Section 336.025, Florida Statutes, is created to read:

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

(1)(a) In addition to other taxes allowed by law, the governing body of a county may by ordinance impose a 1 or 2 cent local option gas tax upon every gallon of motor fuel and special fuel sold in such county and taxed under the provisions of chapter 206.

(b) The ordinance shall impose the tax effective September 1 of any year for a period not to exceed 5 years, and shall state the applicable method of distribution pursuant to subsection (3). Upon expiration, the tax may be reimposed provided that a redetermination of the method of distribution shall be made as provided herein.

(c) County and municipal governments, and independent transit authorities, which for purposes of this section shall mean public transit authorities having the power to levy ad valorem taxes in addition to those levied by a municipal or county government, shall utilize moneys received pursuant to this section only for transportation expenditures.

(2) The tax shall be collected in the same manner as all other gas taxes pursuant to chapter 206 and shall be distributed monthly. The provisions for refund provided in ss. 206.625 and 206.64 shall not be applicable to such tax levied by any county. The tax collected by the Department of Revenue pursuant to this section shall be transferred to a Local Option Gas Tax Trust Fund, which fund is created for distribution to county and eligible municipal governments and independent transit authorities within the county in which the tax was collected. The department shall have the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the tax and shall promulgate such rules as may be necessary for the enforcement of this section. The sections of chapter 206, including, but not limited to, *timely filing of reports and tax collected*, as determined by the latest state population estimates, suits for collection of unpaid taxes, department warrants for collection of unpaid taxes, penalties, interest, retention of records, inspection of records, liens on property, foreclosure, and other sections relating to enforcement and collection shall also apply to the tax authorized in this section.

(3) The governing body of the county shall adopt an ordinance pursuant to this section in accordance with the requirements imposed under one of the following circumstances, whichever is applicable:

(a) Prior to July 1 the county may establish by interlocal agreement with one or more of the municipalities located therein representing a majority of the incorporated area population within the county, a distribution formula for dividing the proceeds of the tax among the county government, all eligible municipalities, and independent transit authorities within the county.

(b) If an interlocal agreement has not been executed pursuant to paragraph (a) prior to July 15, the county may adopt a resolution of intent to levy the tax allowed herein.

(c) If the circumstances of paragraphs (a) and (b) do not apply, prior to July 30 municipalities representing 50 percent or more of the county population may adopt uniform resolutions prescribing the terms of the ordinance to be adopted pursuant to this section.

(4) If the ordinance is adopted under the circumstances of paragraphs (3)(b) or (3)(c), proceeds of the tax shall be distributed among the county government, eligible municipalities, and independent transit authorities based on the transportation expenditures of each for the 5 fiscal years preceding the year in which such ordinance is adopted, as a proportion of the total of such expenditures for the county, all municipalities, and independent transit authorities within the county.

(5)(a) Prior to imposition of the tax under this section, the county shall provide the Department of Revenue with distribution proportions established pursuant to subsection (4), if applicable, or by interlocal agreement.

(b) Disputes as to the county's determination of distribution proportions shall be resolved by administrative hearing pursuant to s. 120.57, with right of appeal to the Administration Commission. Pending final disposition of such proceedings, the governing body may collect the tax pursuant to this section, and such funds, including interest, shall be held in escrow by the clerk of the circuit court of the county until final disposition.

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

(b) In no event shall an eligible municipality receive less moneys under this section in any fiscal year than it received in fiscal year 1982-1983 under s. 336.59.

(7) For the purposes of this section, "transportation expenditures" includes expenditures by the local government from local or state shared revenue sources for the following programs:

- (a) Public transportation operations and maintenance.
- (b) Roadway and right-of-way maintenance and equipment.
- (c) Roadway and right-of-way drainage.
- (d) Streetlighting.
- (e) Traffic signs, traffic engineering, signalization, and pavement markings.
- (f) Bridge maintenance and operation.
- (g) Capital projects including construction or reconstruction of roads.
- (h) Debt service and current expenditures for capital projects in the above program areas, but shall not include bond proceeds.

Section 55. Transition taxes.—

(1) There is hereby levied a tax at the rate of 1.6 cents per gallon on motor fuel or special fuel upon which the tax imposed pursuant to chapter 206, Florida Statutes, has been paid, which is held in inventory on April 1, 1983, and upon which the tax imposed pursuant to part II of chapter 212, Florida Statutes, has not been paid.

(2) There is hereby levied a tax at the rate of 5.6 cents per gallon on motor fuel or special fuel which is not subject to the tax imposed in chapter 206, Florida Statutes, which is held in inventory on April 1, 1983, which, if it had been sold on April 1, 1983, by a distributor or dealer licensed under chapter 206, Florida Statutes, would have been taxable under part II of chapter 212, Florida Statutes, and upon which the tax imposed in said part has not been paid. However, a credit shall be allowed against the tax imposed in this subsection equal to the amount of sales tax, if any, paid on such fuels under part I of chapter 212, Florida Statutes.

(3) "Motor fuel" and "special fuel" are defined as provided in s. 212.02(21) and (22), Florida Statutes.

(4) The tax levied by subsections (1) and (2) shall be due and payable on April 1, 1983, and shall be remitted to the Department of Revenue on or before April 20, 1983, on a form prescribed by the department.

(5) For any unpaid tax, late filing, or failure to file under this section, a penalty equal to 5 percent of the unpaid amount shall be imposed for every 30-day increment or fraction thereof until paid, not to exceed a total of 25 percent. In addition, interest at the rate of 1 percent per month shall be paid on any delinquent tax due.

(6) The Department of Revenue shall promulgate rules and conduct audits necessary for the implementation of this section, and shall provide reasonable notice of the provisions of this section.

(7) Any moneys collected pursuant to this section shall be distributed to the General Revenue Fund.

Section 56. Subsection (6) is added to section 320.03, Florida Statutes, 1982 Supplement, to read:

320.03 License plates; duties of tax collectors.—

(6) *In addition to any fee required under s. 320.08, a fee of 50 cents shall be charged on all license registrations sold. Such fees shall be deposited in the Air Pollution Control Trust Fund hereby established in the Department of Environmental Regulation, except that, if any county has an approved local air pollution control program as provided in s. 403.182, such fees from license registrations sold in the county shall be deposited in a local air pollution control program trust fund which shall be established by such county. The department and any such county shall use the moneys in such trust funds only for purposes of air pollution control pursuant to chapter 403 or a similar local ordinance.*

Section 57. For the purpose of implementing and administering this act, the Department of Revenue shall be exempt from the provisions of chapter 283, chapter 287, Part I, and chapter 23, Part II of the Florida Statutes, for a period of 120 days beginning March 7, 1983.

Section 58. There is hereby appropriated to the Department of Revenue for fiscal year 1982-1983 eight positions and \$90,025 from the General Revenue Fund to implement the provisions of this act.

Section 59. A new subsection (5) is added to section 320.14, Florida Statutes, to read:

320.14 Fractional registration fee.—

(5) *Any truck-tractor which is used exclusively for hauling agricultural products may register for any 3-month or 6-month period and pay one-fourth or one-half, respectively, of the annual registration rate provided in s. 320.08. The provisions of s. 320.06(1)(d) relating to annual registration periods and dates shall not apply to registrations made pursuant to this section.*

Section 60. A new paragraph (j) is added to subsection (1) of section 320.10, Florida Statutes, 1982 Supplement, and subsection (2) of said section is amended to read:

320.10 Exemptions.—

(1) The provisions of ss. 320.08 and 320.09 do not apply to:

(j) *Any truck-tractor which travels less than 2,000 miles annually upon the filing of a notarized affidavit stating that such truck-tractor will not travel more than 2,000 miles annually.*

(2) Any such vehicle or mobile home, except one owned or operated exclusively by the Federal Government, shall be furnished a license plate, revalidation sticker, or mobile home sticker upon the proper application to the department and upon the payment of \$3 to cover the cost of same. For any motor vehicle or mobile home which is exempt under paragraph (1)(a), there shall be issued a license plate, revalidation sticker, or mobile home sticker prescribed by s. 320.06; and for any vehicle which is exempt under paragraphs (1)(c)-(j)(†), there shall be issued a license plate under series "X." Vehicles exempt under this provision must be equipped with proper plates showing such exempt status.

Section 61. Except to the extent that the Secretary of the Department of Transportation determines otherwise, not less than 10 per cent of the amounts authorized to be appropriated under this act shall be ex-

pending with small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637 (d)) and relevant subcontracting regulations promulgated pursuant thereto. The Secretary of the Department of Transportation may fail to contract with an identified small business as defined by section 8(d) of the Small Business Act (15 U.S.C. section 637(d)) when in his determination such award would be more costly to the State than shown by similar bids for comparable projects.

Section 62. (1) This section, sections 1 through 6, and sections 55 and 58 of this act shall take effect March 14, 1983, provided that:

(a) The tax imposed pursuant to part II of chapter 212, Florida Statutes, as created by this act, shall be due and payable commencing April 1, 1983.

(b) The determination and notification required under s. 212.70(3) and (4), Florida Statutes, as created by this act, shall be made prior to April 1, 1983, and shall apply through November 30, 1984.

(c) Notwithstanding the provisions of s. 212.95, Florida Statutes, as created by this act, 39.2 percent of the taxes remitted prior to July 1, 1983, under part II of chapter 212, Florida Statutes, as created by this act, exclusive of the service charge imposed by s. 215.20, Florida Statutes, shall be distributed to the General Revenue Fund. These moneys shall be considered repayment to the General Revenue Fund for loans made by the Department of Transportation from the General Revenue Fund and due July 1, 1983.

(2) Sections 7 through 52, section 56, section 60, and section 61 of this act shall take effect April 1, 1983.

(3) Sections 53 and 54 of this act shall take effect July 1, 1983, except that no tax shall be levied prior to September 1, 1983.

(4) Section 57 of this act shall take effect upon becoming a law.

(5) Section 59 of this act shall take effect January 1, 1984.

Amendment 2—Strike the title and insert: A bill to be entitled An act relating to transportation finance and administration; adding s. 212.02(21), (22), Florida Statutes, 1982 Supplement; amending s. 212.05(1), Florida Statutes, 1982 Supplement, and adding subsection (4) to said section; amending s. 212.055(1), Florida Statutes, as amended; amending ss. 125.0165(1) and 212.08(4), Florida Statutes, 1982 Supplement; creating part II of chapter 212, Florida Statutes; providing for the imposition of the tax on sales, use, and other transactions on the sale of motor and special fuels; deleting provisions which provide for the taxation of fuels used by certain vehicles licensed as common carriers, and vessels, engaged in interstate or foreign commerce on the basis of the ratio of intrastate to interstate mileage; creating ss. 212.60, 212.65, 212.70, 212.75, 212.90, 212.91, 212.92, 212.95, 212.951-212.961, 212.970-212.975, 212.980-212.9813, Florida Statutes; providing legislative intent; providing definitions; specifying that the tax is upon the ultimate retail consumer; providing that the tax be paid upon the first sale or transfer of title or use; requiring that the tax be added to the sale price and stated separately on sales slips and invoices and prohibiting distributors, dealers, retail dealers, and retailers from claiming that they will absorb the tax; providing penalties; directing the Department of Revenue to determine the applicable tax per gallon of fuel annually; requiring retailers to display a notice with respect to such tax; providing that the tax be remitted at the same time and in the same manner as taxes under chapters 206 and 207; providing for the relationship between parts I and II of chapter 212 and providing for applicability of administrative and penalty provisions of chapter 206 to part II of chapter 212; exempting dealer-to-dealer sales; providing for distribution of the proceeds of the tax; providing for certain refunds of the tax; providing that the discretionary sales tax which certain charter counties are authorized to adopt shall not apply to motor and special fuels; amending s. 206.05(1), Florida Statutes; increasing the amount of surety bonds to be posted by distributors; amending s. 206.41(1), Florida Statutes, and repealing subsections (3) and (4) of said section; repealing the first gas tax on motor fuel and designating the second gas tax as the "constitutional gas tax"; renaming the additional seventh-cent tax as the "county tax on motor fuel" and the additional eighth-cent tax as the "municipal tax on motor fuel"; directing that conforming statutory changes be made; amending s. 206.87(1), Florida Statutes; providing that the excise tax on special fuel shall be 4 cents per gallon; repealing subsection (3) of said section relating to separate statement of price and tax under certain circumstances; amending ss. 206.43(1) and

206.91(1), Florida Statutes; revising the distributor's and dealer's credits for collecting said taxes on motor and special fuel; repealing ss. 206.29-206.40, Florida Statutes, which authorize a refund of 4 cents of said taxes on fuel used for city transit systems; repealing s. 206.415, Florida Statutes, which authorizes an exemption from the first gas tax for gasohol; amending s. 206.42, Florida Statutes; providing that aviation motor fuel is not exempt from the sales tax; repealing ss. 206.50-206.55, 206.602 and 206.603, Florida Statutes, which authorize a refund to retail dealers for evaporation and shrinkage, a refund for gasoline used in gasohol, and certain reimbursements for gasohol exemptions; repealing s. 206.57, Florida Statutes, relating to tax on fuel in reserve motor vehicle reservoirs; amending s. 213.11, Florida Statutes, which provides for transfer of a portion of first gas tax revenues to the Department of Natural Resources for aquatic weed control; amending s. 215.22(1), (2), (17), Florida Statutes; authorizing certain deductions from sales tax revenues on motor and special fuel deposited in the Gas Tax Collection Trust Fund; amending s. 339.08, Florida Statutes, 1982 Supplement; providing for use of the proceeds of the sales tax on motor and special fuel; amending s. 339.10(2), Florida Statutes; authorizing advances of proceeds of said tax; amending s. 339.24(3), Florida Statutes; authorizing expenditure of such proceeds for roadside parks and similar facilities; amending ss. 18.11(1)(f), 123.04(2), 206.45, 206.46, 206.47, 206.625(1), 206.64, 206.70(1), 206.875(2), 206.97, 207.003, 207.005(2), (3), 207.026, 215.36, 215.74, 336.41(3), 339.081(1)(a), 339.083(2), 339.089(1), 344.17, 348.217(10), (11), 348.219(3)(g), (k), 348.22(1), (3)(a), (4), 348.221(2)(b), 348.222(4), (5), 348.81(10), and 348.951(10), Florida Statutes, and s. 215.47(1)(d), Florida Statutes, 1982 Supplement; revising provisions relating to the excise tax on motor and special fuels, financial conforming and correcting language; correcting cross references; renumbering s. 206.625(2), Florida Statutes, and adding new subsections (2) and (3) thereto; prescribing amount of tax revenue to be returned to each county and prescribing uses for such revenue; prescribing amount of tax revenue to be returned to each school board and prescribing uses for such revenue; amending s. 320.20, Florida Statutes, changing the formula for distributing certain license tax revenues; amending s. 320.08(2), (4)(c), (d), (e), Florida Statutes, 1982 Supplement; providing an increase in the annual registration fee for certain vehicles; amending s. 316.535(6), Florida Statutes; authorizing local law enforcement officers to enforce certain weight limits; amending s. 316.545, Florida Statutes; providing for inspection of weights and loads by local law enforcement officers; providing penalties; amending s. 336.021(1) and (2), Florida Statutes, 1982 Supplement; providing for a voted gas tax on motor and special fuels; creating the Voted Gas Tax Trust Fund; creating s. 336.025, Florida Statutes; authorizing the levy of a 1 or 2 cent local option gas tax without referendum; providing for distribution of the revenues from such tax; providing for levy of transition taxes; adding s. 320.03(6), Florida Statutes, 1982 Supplement; requiring an additional 50-cent license registration fee; establishing in the Department of Environmental Regulation the Air Pollution Control Trust Fund; requiring deposit of such additional fee into the trust fund or into trust funds established by certain counties; limiting the use of moneys in such funds; requiring a specified amount of funds authorized to be appropriated to be appropriated to certain small business concerns; providing for the waiver of certain bid procedures for implementation; providing an appropriation; amending s. 320.10, Florida Statutes, 1982 Supplement; providing an exemption from registration fees for certain truck-tractors; amending s. 320.14, Florida Statutes; providing for partial registrations; providing effective dates.

On motion by Senator Margolis, by two-thirds vote HB 4-A as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Mr. President	Fox	Johnston	Myers
Barron	Gersten	Kirkpatrick	Neal
Beard	Girardeau	Malchon	Rehm
Carlucci	Grizzle	Mann	Scott
Castor	Hair	Margolis	Thomas
Childers, D.	Hill	Maxwell	Weinstein
Dunn	Jenne	McPherson	

Nays—11

Childers, W.D.	Gordon	Langley	Thurman
Crawford	Grant	Plummer	Vogt
Frank	Jennings	Stuart	

The Honorable Curtis Peterson, President

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

SB 4-A—A bill to be entitled An act relating to state agency contracts; creating s. 286.30, Florida Statutes; providing definitions; providing a hearing procedure; providing for denial or revocation of a contractor's certificate of qualification or privilege to provide services or commodities to any state agency or to bid on work let by any state agency for specified reasons; providing for a period of disqualification; providing for reapplication or reinstatement of a certificate of qualification or privilege; providing a hearing procedure; providing for a continuation of obligations under preexisting contracts; providing penalties; providing notification requirements; providing investigative authority; creating s. 286.31, Florida Statutes; providing for distribution of moneys recovered; creating s. 286.32, Florida Statutes; providing that a certificate of qualification or other form of authorization to bid on state contracts is not a license for purposes of the Administrative Procedure Act; prohibiting administrative stays of denial or revocation of certificates or other forms of authorization to bid; providing criteria for judicial stays and injunctive relief; providing that certain activities constitute an immediate danger to public safety, health and welfare; creating s. 286.33, Florida Statutes; providing a definite period of time during which a state agency's official project cost estimates and potential bidders' identities are exempt from the provisions of s. 119.07(1), Florida Statutes; exempting the Department of Transportation's bid analysis and monitoring system from the provisions of s. 119.07(1), Florida Statutes; creating s. 286.34, Florida Statutes; providing for continuation of certain state agency procedures; creating s. 286.35, Florida Statutes; providing for compilation and dissemination of contractor ineligibility information by the Department of General Services; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 1—On pages 2-11, strike everything after the enacting clause and insert:

Section 1. Section 337.164, Florida Statutes, is created to read:

337.164 Legislative intent.—Recognizing that the preservation of the integrity of the public contracting process of the Department of Transportation is vital to the development of a balanced and efficient transportation system and a matter of interest to all the people of the state, the Legislature hereby determines and declares that:

(1) The procedures of the department for bidding and qualification of bidders on department contracts exist to secure the public benefits of free and open competition and to secure the quality of public works.

(2) The opportunity to bid on department contracts or to supply goods or services to the department is a privilege not a right.

(3) The privilege of transacting business with the department should be denied to persons or firms involved in contract crime in order to preserve the integrity of the public contracting process.

(4) Persons or firms involved in contract crime should be denied both the privilege of transacting business with the department and the opportunity of obtaining economic benefit through the transaction of business by their affiliates with the department.

To this end, it is the intent of the Legislature to provide sufficiently broad authority to the department to ensure the integrity of its public contracting process.

Section 2. Section 337.165, Florida Statutes, is created to read:

337.165 Contract crime; denial, revocation, or suspension of a certificate of qualification.—

(1) The following words and phrases when used in this section shall have the following meanings:

(a) "Contractor" means any person who bids or applies to bid on work let by the Department of Transportation or any counterpart agency of any other state or of the Federal Government or who provides professional services to the department or other such agency. The term contractor shall include a contractor's officers, directors, executives, shareholders active in management, employees, and agents.

(b) "Contract crime" means any act prohibited by state or federal criminal law which involves fraud, bribery, collusion, conspiracy, violation of state or federal antitrust laws, or material misrepresentation, committed in any federal or state jurisdiction with respect to a public contract.

(c) "Convicted" or "conviction" means any finding of a contract crime, within any federal or state jurisdiction, with or without an adjudication of guilt, resulting from a jury or nonjury trial, or a plea of guilty or nolo contendere.

(d) "Affiliate" means a predecessor or successor of a contractor under the same, or substantially the same, control or a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term affiliate shall include the affiliate's officers, directors, executives, shareholders active in management, employees, and agents. One business entity's ownership of a controlling interest in another business entity or a pooling of equipment or income among business entities shall be prima facie evidence that one business entity is an affiliate of another.

(e) "Certificate of qualification" means that certificate required and granted pursuant to s. 337.14.

(2)(a) No contractor or its affiliate shall be qualified to bid when, after notice and hearing, it is determined that it:

1. Has, subsequent to January 1, 1978, been convicted of a contract crime within the jurisdiction of any state or federal court;
2. Has failed to comply with the notification provisions of subsection (5); or
3. Has been charged in any indictment or information alleging the commission of a contract crime within the state.

(b)1. In cases where subparagraphs 1. or 2., of paragraph (a) apply, the department shall by a final order after notice and hearing deny or revoke the certificate of qualification of the contractor or its affiliate. Such revocation or denial of a certificate of qualification shall be for 36 months, unless the contractor or its affiliate is reinstated or qualified pursuant to paragraph (d). Upon reinstatement or qualification pursuant to paragraph (d), the certificate of qualification of a contractor or its affiliate shall not thereafter be denied or revoked for conviction of contract crime committed outside the state prior to the effective date of such reinstatement or qualification.

2. In cases where subparagraph 3. of paragraph (a) applies, the department shall by a final order after notice and hearing deny or suspend the certificate of qualification of the contractor or its affiliate. Such denial or suspension shall continue until resolution of the criminal charges or until the contractor or its affiliate is reinstated or qualified in accordance with paragraphs (d) or (e). A final order of suspension of the certificate of qualification of an affiliate or a final order denying a certificate of qualification of an affiliate previously qualified by the department shall be immediately stayed upon the filing of an affidavit pursuant to paragraph (e).

3.a. Notwithstanding the provisions of subparagraph 1., any contractor who by final order is determined to be an affiliate of a contractor convicted of the commission of a contract crime may, within 10 days from the date of the final order, request a hearing for the purpose of demonstrating that the denial or revocation of its certificate of qualification is not in the public interest. Said hearing shall be held within 30 days of the date of the request. In determining whether to deny or revoke the affiliate's certificate of qualification is in the public interest, all relevant mitigating circumstances, in accordance with paragraph (d), shall be considered. An affiliate whose application for qualification has been denied and who has never been certified by the department shall not be entitled to the hearing pursuant to this subsub paragraph.

b. At the hearing, the affiliate shall present for consideration any and all evidence that it desires to have considered in determining whether its certificate of qualification should be denied or revoked. Not less than 20 days prior to the hearing, the affiliate shall serve upon the department a prehearing catalog setting forth all exhibits to be proffered, a concise statement of the law and facts upon which it intends to rely, and the names, addresses, and phone numbers of all witnesses to be proffered at the hearing. Any exhibit, law, fact, or witness not disclosed in the prehearing catalog shall not be admissible at the hearing or otherwise considered in the determination of the final order.

c. After the affiliate has concluded the presentation of its evidence, the department shall have the right to continue the hearing and the presentation of its own evidence until such time as the department may choose. Upon the filing of a request for a hearing pursuant to this subparagraph, any final order of denial or revocation of the affiliate's certificate of qualification shall be stayed pending the entry of a final order determining whether such action is in the public interest based upon the evidence presented; provided, however, such final order shall not be stayed by the department or by the Division of Administrative Hearings during the pendency of any review proceedings except in accordance with s. 337.167(4).

d. If it is determined that the certificate of qualification should be denied or revoked, the affiliate may not petition for a subsequent hearing pursuant to paragraph (d) for a period of 9 months from the date of the order determining whether the denial or revocation is in the public interest. Until the entry of a final order determining whether the denial or revocation is in the public interest, the department may deny an application for certification of any contractor who is determined to be an affiliate of a contractor who has requested a hearing pursuant to this subparagraph.

(c) A contractor or its affiliate whose certificate of qualification has been denied or revoked by reason of acts of contract crime for which it is convicted in this state and for which it is convicted upon a subsequent indictment or information alleging contract crime committed in this state within 5 years of such denial or revocation shall not be considered for reinstatement or qualification pursuant to paragraph (d) until 24 months after the date of the denial or revocation based upon such subsequent conviction.

(d) A contractor or affiliate whose certificate of qualification has been denied, revoked, or suspended may be reinstated or qualified upon such terms and conditions as the department may prescribe upon finding it in the public interest. In determining whether reinstatement is in the public interest, the department shall consider relevant mitigating circumstances, including, but not limited to, the following:

1. The degree of culpability;
2. Prompt and voluntary payment of damages to the state as a result of the contractor's violation of state or federal antitrust laws;
3. Cooperation with any state or federal prosecution or investigation of contract crime;
4. Disassociation with those involved in a contract crime;
5. Reinstatement in other state or federal jurisdictions; and
6. The needs of the department in completing its construction programs in a timely, cost-effective manner.

(e) A contractor or its affiliate whose certificate of qualification has been denied or suspended because the contractor or its affiliate has been charged in an indictment or information alleging the commission of a contract crime within the state shall be entitled to the grant of a certificate of qualification or the reinstatement of a certificate of qualification automatically upon filing a certified copy of an order dismissing the indictment or information or containing a final adjudication that the contractor or its affiliate is not guilty of the commission of a contract crime, or conditionally upon the filing of an affidavit by the contractor or its affiliate denying that it committed or otherwise participated in the contract crime or crimes charged in the indictment or information. Should the contractor or its affiliate, after having been conditionally granted a certificate of qualification or having obtained a conditional reinstatement or stay of a suspended certificate of qualification upon the filing of an affidavit or affidavits, be convicted of the contract crime or contract crimes charged, this shall be considered as a relevant factor should the contractor or affiliate subsequently request reinstatement as provided in paragraph (d). The failure of a contractor or its affiliate to file the affidavit required for reinstatement pursuant to this paragraph shall not be admissible evidence in any civil or criminal proceeding in any state or federal court.

(3) A contractor or its affiliate whose certificate of qualification is revoked or suspended pursuant to this section shall not act as a prime contractor, a material supplier, a subcontractor, or a consultant on any department contract or project during the period of such revocation or suspension.

(4) The denial, revocation, or suspension of a contractor's or affiliate's certificate of qualification shall not affect the contractor's or its affiliate's obligations under any preexisting contract.

(5) A contractor or its affiliate which is qualified or which is seeking to be qualified by the department shall notify the department within 30 days of a conviction for a contract crime, or the filing of an indictment or information alleging the commission of a contract crime, applicable to it or to any of its affiliates, or to any officers, directors, executives, shareholders active in management, employees, or agents of it or any of its affiliates.

(6) Whenever the department has reason to believe that a contractor or its affiliate which is qualified or seeking qualification by the department has been convicted or charged in any indictment or information with the commission of a contract crime, or may be affiliated with a person or entity so convicted or charged, the department may issue a written demand upon the contractor or its affiliate, concerning any such conviction, charge or affiliation, to appear and be examined under oath, to answer written interrogatories under oath, and to produce documents or other tangible evidence for inspection and copying.

(7) The provisions of this act are not in derogation of existing remedies available to the department and such remedies remain in full force and effect.

Section 3. Section 337.166, Florida Statutes, is created to read:

337.166 Moneys recovered for violations of antitrust laws.—In accordance with the provisions of s. 16.53, 20 percent of all moneys recovered from a contractor or its affiliate on behalf of the state by reason of any decree or settlement in any state or federal antitrust claim prosecuted by the Attorney General shall be deposited in the Legal Affairs Revolving Trust Fund. The remainder of the moneys recovered shall be deposited in the State Transportation Trust Fund instead of the General Revenue Fund as generally provided under s. 16.53.

Section 4. Section 337.167, Florida Statutes, is created to read:

337.167 Administrative procedures; stays and injunctions.—

(1) A certificate of qualification to bid on a Department of Transportation contract, or other form of authorization required to supply goods or services to the department, is intended to assist the department in determining in advance the performance capabilities of entities seeking to supply goods and services to the department and is not a license as defined in s. 120.52(7). The denial, revocation, or suspension of a certificate of qualification or other authorization is not subject to the provisions of s. 120.60 or s. 120.68(3). The provisions of s. 120.57 are applicable to the denial, revocation, or suspension of such certificate or other authorization.

(2) For the purpose of promulgating emergency rules, the continuation of the bidding, contracting, or supplying privileges of a contractor or its affiliate which is convicted of contract crime, or which is charged by indictment or information with commission of contract crime in this state, represents an immediate danger to the public health, safety, and welfare.

(3) The denial, revocation, or suspension of a certificate of qualification for reasons of contract crime shall not be stayed by the department or by the Division of Administrative Hearings during the pendency of any review proceedings concerning a final order of denial, revocation, or suspension.

(4) A court may grant a stay or injunction in an action relating to the denial, revocation, or suspension of a certificate of qualification only upon the posting of a bond by the petitioner seeking a stay or injunction, and provided that the court granting a stay or injunction finds:

(a) The petitioner has a substantial likelihood of success on the merits;

(b) The threatened harm or injury to the petitioner clearly outweighs any possible injury to the state occasioned by granting the stay or injunction; and

(c) It is in the public interest to grant the stay or injunction.

Section 5. Section 337.168, Florida Statutes, is created to read:

337.168 Confidentiality of official estimates, identities of potential bidders, and bid analysis and monitoring system.—

(1) A document or electronic file revealing the Department of Transportation's official cost estimate of a project is exempt from the provisions of s. 119.07(1) until the contract for the project has been executed or until the project is no longer under active consideration.

(2) A document revealing the identity of persons who have requested or obtained bid packages, plans, or specifications pertaining to any project to be let by the department is exempt from the provisions of s. 119.07(1) for three working days prior to the deadline for receiving bids until either the deadline for receiving bids on the project, or until the project is no longer under active consideration.

(3) The Department of Transportation's bid analysis and monitoring system is exempt from the provisions of s. 119.07(1). This exemption shall apply to all system documentation, input, computer processes and programs, electronic data files, and output, but shall not apply to the actual source documents, unless otherwise exempted under other provisions of law.

Section 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 7. This act shall take effect upon becoming a law.

Amendment 2—On pages 1 and 2 strike the entire title and insert: A bill to be entitled An act relating to Department of Transportation contracts; creating s. 337.164, Florida Statutes; providing legislative intent; creating s. 337.165, Florida Statutes; providing definitions; providing for denial, revocation, or suspension of a contractor's certificate of qualification for specified reasons; providing for certain hearings; providing for a period of disqualification; providing for reinstatement of a certificate; providing for a continuation of obligations under preexisting contracts; providing notification requirements; providing investigative authority; creating s. 337.166, Florida Statutes; providing for disposition of certain moneys recovered; creating s. 337.167, Florida Statutes; providing that qualification to bid on state contracts is not a license; prohibiting administrative stays of denial, revocation, or suspension; providing criteria for injunctive relief; providing a finding of an immediate danger to public safety, health, and welfare; creating s. 337.168, Florida Statutes; providing a definite period of time during which the Department of Transportation's official project cost estimates and potential bidders' identities are exempt from the provisions of s. 119.07(1), Florida Statutes; providing that the Department of Transportation's bid analysis and monitoring system is exempt from the provisions of s. 119.07(1), Florida Statutes; providing for severability; providing effective dates.

On motions by Senator Barron, the Senate refused to concur in the House amendments to SB 4-A and the House was requested to recede and in the event the House refused to recede, a conference committee was requested.

The President appointed Senator Beard, Chairman, Senators Hill, Jenne and Langley as conferees on the part of the Senate. The action of the Senate was certified to the House.

On motion by Senator Barron, the rules were waived and the time of the meetings for the Committees on Agriculture and Health and Rehabilitative Services for March 2 was changed to 2:00 p.m. until 4:00 p.m. in lieu of 10:00 a.m. to 2:00 p.m.

On motion by Senator Barron, the rules were waived to allow the Secretary to print this day's Journal at a later date.

Senator Scott announced cancellation of the Judiciary-Civil Committee meeting for March 2.

Senator Neal announced cancellation of the Natural Resources and Conservation Committee meeting for March 2.

On motion by Senator Barron, the Senate recessed at 9:23 p.m.

The Senate was called to order by the President at 10:13 p.m. A quorum present.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments to HB 4-A and requests the Senate to recede and in the event the Senate refuses to recede requests a Conference Committee. The Speaker has appointed Representatives Pajcic, Gustafson, Kutun, Morgan, and Richmond as conferees on the part of the House; alternate: Representative Ogden.

Allen Morris, Clerk

On motions by Senator Barron, the Senate refused to recede from Senate amendments to HB 4-A and acceded to the request for a conference committee. The President appointed Senators Margolis, Neal, Johnston, Maxwell and McPherson; alternate: Senator Grizzle. The action of the Senate was certified to the House.

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to recede from House Amendments 1 and 2 to SB 4-A and the House acceded to the request of the Senate for a Conference Committee. The Speaker has appointed Representatives C.F. Jones, Thompson, Upchurch and Webster as conferees on the part of the House; alternate, Representative Cosgrove.

Allen Morris, Clerk

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote of the membership and passed SB 7-A.

Allen Morris, Clerk

The bill contained in the above message was ordered enrolled.

ENROLLING REPORT

SB 7-A has been enrolled, signed by the required Constitutional Officers and presented to the Governor on March 1, 1983.

Joe Brown, Secretary

On motion by Senator Barron, the Senate adjourned at 10:15 p.m. to convene at 11:00 a.m., Wednesday, March 2.