Journal of the Senate

Number 2—Special Session A **Wednesday, March 2, 1983**

The Senate was called to order by the President at 11:00 a.m. A quorum present—29:

Mr. President	Dunn	Hill	Stuart
Barron	Fox	Jenne	Thomas
Beard	Frank	Jennings	Thurman
Carlucci	Gersten	Kirkpatrick	Vogt
Castor	Girardeau	Malchon	Weinstein
Childers, D.	Grant	Mann	
Childers, W.D.	Hair	Myers	
Crawford	Henderson	Rehm	

Excused: Senator Meek

Prayer by the Reverend James R. Crook, Jr., Pastor, Saint Paul's United Methodist Church, Tallahassee:

Eternal God, Thou who dost transcend our highest thoughts and imaginings and yet who dost dwell with us daily in the Spirit, O Thou perfect God who callest us each to obey Thy will and who dost ever seek us when we go astray.

Be Thou this day, the guardian of our way. Amid the tumult of voices that call to us speak to us Thy matchless word and let us, who seek to serve Thee, *listen.*

We thank Thee for the abilities and gifts we each possess from Thee and we ask one gift more—the awareness that without Thee we can do nothing.

Therefore we pray
Spirit of the living God, fall afresh on us
Melt us, mold us, fill us, use us
Spirit of the living God, fall afresh on us. Amen.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator D. Childers, the rules were waived and the Committee on Health and Rehabilitative Services was granted permission to meet this day from 12:00 noon until 1:00 p.m.

On motion by Senator Kirkpatrick, the rules were waived and the Committee on Agriculture was granted permission to meet this day from 12:00 noon until completion of the agenda.

On motion by Senator Barron, the Senate recessed at 11:13 a.m., to reconvene at the call of the President.

The Senate was called to order by the President at 5:45 p.m. A quorum present—39:

Mr. President	Frank	Jennings	Neal
Barron	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	McPherson	Weinstein
Fox	Jenne	Myers	

By direction of the President, the following amendment to the Proclamation of February 16 was read:

PROCLAMATION
State of Florida
Executive Department
Tallahassee
(Second 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 12:00 noon, Tuesday, March 1, 1983 and extending through 6:00 p.m., Wednesday, March 2, 1983, and

WHEREAS, it is in the best interest of the citizens of the State to extend the length of the Special Session in order to permit full and adequate consideration of all items within my proclamation of February 16, 1983, as amended;

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 extend the above mentioned Special Session through 12:00 midnight, Wednesday, March 2, 1983.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, The Capitol, this 2nd day of March 1983.

Bob Graham
GOVERNOR

ATTEST:
George Firestone
SECRETARY OF STATE

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment 1 to House Amendment 1 to SB 2-A and requests the Senate to recede.

Allen Morris, Clerk

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.

On motion by Senator Beard, the Senate receded from Senate Amendment 1 to House Amendment 1. 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	Plummer
Barron	Frank	Jennings	Rehm
Beard	Gersten	Johnston	Scott
Carlucci	Girardeau	Kirkpatrick	Stuart
Castor	Gordon	Malchon	Thomas
Childers, D.	Grant	Margolis	Thurman
Childers, W.D.	Grizzle	Maxwell	Vogt
Crawford	Hair	Myers	Weinstein
Dunn	Henderson	Neal	

Nays—None

The bill was ordered engrossed and then enrolled.

On motion by Senator Barron, the Senate recessed at 5:58 p.m. to reconvene at 9:30 p.m.

The Senate was called to order by the President at 10:12 p.m. A quorum present—37:

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

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 as amended HB 1-A and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative C.F. Jones and others—

HB 1-A—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 or revocation of a contractor's certificate of qualification for specified reasons; providing for a period of disqualification; providing a hearing procedure; 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 for the purpose of the Administrative Procedures Act; prohibiting administrative stays of denial or revocation; 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 for the applicability of the act with respect to certain remedies of the Department of Transportation; providing an effective date.

On motion by Senator Beard, by the required constitutional two-thirds vote of the Senate, HB 1-A was admitted for introduction, read the first time by title and referred to the Committee on Transportation.

On motions by Senator Beard, by two-thirds vote HB 1-A was withdrawn from the Committee on Transportation and taken up instanter.

On motions by Senator Beard, by two-thirds vote HB 1-A was read the second time by title and by two-thirds vote was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Mann

The President declared the Senate in informal recess at 10:23 p.m.

The Senate was called to order by the President at 11:03 p.m. A quorum present.

Senator Hill presiding

The President presiding

The President declared the Senate in informal recess at 11:35 p.m.

The Senate was called to order by the President at 11:47 p.m. A quorum present.

By direction of the President, the following amendment to the Proclamation of February 16 was read:

PROCLAMATION
State of Florida
Executive Department
Tallahassee
(Third 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 12:00 noon, Tuesday, March 1, 1983 and extending through 6:00 p.m., Wednesday, March 2, 1983, and

WHEREAS, on March 2, 1983, an amendment was issued which extended this Special Session through Midnight, March 2, 1983; and

WHEREAS, consultation with the leadership of the Florida Legislature reflects that progress is being made and that this Special Session should be continued until the matters under consideration are completed, and

WHEREAS, it is in the best interest of the citizens of the State to extend the length of the Special Session in order to permit full and adequate consideration of all items within my proclamation of February 16, 1983, as amended;

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 extend the above mentioned Special Session through 6:00 p.m., Thursday, March 3, 1983.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 2nd day of March 1983.

Bob Graham
GOVERNOR

ATTEST:
George Firestone
SECRETARY OF STATE

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Curtis Peterson, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed HB 4-A as amended by the Conference Committee Report.

Allen Morris, Clerk

CONFERENCE COMMITTEE REPORT ON HB 4-A

The Honorable H. Lee Moffitt
Speaker
House of Representatives

The Honorable Curtis Peterson
President of the Senate

Dear Sirs:

Your Conference Committee on the disagreeing votes of the two Houses on the Senate amendments to House Bill 4-A same being:

An act relating to transportation finance and administration

having met, and after full and free conference, have agreed to recommend and do recommend to their respective Houses, as follows:

1. That the Senate recede from its amendments 1 and 2.

2. That the Senate and the House of Representatives adopt the Conference Committee amendments attached hereto, and by reference made a part of this report.

Barry Kutun, Vice Chairman	*Gwen Margolis, Chairman*
Tom Gustafson	*Harry A. Johnston, II*
Herbert F. Morgan	*Clark Maxwell, Jr.*
Steve Pajcic	*Tom McPherson*
Ronald R. Richmond	*Patrick K. Neal*
Carl Ogden, Alternate	*Mary R. Grizzle, Alternate*
Managers on the part of the House of Representatives	Managers on the part of the Senate

Conference Committee Amendment 1—

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, as determined pursuant to part II, of each gallon of motor fuel or special fuel taxable pursuant to said part, except that motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

(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 discretion-

ary 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. *Fuel other than motor fuel and special fuel is taxable as provided in this part, except that fuel expressly exempt herein.*~~; and~~ Motor fuels and special fuels ~~on which a tax is imposed by chapter 206 or chapter 207~~ *are taxable as provided in part II.* ~~All other fuels are taxable~~, 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 *under this part* 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, 212.80, 212.90, 212.91, 212.92, 212.94, and 212.95, is created to read:

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 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 and local excise taxes on such fuel, for the forthcoming 12-month period beginning June 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 12-month period ending March 31, compared to said average for the 12-month period ending March 31, 1984. However, the adjustment provided herein shall first be made for the forthcoming 12-month period beginning June 1, 1985.

(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 $1.148 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 12-month period beginning June 1.

(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.

212.80 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 or 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, 206.59, 206.87(2)(a), 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 Refunds.—

(1) The following refunds shall apply to the tax imposed by this part, to the extent provided herein:

(a) Refunds on fuel used for local transit operations.—Any person who uses motor fuel on which the taxes imposed by this part have been paid for any system of mass public transportation authorized to operate within any city, town, municipality, county, or transit authority region in this state, as distinguished from any over-the-road or charter system of public transportation, shall be entitled to a refund of said taxes. A public transportation system or 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. "City" or "cities," "county" or "counties," and "authority" or "authorities" as used in this paragraph 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.

(b) Retail dealers.—Every retail dealer shall be entitled to a refund of 1.4 percent of the tax imposed by this part on motor fuel purchased by such retail dealer to cover losses due to evaporation and shrinkage of motor fuel.

(c) Return of tax to municipalities and counties.—Those portions of the tax imposed by this part which result from the collection of such taxes paid by a municipality or county on motor fuel for use in a motor vehicle operated by it shall be returned to the governing body of each such municipality or county for the construction, reconstruction, and maintenance of roads and streets within the respective municipality or county.

(d) Return of tax to school districts.—Those portions of the tax imposed by this part which result from the collection of such tax paid by a school district on motor fuel 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 schools. 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.

(e) Refund to farmers and fishermen.—

1. For the purposes of this paragraph, "agricultural purposes" means 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. For the purposes of this paragraph, "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.

3. Any person who uses any motor fuel or special fuel for agricultural purposes or commercial fishing purposes on which the tax imposed by this part has been paid shall be entitled to a refund of said tax.

(2) Agents of the department are authorized to go upon the premises of any permitholder or distributor, or duly authorized agent thereof, as defined in this part to make inspection to ascertain any matter connected with the operation of this section 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.

(3)(a) No person shall secure a refund under this section unless such person is the holder of an unrevoked refund permit issued by the department before the purchase of the motor fuel or special fuel, which permit shall be numbered and issued annually.

(b) To procure a permit, every person shall file with the department an application, on forms furnished by the department, stating that he is entitled to a refund according to the provisions of subsection (1) 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.

(c) No person shall in any event be allowed a refund unless he has filed the application provided for in paragraph (b) 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 from year to year. In the event he fails to file a claim for any year, then he must apply for a new permit.

(d) The department may, if an applicant for a refund permit has violated any provision of this section 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 exe-

cute 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 this part.

(4)(a) When motor fuel or special fuel is sold to a person who claims to be entitled to a refund under this section, the seller of such motor fuel or special fuel shall, if the amount sold is not less than 26 gallons, make out a sales invoice, which shall contain the following information:

1. The name and post-office and resident address of the purchaser.

2. The number of gallons purchased.

3. The date on which purchase was made.

4. The price paid for such motor fuel or special fuel.

5. The name and place of business of the seller of the motor fuel or special fuel.

(b) The sales invoice shall be retained by the purchaser for attachment to his application for refund, as a part thereof. No refund shall be allowed unless the seller executes such invoice 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 is incomplete and fails to contain the full information required herein.

(c) No person shall execute a sales invoice, as described in paragraph (a), except a distributor, dealer, or retail dealer, or a duly authorized agent thereof. No refund invoices shall be executed for purchases from retail service stations.

(d) Notwithstanding provisions of this subsection to the contrary, the department shall have authority to designate certain retail service stations as agents of distributors or dealers when no distributors or dealers are available to serve commercial fishermen.

(5) 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.

(6)(a) 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 and unless application is made upon forms prescribed by the department.

(b) Claims shall be paid annually on a calendar-year basis. The department shall deduct a fee of $2 for each claim, which $2 shall be deposited in the General Revenue Fund.

(7)(a) Each distributor, dealer, or retail dealer 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 or special fuel sold by him for the refund provided in this section, 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, dealer, or retail dealer, or his agent or employee, shall acknowledge or assist in the preparation of any claim for tax refund.

(b) Every person to whom a refund permit has been issued under this section 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 or special fuel from a distributor, dealer, or retail dealer, or his authorized agent, the number of gallons purchased, the name of the seller, the date of the purchase, and the sale price.

(c) The records required to be kept under this subsection shall at all reasonable hours be subject to audit or 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 or special fuel to which they relate was sold or purchased.

(d) The department shall keep a permanent record of the amount of refund claimed and paid to each claimant. Such records shall be open to public inspection.

(8)(a) 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 25 percent.

(b) 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 section, fraudulently obtain a refund of such taxes; knowingly aid or assist in making any such false or fraudulent statement or claim; or buy motor fuel or special fuel to be used for any purpose other than as provided in this section.

(c) The refund permit of any person who violates any provisions of this section 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.

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.—

(1) 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, and exclusive of refunds granted pursuant to s. 212.92, shall be distributed monthly to the State Transportation Trust Fund, except that $2,800,000 per year in equal monthly amounts shall be transferred to the Department of Natural Resources.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(2) and (3), unless otherwise provided in the General Appropriations Act.

(3) All funds transferred herein to the Department of Natural Resources shall be used for eradication, control, and research of water hyacinths and noxious aquatic vegetation.

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, and 206.58, 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," and is further directed to entitle part I of chapter 212, Florida Statutes, as "Tax for Privilege of Tangible Personal Property Sales or Use, Admissions and Rentals," and part II of chapter 212, Florida Statutes, as "Tax for Privilege of Motor and Special Fuel Sales."

Section 20. Sections 3 and 4 of chapter 80-77, Laws of Florida, appearing as sections 206.602 and 206.603, Florida Statutes, and sections 206.65, 206.66, 206.67, 206.68, 206.69, 206.70, 206.71, 206.72, 206.73, 206.74, 206.75, and 206.76, Florida Statutes, are hereby repealed.

Section 21. Section 206.625, Florida Statutes, is amended to read:

206.625 Return of tax to municipalities, *counties, and school districts.*—

(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 *or county* on *motor fuel* ~~gasoline~~ for use in a motor vehicle operated by it shall be returned to the governing body of each such municipality *or county according to the administrative procedures in s. 212.92* for the construction, reconstruction, and maintenance of roads and streets within the *respective* municipality *or county.*

(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 motor fuel for use in a motor vehicle operated by it shall be returned to the governing body of each such school district according to the administrative procedures in s. 212.92 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 schools. 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 department shall promulgate such rules and regulations and shall prescribe such forms as shall be necessary to effectuate the purposes of this section.~~

Section 22. 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 according to the administrative procedures in s. 212.92* ~~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 23. 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 24. 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 25. 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 26. 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* ~~not~~ 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 27. 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~~ 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 28. 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*(3)*~~(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 29. 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 30. 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 purchase. 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 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. Section 213.11, Florida Statutes, is hereby repealed.

Section 33. Subsections (1), (2), and (17) of section 215.22, Florida Statutes, are amended, and subsection (21) is added to said section, 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~~.

(21) All taxes deposited in the Local Option Gas Tax Trust Fund created pursuant to s. 336.025.

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 34. 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 35. 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 36. 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 37. 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 38. 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 *said moneys* ~~the proceeds of 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 *said moneys* ~~any proceeds from 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 order 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 39. 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 40. 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 county 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 41. 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 42. 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 43. 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 44. 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 satis-

factory 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 45. 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 46. 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, refunding 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 47. 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 48. 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 Transportation 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 49. 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 50. 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 51. 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 52. Subsection (2), paragraph (d) of subsection (3) and subsections (4), (5), (6), and (8) 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) Net weight of less than 2,500 pounds: *$14.50* ~~$12.50~~ flat.

(c) Net weight of 2,500 pounds or more, but less than 3,500 pounds: *$22.50* ~~$21.50~~ flat.

(d) Net weight of 3,500 pounds or more: *$32.50* ~~$30.50~~ flat.

(3) TRUCKS.—

(d) Net weight more than 5,000 pounds: *$17.50* ~~$10~~ flat plus *$1.95* ~~$1.10~~ per cwt.

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

(a) Gross weight less than 35,000 pounds: *$420* ~~$240~~ flat.

(b) Gross weight of 35,000 pounds or more, but less than 44,000 pounds: *$525* ~~$300~~ flat.

(c) Gross weight of 44,000 pounds or more, but less than 53,000 pounds: *$630* ~~$360~~ flat.

(d) Gross weight of 53,000 pounds or more, but less than 62,000 pounds: *$735* ~~$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: *$17.50* ~~$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.

(b) Motor vehicles, trailers, and semitrailers equipped with machinery and designed for an exclusive use in the nature of well drilling, excavation, construction, spraying, and like purposes. *$56.75* ~~$32.50~~ flat.

(c) School buses used exclusively for the purpose of transporting pupils to and from school or school or church activities or functions within their own counties $30 flat. The operators of any motor vehicle used exclusively for the transportation of pupils to and from school or school or church activities or functions shall not be charged any sum greater than that paid by the operators or owners of ambulances, hearses, or automobile wreckers owned and operated by a garage in connection with its regular business.

(d) Motor vehicles operated solely as wreckers, owned and operated by a garage in connection with its regular business: *$52.50* ~~$30~~ flat.

(e) Hearses or ambulances: $30 flat.

(6) AUTOMOBILES FOR HIRE.—

(a) Under nine passengers: $12.50 flat plus $1 per cwt.

(b) Nine passengers and over: *$21.75* ~~$12.50~~ flat plus *$2.50* ~~$1.50~~ per cwt.

(8) TRAILERS FOR HIRE.—

(a) Net weight not over 1,999 pounds: *$4.40* ~~$2.50~~ flat plus *$1.75* ~~$1~~ per cwt.

(b) Net weight 2,000 pounds or more: *$17.50* ~~$10~~ flat plus *$1.75* ~~$1~~ per cwt.

Section 53. Section 320.20, Florida Statutes, is 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)~~ *$25 million per year* ~~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 54. 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 55. 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, there may be imposed as provided herein a 1, 2, 3, or 4 cent local option gas tax upon every gallon of motor fuel and special fuel sold in a county and taxed under the provisions of chapter 206.

(b) The tax shall be imposed effective September 1 of any year for a period not to exceed 5 years, and the applicable method of distribution shall be established pursuant to subsection (3) or (4). 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 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, less the service charge provided in s. 215.20, shall be transferred to a Local Option Gas Tax Trust Fund, which fund is created for distribution to county and eligible municipal governments 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, 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 tax shall be imposed using either of the following procedures:

(a) The governing body of the county shall, by majority vote for the first 2 cents and a majority-plus-one vote for the second 2 cents, adopt an ordinance pursuant to this section in accordance with the requirements imposed under one of the following circumstances, whichever is applicable:

1. Prior to July 1 the county may establish by inter-local 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 and all eligible municipalities within the county.

2. If an interlocal agreement has not been executed pursuant to paragraph (a) 1. prior to July 15, the county may adopt a resolution of intent to levy the tax allowed herein.

(b) If no ordinance is enacted pursuant to paragraphs (3)(a)1. or 2., prior to July 30, municipalities representing more than 50 percent of the county population may adopt uniform resolutions approving the local option tax, establishing the duration of the levy and the rate authorized in (1)(a), and setting the date for a countywide referendum on whether to impose the tax. A referendum shall be held in accordance with the provisions of said resolution and applicable state law, provided that the county shall bear the costs thereof. The tax shall be imposed and collected countywide on September 1 following thirty days after voter approval.

(4) If the tax is imposed under the circumstances of paragraphs (3)(a)2. or (3)(b), proceeds of the tax shall be distributed among the county government and eligible municipalities based on the transportation expenditures of each for the 5 fiscal years preceding the year in which the tax is authorized, as a proportion of the total of such expenditures for the county and all municipalities 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 shall be held in escrow by the clerk of the circuit court of the county until final disposition.

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

(7) For the purposes of this section, "transportation expenditures" means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, 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) Debt service and current expenditures for transportation capital projects in the above program areas, including construction or reconstruction of roads.

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.

Section 57. Paragraph (a) of subsection (2), paragraph (b) of subsection (3) and paragraph (a) of subsection (4) of section 341.051, Florida Statutes, are amended to read:

341.051 Administration and financing of public transit programs and projects.—

(2) PUBLIC TRANSIT CONSTRUCTION AND IMPLEMENTATION PLAN.—

(a) The department shall prepare a 5-year public transit construction and implementation plan which shall be included in the department's 5-year construction plan prepared pursuant to s. 334.21(5). Provisions of s. 334.21 shall apply to public transit construction and implementation projects in the same manner that they apply to road construction projects, except that s. 334.21(5)(b) shall not apply to public transit projects. *Planned department participation may be up to 50 percent of the nonfederal share of the costs of any eligible public transit capital project that is local in scope. Planned department participation shall not exceed 10 percent of the total project costs of federally assisted projects approved for federal funding prior to January 6, 1983, and 12.5 percent of the total project costs of such projects approved for federal funding after January 6, 1983, except that department participation in federally assisted ride-sharing programs may be up to 15 percent of the total project costs.*

(3) APPROPRIATION REQUESTS.—

~~(b) Unless otherwise authorized by the Legislature, the department is prohibited from entering into any agreement or contract for any public transit project which would result in the ultimate expenditure or commitment of state funds in excess of $5 million. Any funds in excess of $5 million shall be appropriated from a revenue source other than the State Transportation Trust Fund, unless otherwise authorized by the Legislature.~~

(4) PROJECT ELIGIBILITY.—Any project necessary to carry out those duties and responsibilities enumerated in s. 341.041 is eligible for expenditure of state funds in accordance with fund participation rates established herein, subject to the following conditions:

~~(a) Unless otherwise authorized by the Legislature, the department is prohibited from entering into any agreement or contract for any public transit project which would result in the ultimate expenditure or commitment of state funds in excess of $5 million. Any funds in excess of $5 million shall be appropriated from a revenue source other than the State Transportation Trust Fund, unless otherwise authorized by the Legislature.~~

Section 58. Transition taxes.—

(1) There is hereby levied a tax at the rate of 1.7 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 5.7 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.

(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) Moneys collected pursuant to this section shall be distributed to the General Revenue Fund.

Section 59. 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 60. Except to the extent that the Secretary of the Department of Transportation determines otherwise, not less than 10 percent of the amounts expended from the State Transportation Trust Fund 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. Subsection (9) of section 220.02, Florida Statutes, 1982 Supplement, is amended to read:

220.02 Legislative intent.—

(9) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 220.68, those enumerated in s. 631.719(1), those enumerated in s. 220.18, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, *those enumerated in s. 220.189,* and those enumerated in s. 221.02.

Section 62. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, 1982 Supplement, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) "Adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.—There shall be added to such taxable income:

1. The amount of income tax paid or accrued as a liability to this state under this code which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the computation of taxable income under s. 265(2) of the Internal Revenue Code or any other law.

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. The provisions of this subparagraph shall expire and be void on June 30, 1986.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. The provisions of this subparagraph shall expire and be void on December 31, 1986.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. That portion of the taxes paid under part II of chapter 212 which is equal to the amount of the credit allowable for the taxable year under s. 220.189.

Section 63. Section 220.189, Florida Statutes, is created to read:

220.189 Airline corporate tax credit.—

(1) There shall be allowed as a credit against the tax imposed by this part for the taxable year an amount which shall not exceed whichever of the following is the lesser:

(a) One-half of the tax imposed upon, and paid by, any qualified airline carrier pursuant to part II of chapter 212;

(b) Five million dollars.

(2) The credit granted in this section shall be allowed only to an air common carrier licensed as a common carrier by the Civil Aeronautics Board to transport persons or property in interstate or foreign commerce which maintains or establishes its corporate or business home office in this state and which maintains a work force within this state of more than 1,200 employees.

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

(4) If the credit granted pursuant to this section is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(9).

Section 64. Paragraphs (c) and (d) of subsection (1) of section 212.92, Florida Statutes, as created by this act, and section 206.625, Florida Statutes, as amended by this act, are hereby repealed effective October 1, 1983.

Section 65. (1) This section, sections 1 through 6, and sections 54, 55, 58, and 64 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 for the 14-month period April 1, 1983, through May 31, 1984.

(c) Notwithstanding the provisions of s. 212.95, Florida Statutes, as created by this act, 49.4 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.

(d) The Department of Revenue is authorized to make expenditures necessary for the implementation of this act beginning March 7, 1983, and in making such expenditures the department shall be exempt from the requirements of part II of chapter 23, chapter 283, and part I of chapter 287, Florida Statutes, for a period of 120 days from said date.

(2) Sections 7 through 52, 56, and 61 through 63 of this act shall take effect April 1, 1983, provided that this act shall not affect moneys due prior to April 1, 1983, pursuant to the first gas tax imposed by chapter 206, Florida Statutes.

(3) Sections 53, 57, and 60 of this act shall take effect July 1, 1983.

(4) Section 64 of this act shall take effect October 1, 1983.

(5) Section 59 shall take effect upon becoming a law.

Conference Committee Amendment 2—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; providing that 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 do not apply to aircraft; 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, county, or school district 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, Florida Statutes; 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 motor 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; providing for return of the county gas tax paid by a county or school district on motor fuel used in vehicles operated by it and providing for uses of the revenue; 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 accounts 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(2), (3)(d), (4), (5), (6), and (8), Florida Statutes, 1982 Supplement; increasing the license taxes on certain automobiles, trucks, truck-tractors, semitrailers, 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 requirements and time limitations; authorizing the county and municipalities 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; adding subsection (6) to s. 320.03, Florida Statutes, 1982 Supplement; providing an additional fee for license registrations for deposit in the Air Pollution Control Trust Fund; 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; providing an appropriation; providing that, unless determined otherwise, 10 percent of the amounts expended from the State Transportation Trust Fund shall be expended with small businesses owned by socially and economically disadvantaged individuals; amending ss. 220.02(9) and 220.13(1)(a), Florida Statutes, 1982 Supplement, and creating s. 220.189, Florida Statutes; providing a credit against the corporate income tax in an amount of one-half the tax paid under part II of chapter 212 or $5 million, whichever is less, for certain airline carriers; repealing ss. 212.92(1)(c) and (d) and 206.625, Florida Statutes, relating to return of certain portions of taxes on motor fuel to counties, municipalities, and school districts, effective October 1, 1983; providing effective dates.

Point of Order

Senator Langley raised a point of order that the conference committee report encompassed a matter dealing with corporate income tax which was not contained in the House or the Senate bill and, therefore, violated Rules 2.19 and 13.6.

The President appointed Senators Barron, Langley, Johnston and Steve Kahn, Senate Counsel, to research the point and advise the Chair.

Senator Margolis moved that the Senate adjourn. The motion failed.

On motion by Senator Neal, the Senate stood in informal recess at 12:08 a.m.

The Senate was called to order by the President at 1:02 a.m. A quorum present.

Senator Barron reported the recommendations of the committee appointed to research the point of order raised by Senator Langley as follows:

Senator Barron: Mr. President, the committee has met to consider the point raised by Senator Langley.

Senator Johnston was on the committee. Senator Scott, vice-chairman of Rules, and the attorney for the Senate were there, as well as others who had views on the question.

The matter that bothered us most was that in a legislative body, in a free society, those people who are elected to speak for the public should debate matters in the House and the Senate so that the public has notice of what is being discussed. And we had no debate on the question of the corporate income tax.

It is significant that the Governor's call, giving the people of Florida notice of what we were going to discuss in this two-day session, made reference to Chapter 212, dealing with the sales tax; Chapter 320, dealing with motor vehicle licenses; and Chapter 336, dealing with road taxes. Chapter 220, dealing with the corporate income tax, was not included in the Governor's call.

We are not necessarily restricted so closely to the Governor's call, but we are totally restricted to the bills that were before the Senate and the House of Representatives. We have reviewed those bills, and nowhere in either of the bills was there any mention of the corporate income tax. Therefore, when the legislature handed over its obligation—120 in the House and 40 here—to the conference committee, the conference was bound by the rules of the Senate to consider only those matters that were contained within those bills and the subject matter therein.

Therefore, when the conference committee took up and addressed and changed the corporate income tax by giving exemptions to certain segments of the business world against a gas tax, they stepped beyond the purview of matters that could be considered in the conference committee and put into the conference committee report.

Specifically, Senator Langley's point is that neither the House nor the Senate bill contained reference to the corporate income tax in Chapter 220. Rule 13.6 requires "that no substance foreign to the bills before the conferees shall be included in the report, or considered by the Senate."

In 1972 a point was raised on the appropriations bill, that the executive branch salaries were not mentioned in either bill, yet were raised in the conference committee report. President Jerry Thomas ruled that the point was well taken, and that is the only precedent we have found.

Certainly, that ruling was far more narrow than the ruling we have here before us, because the appropriations bill at that time, discussed the salaries of thousands and thousands of employees in the State of Florida, but made no reference to the employees in the executive branch of government

The purpose of this rule, 13.6, is basically notice. Members of the public and members of the Legislature must be informed of the substance of the legislation being considered for passage

Conference committees are given great power, and in fact take on many of the powers of the entire Legislature. This power would be unlimited if a conference committee were to be allowed to consider and include in their report, substance foreign to the bills before the conferees. Therefore, Mr. President, the committee that considered the point would recommend to the Chair that the Chair rule the point well taken.

I would like to say for the record, if you would permit it to be put into the record, that of the members of the Senate who looked at this question, some favor the bill and some others don't. This decision was made purely as a judicial interpretation of the rules, and we were compelled under the precedents that we had and the language of the rules to make this recommendation to the President.

Ruling on the Point of Order

The President ruled the point of order well taken and in accordance with the recommendations of the committee the Senate could not vote on the conference committee report.

By direction of the President, the report of the committee in its entirety was printed in the Journal.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 1 was corrected and approved.

Senator Langley moved that the Senate do now adjourn until 6:01 p.m., March 3.

On substitute motion by Senator Barron, the Senate adjourned at 1:15 a.m. to reconvene at 9:30 a.m., March 3.