



# Journal of the Senate

Number 6

Thursday, April 23, 1987

## CALL TO ORDER

The Senate was called to order by the President at 4:00 p.m. A quorum present—39:

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Excused: Senator Dudley

## PRAYER

The following prayer was offered by Senator Peterson:

Senators, can we bow in prayer for a few verses from the Psalms.

Blessed is he that considereth the poor: the Lord will deliver him in time of trouble. The Lord will preserve him, and keep him alive; and he shall be blessed upon the earth: and thou wilt not deliver him unto the will of his enemies.

God is our refuge and strength, a very present help in trouble. Therefore, will not we fear, though the earth be removed, and though the mountains be carried into the midst of the sea. Amen.

## REPORTS OF COMMITTEES

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 745

The Committee on Education recommends the following pass: SB 87, SB 382 with 1 amendment, SB 452, SB 507, SB 535, SB 653

The Committee on Health and Rehabilitative Services recommends the following pass: SB 538 with 1 amendment

The Committee on Judiciary-Criminal recommends the following pass: SB 274, SB 594, SB 612

The Committee on Natural Resources and Conservation recommends the following pass: SB 680 with 1 amendment

The Committee on Personnel, Retirement and Collective Bargaining recommends the following pass: SB 375, SB 440

The Committee on Transportation recommends the following pass: SB 426 with 3 amendments, SB 525 with 4 amendments, SB 544 with 1 amendment

**The bills contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.**

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 469 with 2 amendments

The Committee on Judiciary-Civil recommends the following pass: SB 360, SB 407 with 1 amendment

**The bills contained in the foregoing reports were referred to the Committee on Commerce under the original reference.**

The Committee on Commerce recommends the following pass: SB 441 with 2 amendments, SB 658, SB 661

The Committee on Governmental Operations recommends the following pass: SB 593 with 2 amendments

**The bills contained in the foregoing reports were referred to the Committee on Economic, Community and Consumer Affairs under the original reference.**

The Committee on Commerce recommends the following pass: SB 588

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 398, SB 598 with 3 amendments, SB 599

The Committee on Governmental Operations recommends the following pass: SB 749

The Committee on Health and Rehabilitative Services recommends the following pass: SB 354

**The bills contained in the foregoing reports were referred to the Committee on Finance, Taxation and Claims under the original reference.**

The Committee on Agriculture recommends the following pass: SB 666, SB 696

The Committee on Health and Rehabilitative Services recommends the following pass: SB 380

The Committee on Judiciary-Criminal recommends the following pass: SB 457 with 4 amendments

The Committee on Personnel, Retirement and Collective Bargaining recommends the following pass: SB 181

**The bills contained in the foregoing reports were referred to the Committee on Governmental Operations under the original reference.**

The Committee on Agriculture recommends the following pass: SB 710 with 1 amendment

The Committee on Commerce recommends the following pass: SB 557, SB 587

The Committee on Executive Business recommends the following pass: SJR 431

The Committee on Governmental Operations recommends the following pass: SB 321 with 2 amendments

The Committee on Transportation recommends the following pass: SB 273

**The bills contained in the foregoing reports were referred to the Committee on Judiciary-Civil under the original reference.**

The Committee on Commerce recommends the following pass: SB 428 with 2 amendments

The Committee on Transportation recommends the following pass: SB 449 with 1 amendment, SB 462

**The bills contained in the foregoing reports were referred to the Committee on Judiciary-Criminal under the original reference.**

The Committee on Education recommends the following pass: SB 603

**The bill was referred to the Committee on Personnel, Retirement and Collective Bargaining under the original reference.**

The Committee on Economic, Community and Consumer Affairs recommends the following pass: SB 176

The Committee on Judiciary-Criminal recommends the following pass: SB 630 with 2 amendments

**The bills contained in the foregoing reports were referred to the Committee on Transportation under the original reference.**

The Committee on Agriculture recommends the following pass: SB 667, SB 704

The Committee on Commerce recommends the following pass: SB 151, SB 166, SB 503, SB 509, SB 625, SB 927

The Committee on Economic, Community and Consumer Affairs recommends the following pass: CS for SB 165 with 1 amendment, SB 502 with 1 amendment, SB 792

The Committee on Education recommends the following pass: SB 719

The Committee on Governmental Operations recommends the following pass: SB 361 with 1 amendment

The Committee on Judiciary-Civil recommends the following pass: SB 26, SB 153, SB 163, SB 180, SB 541

The Committee on Judiciary-Criminal recommends the following pass: SB 434, SB 570 with 2 amendments

The Committee on Natural Resources and Conservation recommends the following pass: SB 52 with 3 amendments, SB 779

The Committee on Personnel, Retirement and Collective Bargaining recommends the following pass: SB 585, SB 678

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

The Committee on Governmental Operations recommends the following not pass: SB 326

**The bill was laid on the table.**

The Committee on Economic, Community and Consumer Affairs recommends committee substitutes for the following: SB 605, SB 743, SB 744, SB 752

The Committee on Education recommends a committee substitute for the following: SB 510

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: CS for SB 86

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 746

The Committee on Personnel, Retirement and Collective Bargaining recommends a committee substitute for the following: SB 399

**The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.**

The Committee on Commerce recommends a committee substitute for the following: SB 589

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 221

**The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Economic, Community and Consumer Affairs under the original reference.**

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 80

**The bill with committee substitute attached was referred to the Committee on Education under the original reference.**

The Committee on Economic, Community and Consumer Affairs recommends a committee substitute for the following: SB 574

**The bill with committee substitute attached was referred to the Committee on Finance, Taxation and Claims under the original reference.**

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 737

**The bill with committee substitute attached was referred to the Committee on Judiciary-Civil under the original reference.**

The Committee on Commerce recommends a committee substitute for the following: SB 413

**The bill with committee substitute attached was referred to the Committee on Judiciary-Criminal under the original reference.**

The Committee on Education recommends a committee substitute for the following: SB 265

**The bill with committee substitute attached was referred to the Committee on Rules and Calendar under the original reference.**

The Committee on Commerce recommends a committee substitute for the following: SB 676

The Committee on Economic, Community and Consumer Affairs recommends committee substitutes for the following: SB 673, SB 731, SB 750

The Committee on Education recommends committee substitutes for the following: SB 223, SB 496

The Committee on Health and Rehabilitative Services recommends a committee substitute for the following: SB 323

**The bills with committee substitutes attached contained in the foregoing reports were placed on the calendar.**

**REQUESTS FOR EXTENSION OF TIME**

April 22, 1987

The Committee on Judiciary-Civil requests an extension of 15 days for consideration of the following: Senate Bills 4, 5, 9, 41, 68, 69, 75, 97, 109, 159, 192, 222, 242, 255, 267, 278, 279, 287, 309, 329, 339, 369, 381, 402, 417, 419, 424, 431, 446, 460, 471, 485, 499, 528, 537, 540, 553, 554, 559, 567, 590, 613, 618, 631, 633, 647, 655, 656, 671, 701, 721, 725, 726, 753, 762, 781, 809, 813, 815

**INTRODUCTION AND REFERENCE OF BILLS**

**First Reading**

By Senator Jennings—

**SB 852**—A bill to be entitled An act relating to transportation finance and planning; amending s. 339.125, F.S., relating to the reimbursement of operations and maintenance costs; assigning responsibility for operations and maintenance costs for revenue producing facilities to the Department of Transportation; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senator Kirkpatrick—

**SB 853**—A bill to be entitled An act relating to substate districting; providing legislative intent; creating s. 20.045, F.S., delineating districting systems to be used by state and regional agencies; amending s. 373.069, F.S., altering the boundaries of water management districts; amending ss. 20.19, 20.315, and 403.809, F.S., to conform; providing an effective date.

—was referred to the Committees on Governmental Operations and Appropriations.

By Senator Jennings—

**SB 854**—A bill to be entitled An act relating to motor vehicle manufacturers; amending s. 320.61, F.S., providing jurisdiction with respect to certain manufacturers not licensed; amending s. 320.63, F.S., providing for a required clause in franchise agreements; amending s. 320.64, F.S., providing certain additional grounds for the denial, suspension, or revocation of a manufacturer's license; amending s. 320.6405, F.S., revising language with respect to franchise agreements; amending s. 320.641, F.S., providing criteria for determination of the discontinuation, cancellation, or nonrenewal of a franchise agreement which is unfair; providing procedures where a motor vehicle dealer abandons his franchise; amending s. 320.642, F.S., providing procedures with respect to dealers licensed in certain areas previously served; amending s. 320.643, F.S., providing criteria for determination of the reasonableness of a transfer or sale of a franchise; amending s. 320.644, F.S., providing for transfer of equity interest; revising language with respect to the change of executive management control and the procedure for objection by a licensee; amending s. 320.645, F.S., revising language with respect to restrictions upon ownership of a dealership by a licensee; amending s. 320.696, F.S., relating to warranty responsibility; providing for compensation; creating s. 320.699, F.S., providing a procedure for hearings and adjudications; providing for review and repeal; providing an effective date.

—was referred to the Committees on Transportation, Commerce and Appropriations.

By Senator Grant—

**SB 855**—A bill to be entitled An act relating to health maintenance organizations; creating s. 641.306, F.S., providing that a plan sponsored by a health maintenance organization that provides coverage of pharmaceutical services when performed by certain pharmacists shall provide an annual period during which any qualified pharmacist may elect to participate in the plan; providing for the application of the act; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Commerce.

By Senator Jennings—

**SB 856**—A bill to be entitled An act relating to transportation; amending s. 20.23, F.S.; authorizing contracts with local governments and the private sector when they can perform the department's transportation responsibilities more expeditiously; amending ss. 206.43, 206.625, and 206.64, F.S.; providing for the collection and refund of an additional state tax on motor fuel; creating s. 206.595, F.S.; imposing an additional state tax on motor fuel; providing for distribution of the tax; creating the Local Transportation Tax Collection Trust Fund; creating s. 206.873, F.S.; providing for an additional state tax on special fuels; providing for collection and distribution; amending s. 320.08, F.S.; increasing license taxes; amending s. 320.20, F.S.; providing for distribution; amending s. 322.21, F.S.; increasing driver's license fees; providing for distribution; creating s. 336.0220, F.S.; providing legislative intent; creating s. 336.0221, F.S.; providing for the establishment of a Local Transportation Tax Trust Fund in each county; providing for the use of funds; providing limitations on the use; establishing a motor vehicle rental surcharge; providing penalties and interest for noncompliance; providing for the distribution of the funds; amending s. 215.22, F.S.; authorizing the deduction of service charges from the Local Transportation Tax Collection Trust Fund; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senator Plummer—

**SB 857**—A bill to be entitled An act relating to the Florida Coral Reefs Restoration Trust Fund Act; amending s. 370.116, F.S.; defining the term "other rare natural resources"; including other rare natural resources within the act; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.

By Senator Peterson—

**SB 858**—A bill to be entitled An act relating to local option tourist development tax revenues; amending s. 125.0104, F.S.; authorizing the use of local option tourist development tax revenues to fund certain

emergency services in areas frequently visited by tourists; providing for use of revenues collected within a designated zone to be used for emergency services solely within that zone; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Hill—

**SB 859**—A bill to be entitled An act relating to the acquisition of correctional facilities; amending s. 944.10, F.S.; defining, for purposes of acquiring correctional facilities to house state inmates, the term "lease-purchase agreement"; requiring the approval of the Division of Bond Finance of the Department of General Services before such agreements may be entered into by the Division of Facilities Management; providing that such agreements may be made automatically renewable for a limited period subject to certain restrictions; prescribing terms and conditions of such agreements; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; Governmental Operations; and Appropriations.

By Senator Plummer—

**SB 860**—A bill to be entitled An act relating to casino gambling operations conducted on vessels while cruising between points in this state or to and from a single point in this state; imposing a tax on the gross receipts from the conduct of such casino gambling if the vessel does not dock at any point outside the state during the cruise; providing for reporting of gross receipts derived from such gambling and remitting the taxes due; providing for disposition of the tax revenues; providing for collection and enforcement of the tax, including the imposition of penalties and interest on delinquent taxes; providing for settlement or compromise of penalties or interest by the Department of Revenue; prescribing criminal penalties; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By Senator Hair—

**SB 861**—A bill to be entitled An act relating to financial matters; amending s. 18.10, F.S.; revising provisions which specify those state moneys which may be invested in short-term investments; providing additional eligible investments; renumbering and amending s. 215.535, F.S., relating to the Treasurer's investment powers and duties; authorizing the maintenance of certain demand and safekeeping accounts; authorizing the loan of securities or investments to banks; creating a Treasurer's Administrative and Investment Trust Fund; revising an annual assessment against moneys made available by state agencies for investment and providing for deposit in the trust fund; providing uses of the trust fund; creating s. 18.24, F.S.; specifying securities which may be held in book-entry form or on deposit in a depository trust clearing system; amending s. 213.053, F.S.; directing the Department of Revenue to make certain information available to the Treasurer or his authorized agent; amending s. 215.34, F.S.; revising procedures relating to noncollectible checks, drafts, or other orders for payment to state officers or agencies; amending s. 625.52, F.S.; revising the types of securities eligible for required deposits by insurers and requirements with respect thereto; requiring replacement of ineligible securities; amending ss. 211.31, 215.32, 228.0855, 231.532, 231.5335, 232.257, 240.257, 240.278, 240.36, 240.412, 280.09, 290.034, 402.3195, 409.504, and 601.10, F.S.; correcting references; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By Senator Grizzle—

**SB 862**—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.1975, F.S., relating to exemptions for homes for the aged; modifying criteria for such exemption; revising provisions relating to use for charitable purpose; deleting a requirement that an applicant corporation be a Florida corporation; revising provisions relating to certain nonprofit housing projects; revising provisions relating to implementation of constitutional provisions; specifying that the \$25,000 per unit exemption applies to homes leased from a health facilities authority or industrial development authority; amending s. 196.1976, F.S.; removing s. 196.1975, F.S., from severability provisions and providing for nonseverability; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By Senators Frank, Girardeau, Stuart, Jenne, Langley and Weinstein—

**SB 863**—A bill to be entitled An act relating to sales tax; amending ss. 212.02(4), (6)(g), (h), (16), 212.031(1)(a), 212.05(1)(a), (c), 212.06(1)(b), (5)(a), 212.08(1), (2)(a), (6), (13), and 288.385(13), F.S.; reenacting ss. 212.031(5), (6), (7), (8), 212.04(2)(a), 212.08(5)(g), (h), (7)(d)-(f), (m)-(q), (10), (11), (15), and 212.096, F.S.; and repealing s. 212.05(1)(j), F.S., and s. 8, ch. 86-166, Laws of Florida, to continue the sales tax exemptions that are repealed by chapter 86-166, Laws of Florida, effective July 1, 1987; amending ss. 212.03, 212.031, 212.04, 212.05, 212.06, 212.08, and 212.12, F.S., to increase the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; amending s. 212.05, F.S., to authorize a local option 1-cent sales surtax, subject to referendum, for financing capital outlay projects, or capital outlay projects and indigent health care projects; authorizing counties levying this surtax to enter interlocal agreements to finance construction of such projects; amending s. 212.08, F.S., to exempt clothing from the sales tax; amending s. 212.20, F.S., to provide for deposit of a portion of the tax proceeds collected under part I of chapter 212, F.S., in the State Infrastructure Trust Fund; establishing that trust fund in the State Treasury; providing for use of the moneys in that fund for constructing or renovating fixed or operating capital outlay projects or paying the principal and interest on bonds issued therefor or for mass transit projects; providing effective dates; providing for retroactive application of part of the act.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By Senator Kiser—

**SB 864**—A bill to be entitled An act relating to the State Board of Administration; amending s. 215.515, F.S.; providing for a review of certain investment account service charges by the Executive Office of the Governor; requiring the State Board of Administration to consider such review; providing an effective date.

—was referred to the Committee on Governmental Operations.

By Senator Dudley—

**SB 865**—A bill to be entitled An act relating to community association managers; providing definitions; providing for certification of community association managers; providing that the Department of Business Regulation shall administer the act; providing qualifications and for examination of applicants to be community association managers; establishing the Board of Community Association Managers and providing for its membership; providing fees; establishing the Community Association Management Trust Fund; providing for suspension or revocation of certification; providing penalties; providing for review and repeal; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Senator Dudley—

**SB 866**—A bill to be entitled An act relating to civil procedure; creating s. 45.061, F.S., providing for offers of settlement in civil cases; providing for sanctions in the case of offers which are unreasonably rejected; providing for set off; providing exceptions; providing exclusive remedy; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Kiser—

**SB 867**—A bill to be entitled An act relating to property taxes; amending ss. 194.034, 194.171, F.S.; providing for a legal presumption, in an administrative or court proceeding, that a property appraiser's assessment or determination is correct; requiring a taxpayer to overcome such presumption by a preponderance of the evidence; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Senator Myers—

**SB 868**—A bill to be entitled An act relating to the Hospital Cost Containment Board; amending s. 395.503, F.S.; increasing the size of the board and specifying certain membership; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Commerce.

By Senator Dudley—

**SB 869**—A bill to be entitled An act relating to financial responsibility; amending s. 324.072, providing increased financial responsibility requirements for persons convicted of violations relating to driving under the influence; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Hair—

**SB 870**—A bill to be entitled An act relating to thoroughbred horse racing permitholders; creating s. 550.105, F.S.; providing for workers' compensation coverage for certain persons operating in furtherance of the business of a thoroughbred horse racing permitholder; providing for payment of workers' compensation irrespective of fault; providing for limits of liability; providing for an additional assessment against permitholders; creating a Pari-mutuel Workers' Compensation Board; authorizing the board to create a workers' compensation fund; providing for the purposes of the fund; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Senator Hair—

**SB 871**—A bill to be entitled An act relating to weapons and firearms; creating s. 790.165, F.S.; prohibiting the manufacture, possession, sale, or delivery of a hoax bomb; prohibiting the use of a hoax bomb during the commission of a felony; providing penalties; providing exceptions to the act; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Senator Hair—

**SB 872**—A bill to be entitled An act relating to juvenile offenders; amending s. 39.01, F.S.; defining "serious habitual offender"; creating s. 39.115, F.S.; providing a pilot program to rehabilitate serious habitual offenders; authorizing the Department of Health and Rehabilitative Services to conduct such program and to commit serious habitual offenders to the program; providing an appropriation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By Senator Kirkpatrick—

**SB 873**—A bill to be entitled An act relating to chiropractic; amending s. 460.4104, F.S.; increasing the fee for peer review; requiring the peer review committee to file a complaint with the Department of Professional Regulation under certain circumstances; providing for the use of certain patient records for certain purposes; exempting certain patient records from the public inspection requirements; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Kirkpatrick—

**SB 874**—A bill to be entitled An act relating to the practice of nursing; amending s. 464.009, F.S.; changing eligibility requirements respecting licensing of nurses by endorsement; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Kirkpatrick—

**SB 875**—A bill to be entitled An act relating to public health; amending s. 381.503, F.S., revising The Community Hospital Education Act; providing for administration of the program for community hospital education under the Board of Regents; modifying program contents and requirements; modifying qualifications and providing terms for members of the Community Hospital Education Council; deleting obsolete language; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Education; and Appropriations.

By Senator Crenshaw—

**SB 876**—A bill to be entitled An act relating to postsecondary education; creating s. 240.214, F.S., authorizing the Board of Regents to pro-

vide comprehensive general liability insurance to University Hospital of Jacksonville; providing an effective date.

—was referred to the Committees on Education, Commerce and Appropriations.

By Senator Weinstein—

**SB 877**—A bill to be entitled An act relating to the leasing of educational plants; amending s. 235.056, F.S.; authorizing the leasing of educational plants to certain nonprofit entities; providing an effective date.

—was referred to the Committees on Education, Governmental Operations and Appropriations.

By Senator Kirkpatrick—

**SB 878**—A bill to be entitled An act relating to veterinary medicine; amending s. 474.207, F.S.; revising certain standards for licensure for examination; amending s. 474.214, F.S.; authorizing enforcement of an order requiring a licensee to submit to a mental or physical examination; amending s. 474.217, F.S.; revising certain standards for licensure by endorsement; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Meek—

**SB 879**—A bill to be entitled An act relating to tax exemption; amending s. 196.012, F.S.; expanding the definition of the term “new business” to include certain multifamily residential rental facilities for purposes of the economic development ad valorem tax exemption, expanding the definition of the term “expansion of an existing business” to include certain expansions of multifamily residential rental facilities for such purposes; providing a definition of the term “qualified multifamily residential rental facility” for such purposes; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Dudley—

**SJR 880**—A joint resolution proposing an amendment to Section 4, Article X of the State Constitution, relating to homestead exemptions, to remove the restriction on devising a homestead when the owner is survived by a spouse or minor child.

—was referred to the Committees on Judiciary-Civil; and Rules and Calendar.

By Senator Dudley—

**SB 881**—A bill to be entitled An act relating to the devise of real property; amending s. 732.401, F.S.; removing certain restrictions on the devise of homestead property; repealing s. 732.4015, F.S., relating to the devise of homestead property; providing an effective date and that effectiveness is contingent upon ratification of a constitutional amendment to remove limitations on the devise of homestead property.

—was referred to the Committees on Judiciary-Civil; and Rules and Calendar.

By Senator Johnson—

**SB 882**—A bill to be entitled An act relating to the transportation of school children; amending s. 234.02, F.S.; providing for the inspection of school buses; authorizing fees; providing for certificates of inspection; providing for rules; repealing s. 316.615, F.S., relating to the requirement that the Department of Highway Safety and Motor Vehicles inspect school buses; amending ss. 316.515, 316.70, and 627.742, F.S., conforming cross references; providing an effective date.

—was referred to the Committees on Education, Transportation and Appropriations.

By Senator Kiser—

**SB 883**—A bill to be entitled An act relating to career service; amending s. 110.205, F.S., exempting the employees of the Commission on Ethics from the Career Service System; amending s. 110.402, F.S.; providing that the Executive Director and Deputy Executive Director of the

Commission on Ethics shall not receive Senior Management Service benefits; providing an effective date.

—was referred to the Committees on Governmental Operations; and Rules and Calendar.

By Senator Dudley—

**SB 884**—A bill to be entitled An act relating to educational finance; creating s. 236.1229, F.S.; establishing legislative intent to subsidize district school boards for specified purposes relating to district teacher degree levels; establishing district eligibility to receive an advanced degree allocation; providing a method for computation of the allocation; providing that the total appropriation for the allocation may be set in the annual appropriations act; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senators Dudley and Woodson—

**SB 885**—A bill to be entitled An act relating to Lehigh Acres Fire Control and Rescue District, Lee County; amending section 6 of chapter 63-1546, Laws of Florida, as amended; increasing the maximum millage that may be levied by the Lehigh Acres Fire Control and Rescue District; providing for a referendum; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Hill—

**SB 886**—A bill to be entitled An act relating to Dade County; providing for the relief of Daisy Perez Vidal, as personal representative of the estate of Jorge Henry Vidal, deceased, and Daisy Perez Vidal, individually; requiring the county to appropriate compensation to the survivors of Jorge Henry Vidal for his death and to Daisy Perez Vidal for her personal injuries, both arising out of an automobile accident on January 1, 1983, at the entrance to the Key Biscayne Golf Course and Roger's on the Green restaurant in Dade County, Florida; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master and the Committee on Finance, Taxation and Claims.

By Senator Hair—

**SB 887**—A bill to be entitled An act to abolish the Crystal Water Management District created by judicial decision of the Circuit Court in and for St. Johns County; providing for the abolishment of the district and for the assumption of its assets and liabilities by St. Johns County; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Deratany—

**SB 888**—A bill to be entitled An act relating to Brevard County; authorizing the City of Indian Harbour Beach to levy and collect special assessments upon real property for special benefits conferred upon such property by any bridge over navigable water; providing for the payment of all or any part of the cost of maintenance, operation, and replacement of such bridge out of the proceeds of such special assessments; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senators Vogt and Deratany—

**SB 889**—A bill to be entitled An act relating to the North Brevard County Hospital District; adding section 17 to chapter 28924, Laws of Florida, 1953, as amended, to provide for the leasing of the property and facilities owned by the North Brevard County Hospital District to third parties in furtherance of the district's purposes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Peterson—

**SB 890**—A bill to be entitled An act relating to district school tax revenues; amending s. 236.25, F.S.; authorizing a district school board to fund certain purchases and loan repayments from revenues raised from millage levied for capital outlay purposes; deleting obsolete provisions; providing an effective date.

—was referred to the Committees on Education; Finance, Taxation and Claims; and Appropriations.

By Senator Johnson—

**SB 891**—A bill to be entitled An act relating to environmental protection; amending ss. 376.16, 376.205, 376.311, 376.313, 403.727, F.S.; providing that the imposition of a penalty, cost recovery, or the award of damages for a violation relating to oil spills, petroleum discharges, or release of hazardous wastes creates a lien on the real and personal property of the violator; providing for enforcement; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Judiciary-Civil; and Appropriations.

By Senator Hollingsworth—

**SB 892**—A bill to be entitled An act relating to veterans; directing the Secretary of Administration to apply to the Veterans' Administration for federal funds for state veterans' homes; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Appropriations.

By Senator Peterson—

**SB 893**—A bill to be entitled An act relating to postsecondary education; creating s. 240.499, F.S.; creating the Good-Gulfstream Endowment Fund for Higher Education; providing for scholarships; providing for agreement to determine university and college beneficiaries; establishing a trust fund; authorizing the transfer of funds from the General Revenue Fund; providing for the allocation of funds; providing an effective date.

—was referred to the Committees on Education; Finance, Taxation and Claims; and Appropriations.

By Senator Weinstein—

**SB 894**—A bill to be entitled An act relating to sentencing; providing for legislative adoption and implementation of revisions to sentencing guidelines promulgated by the Florida Supreme Court in accordance with s. 921.001, F.S.; providing an effective date.

—was introduced and referred to the Committee on Judiciary-Criminal on April 21, and was also referred to the Committee on Appropriations on April 23.

By Senator Hollingsworth—

**SB 895**—A bill to be entitled An act relating to district school expenditures; amending s. 236.25, F.S.; authorizing school bus purchases to be funded from capital outlay millage; deleting obsolete provisions; providing an effective date.

—was referred to the Committees on Education; Finance, Taxation and Claims; and Appropriations.

By Senator Malchon—

**SB 896**—A bill to be entitled An act relating to state universities; amending s. 240.527, F.S.; authorizing the City of St. Petersburg to acquire lands, buildings, and equipment for the St. Petersburg branch of the University of South Florida through the exercise of eminent domain; authorizing such acquisitions located in a community redevelopment area; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senator Plummer—

**SB 897**—A bill to be entitled An act relating to cruelty to animals; creating s. 828.065, F.S.; restricting the disposition of domestic animals by animal control agencies, shelters, and pounds; prohibiting the transfer of such animals to persons for live animal experimentation, research, or testing; prohibiting the use of any domestic animal not purposely bred for research; providing penalties; providing an effective date.

—was referred to the Committee on Agriculture.

By Senator Gordon—

**SB 898**—A bill to be entitled An act relating to the Life-Prolonging Procedure Act of Florida; amending s. 765.03, F.S.; redefining "life-prolonging procedure"; creating s. 765.075, F.S.; allowing for the withholding or withdrawing of sustenance in certain circumstances; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator McPherson—

**SB 899**—A bill to be entitled An act relating to protection of endangered and threatened wildlife; amending s. 327.72, F.S.; providing for additional costs to be imposed for certain violations; amending s. 370.021, F.S.; providing for the proceeds from penalties; amending s. 370.12, F.S.; establishing a special account within the Motorboat Revolving Trust Fund for use in programs for endangered and threatened marine species; amending s. 372.073, F.S.; providing for the Endangered and Threatened Species Trust Fund and its purposes; amending s. 372.71, F.S.; providing additional fees for certain violations; amending s. 372.72, F.S.; providing for disposition of the surcharge; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.

By Senator Kirkpatrick—

**SB 900**—A bill to be entitled An act relating to state government; creating a Department of Elderly Affairs; providing for appointment of a Secretary of Elderly Affairs; providing powers and duties of department; repealing s. 20.19(4)(a)2.d., F.S., abolishing the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services; amending ss. 410.30 and 415.106, F.S., to conform; transferring powers, duties, and appropriations of the Aging and Adult Services Program Office to the Department of Elderly Affairs; providing an appropriation to the department; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Governmental Operations; and Appropriations.

By Senator Meek—

**SB 901**—A bill to be entitled An act relating to the Raymond B. Stewart Career Achievement Program for Teachers; amending s. 231.5335, F.S.; providing definitions; providing program requirements; revising certain prerequisites to qualifying as a Level II or a Level III teacher; deleting a provision allowing for costs of administration; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senator Meek—

**SB 902**—A bill to be entitled An act relating to the Legislature; amending s. 11.12, F.S.; providing for legislators to designate employees who are to attend sessions and receive subsistence and travel expenses in connection therewith; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Margolis—

**SB 903**—A bill to be entitled An act relating to insurance agent limited licenses; amending s. 626.321, F.S.; providing that certain employees of motor vehicle rental and leasing firms may also sell excess motor vehicle liability insurance; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Malchon—

**SB 904**—A bill to be entitled An act relating to toxic substances; amending ss. 442.102, 442.103, 442.109, 442.115, 442.118, F.S.; creating s. 442.130, F.S.; providing for regulation of toxic substances stored in a workplace by the Department of Labor and Employment Security; providing an additional source for the Florida Substance List; exempting sealed substances, consumer products, and stored substances from certain regulations; providing for information regarding the presence of toxic substances to be furnished to local emergency agencies; providing for enforcement of regulations of the department by counties and municipalities; providing for department rules; providing an effective date.

—was referred to the Committee on Commerce.

By Senators Hollingsworth, Beard, Brown, Woodson, W.D. Childers, Girardeau, Gordon, Grant, Grizzle, Hill, Jenne, Johnson, Langley, Kirkpatrick, Malchon, Margolis, McPherson, Meek, Myers, Plummer, Thomas, Thurman, Weinstein, Weinstock, Stuart, Crenshaw and Crawford—

**SB 905**—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.071, F.S.; increasing the rate of employer contributions with respect to members of the special risk class of the system; amending s. 121.091, F.S.; increasing the monthly retirement benefit with respect to special risk service; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By Senator Hair—

**SB 906**—A bill to be entitled An act relating to insurance; amending s. 631.011, F.S.; defining the term "affiliate"; amending s. 631.263, F.S.; providing conforming cross-reference; amending s. 631.361, F.S.; deleting a time limit on the duration of certain ex parte orders in delinquency proceedings against insurers; amending s. 631.57, F.S.; increasing assessments levied against any insurer; amending s. 631.713; providing when coverage will apply to certain insurance policies; amending s. 651.071, F.S.; conforming cross-reference; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Hair—

**SB 907**—A bill to be entitled An act relating to insurance; creating s. 627.941, F.S.; providing definitions; creating s. 627.942, F.S.; providing organizational and financial requirements for financial guaranty insurance corporations; creating s. 627.943, F.S.; providing limitations under which financial guaranty insurance corporations may operate; creating s. 627.944, F.S.; requiring the filing of certain policy forms with the Department of Insurance; prohibiting excessive rates by financial guaranty insurance corporations; providing criteria for determining the adequacy of such rates; providing that such filings shall be available for public inspection; creating s. 627.945, F.S.; providing that certain financial guaranty insurance corporations shall receive credit for certain reinsurance; creating s. 624.6081, F.S.; defining "residual value insurance"; amending s. 624.606, F.S.; redefining "surety insurance"; creating s. 624.6065, F.S.; defining "fidelity insurance"; amending s. 624.605, F.S.; limiting the definition of casualty insurance as it relates to certain credit insurance; amending s. 631.52, F.S.; providing part II of ch. 631, F.S., does not apply to residual value insurance and financial guaranty insurances; providing for legislative review and repeal; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Hair—

**SB 908**—A bill to be entitled An act relating to insurance; amending s. 626.989, F.S.; defining the term "fraudulent insurance act"; providing that persons who furnish certain information to the Division of Insurance Fraud are protected from civil liability; providing the Insurance Commissioner and employees of the Department of Insurance with protection from civil liability for certain official activities; requiring reports to the division of suspected fraudulent insurance acts; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Margolis—

**SB 909**—A bill to be entitled An act relating to medical practice; amending s. 458.311, F.S., relating to licensure by examination; amending s. 458.315, F.S.; prohibiting the Board of Medical Examiners from issuing a certificate to an applicant under investigation for certain offenses until such investigation is completed; amending s. 458.3165, F.S.; providing for biennial rather than annual renewal of public psychiatry certificates; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Hair—

**SB 910**—A bill to be entitled An act relating to trusts; amending s. 731.303, F.S.; providing that, in proceedings involving estates of decedents or trusts, certain orders that bind the holder of a general, specific,

or limited power of appointment are also binding upon a person who may take by virtue of the exercise or nonexercise of the power; providing that certain agreements, waivers, consents, approvals, accounts, or other statements, any of which binds the holder of a general, special, or limited power of appointment, are also binding upon a person who may take by the exercise or nonexercise of the power; amending s. 737.307, F.S.; specifying when a beneficiary is considered to have received a final, annual, or periodic account for the purpose of the statute of limitations on proceedings against trustees; amending s. 737.402, F.S.; revising the maximum value of a small trust which a trustee may terminate in specified circumstances; removing certain restrictions on types of trustees that have the power to terminate such trust; creating s. 737.106, F.S.; providing that a dissolution of marriage or a divorce renders void a revocable trust with respect to the settlor's divorced spouse; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Beard—

**SB 911**—A bill to be entitled An act relating to the Motor Vehicle License Plate Replacement Trust Fund; amending s. 320.06, F.S.; expanding the authority of the Department of Highway Safety and Motor Vehicles to utilize such trust funds for general expenditures; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By Senators Crawford and Woodson—

**SB 912**—A bill to be entitled An act relating to road designation; designating those portions of State Road 64, U.S. Highway 17, State Road 66, U.S. Highway 98, County Road 68, U.S. Highway 441, County Road 68, and State Road 68 from Bradenton to Fort Pierce as the "Florida Cracker Trail"; providing for the erection of appropriate markers by the Department of Transportation; providing for designation on the Official Florida Transportation Map; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By Senator Peterson—

**SB 913**—A bill to be entitled An act relating to education; amending s. 229.6053, F.S.; authorizing private donations to be deposited into the Latin American Caribbean Basin Scholarship Trust Fund; amending s. 240.1201, F.S.; repealing the provision for Latin American and Caribbean Basin Scholarship recipients to be classified as Florida residents for tuition purposes; amending s. 229.6055, F.S.; allowing the waiver of out-of-state tuition for students enrolled in postsecondary international linkage institutes; amending s. 240.414, F.S.; specifying that recipients of federal scholarships must meet certain criteria; establishing the Florida Inter-American Scholarship Foundation; specifying the duties of the foundation; repealing s. 240.126, F.S., relating to a consortium of institutions of higher education; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senator Peterson—

**SB 914**—A bill to be entitled An act relating to education; amending s. 230.2314, F.S.; revising the teachers as advisers program guidelines; deleting the statewide implementation requirement for the program; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senators Gordon and Malchon—

**SB 915**—A bill to be entitled An act relating to midwifery; amending s. 467.002, F.S.; providing legislative intent regarding the licensing of midwives; amending s. 467.003, F.S.; defining the term "licensed midwife"; amending s. 467.004, F.S.; renaming the Advisory Council of Lay Midwifery; creating ss. 467.0061, 467.0071, F.S.; providing for licensure of midwives by the Department of Health and Rehabilitative Services by examination or endorsement; repealing s. 467.006, F.S., relating to requirements to practice midwifery after October 1, 1984; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Finance, Taxation and Claims.

By Senator Ros-Lehtinen—

**SB 916**—A bill to be entitled An act relating to tow truck operators; creating ss. 320.901-320.906, F.S.; providing definitions; requiring tow truck operators to register with the Department of Highway Safety and Motor Vehicles; providing a fee; providing for denial, suspension, or revocation of a certificate of registration; requiring certain records to be maintained; providing a penalty; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senators Weinstein, Johnson, Brown, Jenne, Grant, Lehtinen, Malchon, Dudley and Langley—

**SB 917**—A bill to be entitled An act relating to traffic control; creating ss. 316.1936, 316.1937, and 316.1938, F.S.; authorizing, in addition to other penalties for driving under the influence, the requirement of ignition interlock devices as a condition of probation; providing unlawful acts with respect to such devices; providing for certification of such devices by the Department of Highway Safety and Motor Vehicles; providing for collection and analysis of data on the ignition interlock device program for reporting to the Legislature; providing an effective date.

—was referred to the Committees on Judiciary-Criminal, Transportation and Appropriations.

By Senator Crawford—

**SB 918**—A bill to be entitled An act relating to juvenile welfare services special taxing districts; amending s. 125.901, F.S.; changing the designations for such districts and their governing bodies; changing the appointing authority for certain members of such governing bodies; providing an exception for existing governing bodies; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Crawford—

**SJR 919**—A joint resolution proposing an amendment to Section 1, Article VII of the State Constitution, relating to finance and taxation, to prohibit taxation of certain food, drinks, drugs, and health care services and products.

—was referred to the Committees on Finance, Taxation and Claims; and Rules and Calendar.

By Senator Langley—

**SB 920**—A bill to be entitled An act relating to mental health; amending s. 394.463, F.S., providing clarifying language with respect to the initiation of an involuntary examination; providing reference to the nearest available receiving facility; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Langley—

**SB 921**—A bill to be entitled An act relating to money laundering; creating the "Florida Money Laundering Act"; providing for the filing of information with the Department of Revenue relating to specified trade or business cash transactions; defining the offense of money laundering; providing fines and penalties; providing for notification of the reporting requirements by local governing authorities to all trades and businesses which they license; authorizing the Department of Revenue to enforce compliance and to be custodian of the information submitted; providing that such information shall be confidential; providing an exception for law enforcement agencies; providing an effective date.

—was referred to the Committees on Judiciary-Criminal; and Finance, Taxation and Claims.

By Senator Crawford—

**SB 922**—A bill to be entitled An act relating to motor vehicles; requiring that an applicant show proof of financial responsibility before a motor vehicle registration may be issued or renewed; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Crawford—

**SB 923**—A bill to be entitled An act relating to sentencing guidelines; amending s. 921.001, F.S.; providing the purpose of sentencing guidelines; providing the policies and principles to serve as the basis for sentencing guidelines; providing reasons for departure from the guidelines; deleting the provisions governing the creation, membership, and duties of the Sentencing Commission; creating s. 921.002, F.S.; providing for the membership, operation, and duties of the Sentencing Commission; providing an effective date.

—was introduced and referred to the Committee on Judiciary-Criminal on April 21, and was also referred to the Committees on Judiciary-Civil and Appropriations on April 23.

By Senator Crawford—

**SB 924**—A bill to be entitled An act relating to health facilities; amending s. 154.401, F.S.; renaming the "State Health Facilities Authority Law" as the "State of Florida Health Facilities Authority Law;" amending s. 154.402, F.S.; providing findings and declaration of necessity; amending s. 154.403, F.S.; providing definitions; amending s. 154.404, F.S.; creating the State of Florida Health Facilities Authority within the Department of Health and Rehabilitative Services; amending s. 154.405, F.S.; revising the powers of the authority to include the issuing of bonds to provide health facility project funds; amending s. 154.407, F.S.; providing requirements for financing agreements with health facilities; amending s. 154.408, F.S.; providing for health facility construction contracts; amending s. 154.41, F.S.; authorizing the authority to issue revenue bonds; amending s. 154.412, F.S.; providing for payment of bonds; amending s. 154.413, F.S.; authorizing the authority to fix and collect health facility project revenues and proceeds; amending s. 154.415, F.S.; providing for the protection of rights and the enforcement of agreements with the authority of certain health facilities; amending s. 154.42, F.S.; providing for validation of bonds issued by the authority; amending s. 154.422, F.S.; requiring a certificate of need to be issued by the department prior to bond validation or construction; providing exceptions; amending s. 154.425, F.S.; providing a state tax exemption for certain health facilities; revising and readopting provisions relating to the State Health Facilities Authority notwithstanding the provisions of ch. 83-265 or ch. 84-94, Laws of Florida; providing for a liberal construction of certain provisions; providing for severability; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Commerce; Finance, Taxation and Claims; and Appropriations.

By Senator Crawford—

**SB 925**—A bill to be entitled An act relating to drivers' licenses; amending s. 322.16, F.S.; providing for the renewal of restricted drivers' licenses; providing for an examination; repealing s. 322.18(9), F.S., relating to the issuance of a restricted driver's license to a person who has previously held such license; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Frank—

**SB 926**—A bill to be entitled An act relating to economically needy families; creating the "Family Economic Opportunity Program Act"; providing legislative intent; providing definitions; providing for eligibility for benefits; establishing an executive coordinating council; providing for an executive director to the coordinating council; providing for contractual agreements with federal and state agencies; prescribing a time limit on, and providing for cancellation of, such agreements; providing for legislative ratification of certain rules; providing for an agreement between the Department of Health and Rehabilitative Services and the Department of Labor and Employment Security; providing powers and duties that the executive coordinating council shall direct the appropriate state agencies to exercise or perform; providing for education and training opportunities for enrollees in the program; providing for due process; requiring certain assistance to be timely; providing for noncash benefits and for financial participation by enrollees; placing limitations on subsidized employment positions; placing restrictions on compensation for enrollees; requiring the executive coordinating council to submit a plan to the Legislature and an annual report to the Governor and the Legislature; providing an initial benchmark standard; providing for incentive benefit payments; providing a minimum level of benefits; providing for determining financial need and the treatment of enrollees' income; requiring an enrollee to register

for certain activities unless exempt; providing a savings clause; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Commerce; and Appropriations.

**SB 927** was introduced and referred to the Committee on Commerce on April 21.

By Senator Langley—

**SB 928**—A bill to be entitled An act relating to courts; amending ch. 71-462, Laws of Florida; deleting a provision limiting the compensation of bailiffs of the third and fifth judicial circuits; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Langley—

**SB 929**—A bill to be entitled An act relating to driving under the influence; creating the Impaired Driving Commission; providing membership, terms, powers, and duties; providing for establishment of policies and information programs; providing for recommendations; providing for funding; creating a county impaired driving commission in each county; providing membership, terms, powers, and duties; providing for establishment of alternative programs for confinement, counseling, and treatment of persons convicted of driving under the influence; creating the Impaired Driving Commission Trust Fund and providing for disposition of moneys therein; providing for deposit of a specified portion of fines for driving under the influence in the trust fund; providing an appropriation; providing an effective date.

—was referred to the Committees on Transportation; Economic, Community and Consumer Affairs; Judiciary-Criminal; and Appropriations.

By Senator Langley—

**SB 930**—A bill to be entitled An act relating to transportation; creating part X of chapter 348, F.S., the "Central Florida Expressway Authority Law"; providing definitions; creating the Central Florida Expressway Authority; providing for purposes and powers; providing for bonds of the authority; providing for remedies of the bondholders; providing for a lease-purchase agreement with the Department of Transportation; providing that the department may be appointed agent of authority for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for the covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing that pledges are enforceable by bondholders; providing for the effect of the part; providing for consolidation; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senator Hill—

**SB 931**—A bill to be entitled An act relating to the Criminal Justice Estimating Conference; amending ss. 216.136, 944.096, F.S.; removing staff of the Department of Corrections from the Criminal Justice Estimating Conference; providing membership for staff of the Supreme Court; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Senators Crawford and Kiser—

**SB 932**—A bill to be entitled An act relating to the Uniform Commercial Code; revising chapter 678, F.S., relating to investment securities; expanding the scope of said chapter to provide rules regulating the rights, duties, and obligations of the issuers of, and other persons dealing with, uncertificated investment securities; revising definitions; creating s. 678.108, F.S.; specifying general provisions relating to registration of pledge and release of uncertificated securities; providing for transfer by registration of uncertificated securities; expanding provisions relating to transfer by delivery of certificated securities; providing requirements regarding instructions; providing for creation of security interests in uncertificated securities; providing for registration of pledge; providing additional methods of transfer of security interests; creating s. 678.321, F.S.; providing for enforceability, attachment, perfection, and termination of security interests; specifying rights and obligations of buyers and

sellers of securities; providing for warranties; providing for guarantees; providing for treatment of adverse claims with respect to uncertificated securities; providing for creditors' rights; creating s. 678.407, F.S.; providing for exchangeability of securities; creating s. 678.408, F.S.; requiring certain statements with respect to uncertificated securities; amending s. 671.201, F.S.; relating to definitions applicable to the code, to conform; amending s. 675.114, F.S., relating to issuer's duty and privilege to honor, to conform; amending ss. 679.103, 679.105, 679.203, 679.302, 679.304, 679.309, and 679.312, F.S., relating to secured transactions, to conform; providing an effective date.

—was referred to the Committees on Commerce and Judiciary-Civil.

By Senators W.D. Childers and Hill (by request)—

**SB 933**—A bill to be entitled An act relating to credit life insurance; amending ss. 627.553 and 627.679, F.S.; changing the restrictions upon issuance of credit life insurance written in connection with open-ended loan or credit commitments; providing an effective date.

—was referred to the Committee on Commerce.

(Explanation by Sponsor—I introduced SB 933 to address a potential problem which could arise due to the recent proliferation of home equity loans. When a borrower receives a commitment for a line of credit under a home equity loan, there is often a problem obtaining credit life insurance on the loan. The insurance company has the risk that the borrower, upon learning he has a fatal disease, will pay the full amount of the commitment and thus when the borrower dies the company will have to pay the full amount. Alternatively, if the borrower only borrows \$5,000 against his \$30,000 commitment, it would be unfair to charge the borrower for the full \$30,000. Another possible problem with allowing the premium to be charged for the full amount, would be to put lenders in direct competition with regular agent marketed insurance, which can be purchased by the consumer at much lower rates. Therefore, I have no intention of moving this legislation; however, the bill was filed during this legislative session to bring attention to a potential problem. *Senator W. D. Childers*)

By Senator Girardeau—

**SB 934**—A bill to be entitled An act relating to jurors; amending s. 40.01, F.S.; providing that jurors shall be selected from those possessing a valid driver's license, rather than from registered electors; amending s. 98.211, F.S.; deleting the provision that lists of electors be used for purposes of jury selection; amending s. 322.20, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall furnish to the courts, for jury selection purposes, lists of licensed drivers; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Grant—

**SB 935**—A bill to be entitled An act relating to banks and trust companies; amending s. 658.35, F.S.; providing for the issuance of stock options, bonuses, or warrants to directors, officers, and employees of banks and trust companies; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Myers—

**SB 936**—A bill to be entitled An act relating to pharmacy; amending s. 465.0276, F.S.; removing provision relating to continuing education by dispensing practitioners; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Crawford—

**SB 937**—A bill to be entitled An act relating to insurance; amending s. 627.674, F.S.; revising minimum standards for Medicare supplement policies to revise the annual deductible; providing applicability; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Senator Crawford—

**SB 938**—A bill to be entitled An act relating to liability at motorsport events; creating s. 549.09, F.S.; authorizing a motorsport facility or area operator to require the signing of a liability release form; providing for assumption of the risk in posted nonspectator areas; providing definitions; providing an effective date.

—was referred to the Committees on Commerce and Judiciary-Civil.

By Senator McPherson—

**SB 939**—A bill to be entitled An act relating to notes secured by a mortgage; amending s. 697.06, F.S.; prohibiting any charge, fee, or penalty for the prepayment of certain notes when the obligee has accelerated the maturity date of such note; providing an effective date.

—was referred to the Committee on Commerce.

By Senator McPherson—

**SB 940**—A bill to be entitled An act relating to mortgages; creating s. 697.07, F.S.; providing that, if a mortgage contains an assignment of rents, such assignment shall be absolute upon the borrower's default, becoming operative upon written demand of the mortgagee; providing that, upon request of a mortgagee, a court shall require such rents to be deposited in the court registry to be used only for preservation and protection of the mortgaged property pending adjudication of the mortgagee's right to the rents; providing an effective date.

—was referred to the Committees on Commerce and Judiciary-Civil.

By Senators Dudley, Crawford and Deratany—

**SB 941**—A bill to be entitled An act relating to video programming services; amending s. 366.01, F.S.; providing legislative findings with respect to use of electric utility poles and conduits in the provision of video programming services; creating s. 366.057, F.S.; providing a definition; prohibiting an electric utility or an entity owning an electric utility from providing video programming directly to subscribers in the service area of the utility; prohibiting electric utilities from providing channels of communication or pole line conduit space or other rental arrangements to certain entities; providing an effective date.

—was referred to the Committee on Commerce.

By Senators Kiser, Dudley, Deratany and Crawford—

**SB 942**—A bill to be entitled An act relating to easements; providing that any utility easement shown on the recorded plat of a subdivision also constitutes an easement for cable television service and facilities; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Judiciary-Civil.

By Senators Crawford, Peterson, W.D. Childers, Johnson, Grant, D. Childers, Thomas, Woodson and Kirkpatrick—

**SB 943**—A bill to be entitled An act relating to executive clemency; providing Legislative intent; creating the Commission on Conditional Release to recommend to the Executive Clemency Board those inmates who may be granted clemency, early conditional release, and the terms and conditions of such release; providing for membership of the commission and terms of office; providing powers and duties of the commission; providing criteria under which the commission may recommend an inmate for release; providing exceptions; providing for notice of possible release to the sentencing court and for its objection; creating the office of public advocate within the Department of Legal Affairs to review the commission's recommendations; providing for release conditions to be recommended by the commission; providing for the early conditional release of an inmate upon failure by the Executive Clemency Board to deny a recommendation by the commission; providing for reconsideration for release by the Executive Clemency Board; requiring an inmate to accept the terms of release prior to being granted such release; providing for the arrest of release violators; providing for a revocation hearing for any person charged with a violation of early conditional release; providing for the waiver of such hearing; providing for a determination if a charge of violation of release has been sustained at such hearing; requiring cooperation with the commission by certain custodians of prisoners; providing for application; amending ss. 20.315, 39.12, 322.16, 921.001, 921.16, 940.05, 940.06, 941.22, 941.23, 944.09, 944.096, 944.28, 944.602, 944.605, 944.611, 944.612, 945.091, 945.10, 945.25, 945.30, 945.47, 945.48, 948.10, 960.17, F.S.; providing powers and duties of the commission commensurate with the powers and duties of the Parole and Probation Commission relating to access to confidential records, powers to impose conditions on released inmates, and to request the return of released inmates; providing conforming language relating to the Department of Corrections and its powers and duties to supervise, provide services, and maintain certain records relating to offenders granted early conditional release which are commensurate with the powers and duties of the department relating to

parolees and parole violators; requiring the payment of certain costs of supervision and rehabilitation; providing for certain orders of restitution to be made a condition of release; repealing s. 944.598, F.S., relating to the emergency release of prisoners; repealing ss. 947.005(6), 947.082, F.S., relating to the Board of Clemency Review; repealing ch. 87-2, Laws of Florida, relating to inmate population in the correctional system; providing for severability; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; Judiciary-Civil; and Appropriations.

By Senators Malchon and Weinstock—

**SB 944**—A bill to be entitled An act relating to medical education reimbursement; amending s. 240.4067, F.S.; revising the program from loan reimbursement to tuition reimbursement for medical professionals practicing in underserved areas of the state; expanding the program to include certified nurse midwives, nurse practitioners, and physicians' assistants; providing for an increased tuition reimbursement maximum; revising budget requests; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senators Dudley and Crawford—

**SB 945**—A bill to be entitled An act relating to state road rights-of-way; creating s. 337.4061, F.S.; providing definitions; making it unlawful to use state road right-of-way for the purpose of providing cable service except by a cable system holding a franchise from the municipality or county in which the right-of-way is located; providing a penalty; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Judiciary-Civil.

By Senators Kiser and Crawford—

**SB 946**—A bill to be entitled An act relating to electric utilities; creating s. 366.031, F.S.; providing definitions; prohibiting electric utilities or certain affiliates from giving certain preferential treatment relating to cable television service; providing for enforcement and for award of damages, costs, and attorneys' fees; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Judiciary-Civil.

By Senators Dudley and Crawford—

**SB 947**—A bill to be entitled An act relating to municipalities and counties; providing definitions; requiring municipalities and counties to adopt ordinances governing procedures for the consideration of cable service franchises; requiring new franchises to meet standards already imposed on existing cable service franchises; providing for enforcement and for attorney's fees; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Judiciary-Civil.

By Senator Hair—

**SB 948**—A bill to be entitled An act relating to insurance; amending s. 768.54, F.S.; modifying the time period that the Florida Patient's Compensation Fund has to determine the nonavailability of coverage; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Peterson—

**SB 949**—A bill to be entitled An act relating to workers' compensation, amending s. 440.45, F.S.; providing for Senate confirmation of deputy commissioners appointed by the Governor to make investigations and adjudications in workers' compensation claims; providing an effective date.

—was referred to the Committees on Commerce and Executive Business.

By Senator Gordon—

**SB 950**—A bill to be entitled An act relating to medical care; amending s. 395.017, F.S.; providing for access to patient records by the Department of Health and Rehabilitative Services; amending s. 395.041, F.S.; requiring certain reports by internal risk management programs; provid-

ing access to facility and patient records by the Department of Professional Regulation; amending s. 458.307, F.S.; revising the composition of the Board of Medicine; amending s. 458.331, F.S.; providing for discipline by the Board of Medicine for certain acts; deleting certain definitions relating to malpractice; amending s. 768.57, F.S.; requiring persons intending to file claims for medical malpractice to provide certain notice to the Department of Professional Regulation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Economic, Community and Consumer Affairs.

By Senator Thurman—

**SB 951**—A bill to be entitled An act relating to education; requiring contracts for construction, repair, or maintenance of public school facilities to contain specified provisions relating to the use and storage of toxic or hazardous substances; requiring the Department of Education to adopt, by rule, a list of toxic or hazardous substances; requiring notice of toxic or hazardous substances which may be used in the performance of such contract; providing the district superintendent with the responsibility of enforcing safety precautions; providing a prohibition against the impairment of obligations of contract; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senator Thurman—

**SB 952**—A bill to be entitled An act relating to motor vehicle licenses; creating s. 320.0895, F.S., specifying persons eligible to receive "The Chosin Few" license plates without payment of license tax; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senator Thurman—

**SB 953**—A bill to be entitled An act relating to pari-mutuel wagering; creating s. 550.1625, F.S., providing that all required vaccination of registered tattooed greyhounds which are kenneled and which have been raised for racing in pari-mutuel wagering events shall be under the direct supervision and control of the Division of Pari-mutuel Wagering; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Thurman—

**SB 954**—A bill to be entitled An act relating to elections; creating s. 99.013, F.S., relating to the residency requirement of law for public officers and candidates for public office; defining "residency requirement," "resident," and "residence"; requiring that certain candidates or public officers have only one declared residence; providing prima facie proof thereof; providing factors to be considered; providing for investigation of violations by the Florida Elections Commission; amending s. 106.18, F.S., requiring omission from the ballot of the name of any candidate found in violation of the residency requirement of law; amending s. 106.25, F.S., granting the Florida Elections Commission authority to investigate, consider, and determine such violations; providing procedure; amending s. 106.26, F.S., providing procedure upon a determination that such a violation has occurred or has not occurred; amending s. 114.01, F.S., relating to vacancy in office, to conform; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Scott—

**SB 955**—A bill to be entitled An act relating to the corporate income tax; amending s. 220.181, F.S., relating to the enterprise zone jobs credit against the corporate income tax, to allow for computation of new jobs and replacement workers based on unemployment compensation reports; providing for applicability to particular taxpayers; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Senator Kirkpatrick—

**SB 956**—A bill to be entitled An act relating to the construction industry; amending s. 489.103, F.S.; providing clarification of certain provisions exempting persons from regulation by the Construction Industry Licensing Board; amending s. 489.105, F.S.; defining the scope of work of

certain contractors; amending s. 489.107, F.S.; providing for a quorum for actions by the board in disciplinary proceedings; creating s. 489.108, F.S.; providing for rulemaking authority of the board; amending s. 489.113, F.S.; providing certain subcontracting requirements; amending s. 489.115, F.S.; providing certification and registration requirements; amending s. 489.117, F.S.; providing licensure requirements for certain out-of-state contractors; amending s. 489.119, F.S.; providing requirements for a person acting as a qualifying agent; requiring a contractor's advertisement to include his certification or registration number; providing penalties; amending s. 489.129, F.S.; prohibiting certain acts which cause financial harm; providing for a rebuttable presumption of certain violations; creating s. 489.130, F.S.; providing penalties for minor violations; amending s. 489.131, F.S.; requiring that structural components of a building be constructed or altered by certain contractors; deleting certification requirements for mechanical and plumbing work; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Kirkpatrick—

**SB 957**—A bill to be entitled An act relating to the Board of Opticianry; amending s. 484.008, F.S.; authorizing for the board to waive continuing education requirements; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Thurman—

**SB 958**—A bill to be entitled An act relating to thoroughbred racing; providing for legislative findings and declaration of public purpose; providing for the condemnation of Hialeah Race Course for the purpose of establishing Hialeah as a state park; providing for the retirement of the Hialeah winter thoroughbred racing permit; amending s. 550.081, F.S., conforming to the act; providing for winter permitholders to operate a certain number of days each year at Hialeah; amending s. 550.09, F.S., revising the tax on handle to provide for operation at the Hialeah Race Course; providing for payments to the Hialeah Promotional Trust Fund; providing that certain provisions of the pari-mutuel law shall not apply with respect to the Hialeah operation; providing an effective date.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By Senators Thurman, Kiser and Scott—

**SB 959**—A bill to be entitled An act relating to corporate income tax; amending s. 220.181, F.S.; revising provisions which specify those persons deemed to occupy new jobs and not to have been hired to replace certain persons, for purposes of the enterprise zone jobs credit; specifying those corporations to which such provisions apply; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Senator Stuart—

**SB 960**—A bill to be entitled An act relating to juveniles; amending s. 39.11, F.S.; providing for a court to order extended supervision for any child adjudicated of committing a delinquent act which is a second degree misdemeanor if committed by an adult; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Judiciary-Civil; and Appropriations.

By Senator Stuart—

**SB 961**—A bill to be entitled An act relating to occupational health and safety; amending s. 442.102, F.S., including occupational health nurses within the definition of "health professional" in provisions regulating toxic substances in the work place; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Thurman—

**SB 962**—A bill to be entitled An act relating to the qualification of personal representatives; amending s. 733.304, F.S.; providing that a person who is not domiciled in this state can qualify as a personal representative of a decedent, if he is nominated by the decedent's will or pursuant to a power conferred in the will; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Thurman—

**SB 963**—A bill to be entitled An act relating to nonprofit organizations; creating s. 768.137, F.S.; exempting members of boards of directors and their unpaid representatives, and officers and trustees of certain nonprofit organizations from civil liability; providing an effective date.

—was referred to the Committees on Commerce and Judiciary-Civil.

By Senator Thurman—

**SB 964**—A bill to be entitled An act relating to water and sewer services; amending ss. 367.081, 367.082, F.S.; requiring that certain rate increases be held in a trust account subject to final order by the Florida Public Service Commission; providing for the disallowance or reduction of certain rate case expense awards under certain circumstances; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Crenshaw—

**SB 965**—A bill to be entitled An act relating to environmental control; amending s. 403.918, F.S., providing that certain reclamation and restoration programs shall be acceptable by the Department of Natural Resources and water management districts to be in compliance with all requirements for wetland mitigation under the Warren S. Henderson Wetlands Protection Act of 1984; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By Senator Hill—

**SB 966**—A bill to be entitled An act relating to collective bargaining; amending s. 447.603, F.S.; providing for the Public Employees Relations Commission to assert jurisdiction over a case pending before a local commission under certain circumstances; providing an effective date.

—was referred to the Committee on Personnel, Retirement and Collective Bargaining.

By Senator Hill—

**SB 967**—A bill to be entitled An act relating to the Department of Transportation; amending s. 334.14, F.S.; removing certain departmental employees from the list of those who must be professional engineers; conforming a grandfather clause; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Hill—

**SB 968**—A bill to be entitled An act relating to traffic control; creating s. 316.1922, F.S.; setting a maximum speed limit for construction sites, as defined; providing that unlawful speed through a construction site constitutes reckless driving; requiring posting of signs; amending s. 318.17, F.S., to conform; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Hill—

**SB 969**—A bill to be entitled An act relating to fines for traffic violations; amending s. 316.193, F.S.; increasing fines for driving under the influence; amending s. 318.18, F.S.; increasing fines for speeding; creating the Impaired Drivers and Speeders Trust Fund; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senator Hill—

**SB 970**—A bill to be entitled An act relating to private schools; requiring a private school to obtain the enrollee's name, social security number, and certified birth certificate when enrolling a student; requiring the school to forward such information to the Department of Education; providing a qualified exemption from public records requirements; providing for future review and repeal; providing criminal penalties for violating the provisions of this act; requiring the disclosure of certain information; providing an effective date.

—was referred to the Committees on Education and Governmental Operations.

By Senator Hill—

**SB 971**—A bill to be entitled An act relating to child custody offenses; amending s. 787.04, F.S., relating to unlawful concealment or removal of a child from the state; providing for reimbursement of the investigating law enforcement agency's costs incurred in relation to returning the child to lawful custody; providing for proof and enforceability; providing a definition; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Appropriations.

By Senator Hill—

**SB 972**—A bill to be entitled An act relating to criminal penalties; amending s. 775.083, F.S.; increasing all maximum fines; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Appropriations.

By Senator Hill—

**SB 973**—A bill to be entitled An act relating to nursing homes; amending s. 400.063, F.S., providing for the expenditure of funds in the nursing home Resident Protection Trust Fund upon a declaration of local emergency pursuant to state law or upon an authorized local order of evacuation of a facility; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By Senator Hill—

**SB 974**—A bill to be entitled An act relating to medical malpractice; creating the "Florida Medical Malpractice Premium Stabilization Act"; providing legislative intent; providing definitions; creating the Medical Malpractice Premium Stabilization Trust Fund to be administered by the Department of Insurance; providing for a schedule of distributions to physicians from such trust fund; providing a formula for determining amount of payments to physicians; providing eligibility requirements; providing rulemaking authority; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Commerce; and Appropriations.

By Senator Hair—

**SB 975**—A bill to be entitled An act relating to mediation and arbitration; creating s. 44.301, F.S.; providing definitions; creating s. 44.302, F.S.; requiring court-annexed mediation of certain civil actions; authorizing certain privileges for mediation communications; providing for mediation reports; authorizing alternative judicial disposition; creating s. 44.303, F.S.; authorizing court-ordered small claims mediation; providing for privileged communications; requiring the Supreme Court to establish qualifications, rules, and training for mediators and arbitrators; providing for certification; creating s. 44.304, F.S.; authorizing court-ordered nonbinding arbitration of certain civil actions; authorizing parties to request a trial; authorizing the assessment of certain arbitration costs; creating s. 44.305, F.S.; authorizing court-annexed voluntary binding arbitration; providing for compensation of arbitrators; providing duties of the clerk of court; providing for tolling of statutes of limitation; providing for appeals to circuit courts; providing for entry and enforcement of judgments; creating s. 44.306, F.S.; directing the Supreme Court to establish qualifications, rules of conduct, and training standards for mediators and arbitrators; creating s. 44.307, F.S.; requiring judicial circuits to establish court dispute resolution centers; providing duties; creating s. 44.308, F.S.; creating the Florida Court Alternative Dispute Resolution Commission; providing membership and duties; providing for review and repeal; creating s. 25.405, F.S.; creating the Court Alternative Dispute Resolution Trust Fund to fund court-annexed mediation and arbitration services; providing funding sources; providing for reports; amending s. 28.241, F.S.; imposing additional filing charges on civil actions for deposit in the trust fund; requiring the Supreme Court to develop a pilot program for implementation of the act; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Appropriations.

By Senators Thomas, Grant, Peterson, D. Childers, Malchon, W.D. Childers, Crawford, Scott and Beard—

**SB 976**—A bill to be entitled An act relating to civil penalties; amending s. 318.14, F.S.; increasing court costs for a person who elects alternatives to fines for infractions; providing for distribution; amending s. 318.18, F.S.; increasing civil penalties for noncriminal infractions; amending s. 318.21, F.S.; providing for distribution of increased civil penalties; amending s. 402.40, F.S.; deleting certain sources, and providing other sources, of funds for the Child Welfare Training Trust Fund; amending s. 959.29, F.S.; deleting certain sources, and providing for other sources, of funds for the Juvenile Justice Training Trust Fund; providing an effective date.

—was referred to the Committees on Judiciary-Civil; Finance, Taxation and Claims; and Appropriations.

By Senator McPherson—

**SB 977**—A bill to be entitled An act relating to the disposition of proceeds from excise taxes on documents or on the severance of oil, gas, sulfur, or minerals; amending s. 201.15, F.S.; providing for use of certain portions of the revenues from the excise tax on documents to be used to pay debt service on bonds issued to acquire coastal lands; amending ss. 211.06, 211.3103, F.S.; providing for distribution of proceeds from the excise tax on the severance of oil and gas or severance of phosphate rock; providing for distributions to guarantee debt service payments for certain bonds; amending s. 253.023, F.S.; prescribing the maximum amounts which may be credited to the Conservation and Recreation Lands Trust Fund; increasing the maximum amount that may be paid for lands acquired with moneys transferred from the Conservation and Recreation Lands Trust Fund to the Land Acquisition Trust Fund; providing priority for funds transferred to pay debt service on bonds; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By Senator Stuart—

**SB 978**—A bill to be entitled An act relating to traffic offenses; amending s. 316.193, F.S.; providing for the seizure and forfeiture of a vehicle owned or operated by a person convicted of certain alcohol-related or drug-related traffic offenses; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Senator Deratany—

**SB 979**—A bill to be entitled An act relating to road designation; designating and naming U.S. Highway 1 from Florida's north boundary to Key West as "Constitution Highway"; providing for appropriate markers to be erected by the Department of Transportation; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Scott—

**SB 980**—A bill to be entitled An act relating to firefighters; amending s. 843.08, F.S.; providing that a person who impersonates a firefighter is guilty of a misdemeanor of the first degree; providing an effective date.

—was referred to the Committee on Judiciary-Criminal.

By Senator Crawford—

**SB 981**—A bill to be entitled An act relating to dogracing; amending s. 550.16, F.S., increasing commissions which may be withheld by dogracing permittees; amending s. 550.162, F.S., establishing a minimum purse to be paid by dogracing permittees; establishing a Florida-whelped greyhound awards program; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By Senators Barron, Thomas, Crawford and Scott—

**SB 982**—A bill to be entitled An act relating to state parks; amending s. 258.014, F.S.; providing free or reduced admission to residents age 65 or older in specified circumstances; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By Senators Vogt, Barron, Crawford, W.D. Childers, Hill, Thomas, Kirkpatrick, Kiser, Beard, Hollingsworth and Johnson—

**SB 983**—A bill to be entitled An act relating to campaign financing; amending s. 106.011, F.S.; revising the definition of "political committee" for purposes of ch. 106, F.S.; creating s. 106.035, F.S.; requiring a public official, other than a political party officer or member of the Florida House of Representatives, to form a political committee in order to solicit or accept contributions for use to support or oppose or make contributions to candidates; providing penalties for soliciting or accepting such contributions without complying; creating s. 106.101, F.S.; providing that a specified portion of each filing fee remitted to a state executive committee of a political party must be used to promote candidacies for certain officers; creating s. 106.102, F.S.; prohibiting a political party, or person acting on behalf thereof, from accepting a contribution to be expended to support or oppose, or be contributed to, a particular candidate, from maintaining accounts, funds, or records of contributions segregated for use in support or opposition to a particular candidate, from placing funds at the disposition of a public official for use, in his discretion, in supporting or opposing or making contributions to candidates, from making contributions to certain political committees in excess of certain limits, from making expenditures or contributions to a candidate unless approved by the central committee, and from making expenditures or contributions to a particular candidate in any primary election; providing exceptions for members of, and candidates for nomination or election to, the Florida House of Representatives; providing penalties; creating s. 106.103, F.S.; prohibiting a person, other than a member of the Florida House of Representatives, from requiring, directing, or requesting a political party to use a contribution for a particular candidate; providing penalties; amending s. 99.061, F.S.; deleting a provision that specifies the portion of each filing fee that a state executive committee must use to promote candidacies for certain offices; amending s. 103.121, F.S.; regulating expenditures and contributions by party executive committees with respect to candidates; providing for forfeiture of party assessments; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Appropriations.

By Senators Vogt, Barron, Margolis, Deratany, Kiser, Kirkpatrick, D. Childers, Thomas, Crenshaw, Crawford, Ros-Lehtinen, Langley, Grant, Jennings, Scott, Hollingsworth, Lehtinen, Peterson, Beard, W.D. Childers, Woodson, Hill, Myers, Thurman, Hair, Brown, Johnson and Dudley—

**SB 984**—A bill to be entitled An act relating to campaign financing; amending s. 106.011, F.S.; revising the definition of "political committee" for purposes of ch. 106, F.S.; creating s. 106.035, F.S.; requiring a public official to form a political committee in order to solicit or accept contributions for use to support or oppose or make contributions to candidates; providing penalties for soliciting or accepting such contributions without complying; creating s. 106.101, F.S.; providing that a specified portion of each filing fee remitted to a state executive committee of a political party must be used to promote candidacies for certain officers; creating s. 106.102, F.S.; prohibiting a political party, or person acting on behalf thereof, from accepting a contribution to be expended to support or oppose, or be contributed to, a particular candidate, from maintaining accounts, funds, or records of contributions segregated for use in support or opposition to a particular candidate, from placing funds at the disposition of a public official for use, in his discretion, in supporting or opposing or making contributions to candidates, from making contributions to certain political committees in excess of certain limits, from making expenditures or contributions to a candidate unless approved by the central committee, and from making expenditures or contributions to a particular candidate in any primary election; providing penalties; creating s. 106.103, F.S.; prohibiting a person from requiring, directing, or requesting a political party to use a contribution for a particular candidate; providing penalties; amending s. 99.061, F.S.; deleting a provision that specifies the portion of each filing fee that a state executive committee must use to promote candidacies for certain offices; amending s. 103.121, F.S.; regulating expenditures and contributions by party executive committees with respect to candidates; providing for forfeiture of party assessments; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Appropriations.

By Senators Scott, Barron, McPherson, Weinstein, Thomas, Jennings, Hollingsworth, W.D. Childers, Margolis, Deratany, Grizzle, Gordon, Kiser, Hill and Crawford—

**SB 985**—A bill to be entitled An act relating to not-for-profit medical service corporations; amending s. 617.01, F.S.; modifying the requirements which such corporations must meet in order to be incorporated in this state as a corporation not for profit; providing an effective date.

—was referred to the Committee on Commerce.

By Senators Thurman, Frank and Vogt—

**SB 986**—A bill to be entitled An act relating to asbestos; providing definitions; directing the Secretary of Labor and Employment Security to establish an asbestos management program; requiring surveys for the presence of asbestos in state buildings; providing for review of such surveys; directing certain state agencies to maintain records with respect to asbestos surveys; requiring air samples be taken in order to assess the amount of airborne asbestos fibers; providing for operation and maintenance plans in buildings where asbestos is present; requiring asbestos contractors to purchase liability insurance or to post bonds; providing for abatement safety requirements; providing requirements for abatement project completion; requiring the Department of Labor and Employment Security to adopt rules relating to asbestos in state buildings; requiring asbestos consultants and asbestos contractors to be licensed; promulgating requirements for licensing; providing for licensing fees; prescribing disciplinary measures including revocation, suspension, and denial of issuance or renewal of a license; authorizing the appropriate licensing board or Department of Professional Regulation to promulgate rules relating to licensing; prescribing required courses for training abatement workers and onsite supervisors; creating the Asbestos Oversight Program Team; providing for review and repeal; authorizing positions; providing appropriations; providing an effective date.

—was referred to the Committees on Commerce; Economic, Community and Consumer Affairs; Governmental Operations; and Appropriations.

By Senators Gordon and Woodson—

**SB 987**—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; amending s. 20.19, F.S.; increasing membership of the Statewide Human Rights Advocacy Committee; reenacting and amending s. 20.19(7)(f) and (8)(g), F.S.; continuing provisions authorizing access to certain records by the statewide and district human rights advocacy committees; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Governmental Operations; and Rules and Calendar.

By Senator Crawford—

**SB 988**—A bill to be entitled An act relating to Department of Environmental Regulation contracts; providing legislative intent; providing authority for acquiring surplus properties from the Federal Government; providing for delegation of specific contracting responsibilities; providing qualifications for providers of contractual services, performance bonds, and exemption of price proposals from the Public Records Law; providing requirements for liability insurance; providing authority for bid advertisements, emergency repairs, change orders, periodic payments, and records maintenance; providing procedures for application qualification, certificate of qualification, and requests for hearings; providing for payment of construction or maintenance contracts; providing for disqualification of delinquent contractors from bidding; providing for denial or revocation of qualification for involvement in contract crime; providing for disposition of moneys recovered for violations of antitrust laws; providing for administrative procedures, stays, and injunctions; providing for confidentiality of official estimates, identities of bidders, and bid analysis; providing for bid guaranty; providing for surety bonds, defaults, and damage assessments; providing for limitation of actions against the department; providing authority to adopt rules to comply with federal regulations; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Governmental Operations; and Appropriations.

By Senator Plummer—

**SJR 989**—A joint resolution proposing an amendment to Section 6, Article VIII of the State Constitution, requiring the Dade County Board

of Commissioners to be elected from nine single-member districts and to require the mayor to be elected by the commission from among its members.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Rules and Calendar.

By Senator Thurman—

**SB 990**—A bill to be entitled An act relating to veterans; amending s. 292.05, F.S.; revising the date for an annual report of the Division of Veterans' Affairs; amending ss. 295.01, 295.016, and 295.017, F.S.; providing educational opportunity at state expense for dependent children of certain veterans who died or suffered 100-percent disability and receive disability retirement pay from any branch of the United States Armed Services; amending s. 295.17, F.S.; providing identification cards for 100-percent disabled veterans receiving disability retirement pay from any branch of the United States Armed Services; amending s. 322.21, F.S.; exempting 100-percent disabled veterans receiving disability retirement pay from any branch of the United States Armed Services from certain license fees; amending s. 372.57, F.S.; exempting 100-percent disabled veterans receiving disability retirement pay from any branch of the United States Armed Services from purchase of stamps for certain hunting and recreational uses; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Appropriations.

By Senator Gordon—

**SB 991**—A bill to be entitled An act relating to the Beverage Law; amending s. 562.51, F.S.; prohibiting licensees from discriminating against persons on specified grounds and creating exceptions; amending s. 561.15, F.S.; prohibiting the issuance of certain alcoholic beverage licenses to certain organizations that discriminate; amending s. 220.13, F.S.; including as adjusted federal income business expenses paid or accrued to a person, firm, or corporation that discriminates; providing for severability; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By Senator Stuart—

**SB 992**—A bill to be entitled An act relating to local occupational license taxes; amending s. 205.033, F.S.; authorizing certain counties and certain municipalities within such counties to impose an additional occupational license tax; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Weinstein—

**SB 993**—A bill to be entitled An act relating to education; amending s. 230.645, F.S.; exempting certain mentally retarded students from payment of postsecondary fees; authorizing district school boards to establish scholarship funds and provide criteria for award of scholarships; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Senator Weinstein—

**SB 994**—A bill to be entitled An act relating to domestic violence; amending s. 741.30, F.S.; providing a cause of action for injunctive relief to any family member or cohabitant who is being victimized; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Hill—

**SB 995**—A bill to be entitled An act relating to crimes against certain persons; amending s. 784.07, F.S.; providing enhanced penalties for assault or battery of employees and agents of the Department of Corrections; amending s. 843.01, F.S.; providing penalties for resisting state correctional officers with violence; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Appropriations.

By Senator Hill—

**SB 996**—A bill to be entitled An act relating to prisoners; amending s. 944.17, F.S.; providing procedures for temporarily transferring custody of a state prisoner from the Department of Corrections to a sheriff in specified circumstances; placing restrictions on the release of such prisoner by a court or by the sheriff; requiring the clerk of the circuit court to provide certain documents; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

By Senator Hill—

**SB 997**—A bill to be entitled An act relating to the use of prisoners in public works; amending s. 946.40, F.S.; providing that persons convicted of certain sex offenses are ineligible to participate in public works projects; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

By Senator Hill—

**SB 998**—A bill to be entitled An act relating to corrections; amending s. 945.215, F.S.; providing sources of funds and uses of the Employee Benefit Trust Fund; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Senator Woodson—

**SB 999**—A bill to be entitled An act relating to mobile home inspection; amending s. 215.22, F.S.; providing for the deposit of certain inspection fees; amending ss. 320.8255, 320.8256, F.S.; providing for the establishment and use of mobile home and recreational vehicle inspection fees by the Department of Highway Safety and Motor Vehicles; providing an effective date.

—was referred to the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

By Senators Hill, Gordon, Ros-Lehtinen, Lehtinen, Crawford, Thomas, W.D. Childers and Barron—

**SB 1000**—A bill to be entitled An act relating to horseracing; amending s. 550.081, F.S., providing legislative intent; revising the allocation of horseracing periods of operation; amending s. 550.09, F.S., revising the formula with respect to the tax on handle for thoroughbred horse racing; amending s. 550.41, F.S., revising language with respect to the summer thoroughbred horse racing season; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

By Senator Woodson—

**SJR 1001**—A joint resolution proposing an amendment to Section 6, Article VII of the State Constitution, relating to homestead tax exemption, to tax the first \$10,000 of the assessed value of homestead property and to exempt the next \$25,000 of the assessed value of homestead property from taxation.

—was referred to the Committees on Finance, Taxation and Claims; and Rules and Calendar.

By Senators Hollingsworth, Langley, Dudley, Grant, Crenshaw, Ros-Lehtinen, Lehtinen, Myers and Woodson—

**SB 1002**—A bill to be entitled An act relating to cable television; prohibiting owners or operators of cable television systems from sending, transmitting, or retransmitting by a cable television system certain uninvited material; providing penalties; providing an effective date.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By Senator Weinstein—

**SB 1003**—A bill to be entitled An act relating to mechanics' liens; amending s. 713.01, F.S., relating to definitions; amending s. 713.02, F.S., clarifying an exemption; amending ss. 713.05 and 713.06, F.S., providing for creation of priority of certain liens, and reenacting s. 713.02(3) and (4), F.S., relating to types of lienors, to incorporate said amendments in references; expanding applicability of liens of persons not in privity;

amending s. 713.07, F.S., conforming provisions relating to priority of liens, and reenacting s. 713.13(3), F.S., relating to notice of commencement, to incorporate said amendment in a reference; amending s. 713.13, F.S., changing maximum period a notice of commencement has effect for certain purposes; providing alternate method of serving notice of certain liens when notice of commencement has not been recorded; amending s. 713.18, F.S., clarifying when service of notice by mail is effected; amending s. 713.24, F.S., increasing interest required upon transfer of a lien from real property to other security; amending s. 713.34, F.S., expanding application of provisions relating to embezzlement; creating s. 713.38, F.S., creating obligation to pay interest and attorney's fees under certain circumstances; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Woodson—

**SB 1004**—A bill to be entitled An act relating to sales taxation; amending s. 212.08, F.S.; exempting the provision of specified agricultural services and related services from sales taxation; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Senator Woodson—

**SB 1005**—A bill to be entitled An act relating to bail; amending s. 903.03, F.S.; providing for the designation of a pretrial services agency in each judicial circuit, and to provide duties of such agencies; amending s. 903.046, F.S.; providing conditions for the release of criminally charged defendants; amending s. 903.047, F.S.; providing for pretrial release conditions; amending s. 907.041, F.S.; providing a statement of pretrial release alternatives for criminally charged defendants; amending s. 903.105, F.S.; providing that a permitted use of retained appearance bond moneys shall be for the operation of a local pretrial services function; providing that s. 903.105, F.S., shall take effect notwithstanding the provisions of s. 73 of chapter 82-175, Laws of Florida; providing an effective date.

—was referred to the Committees on Judiciary-Criminal, Judiciary-Civil and Appropriations.

By Senator Peterson—

**SB 1006**—A bill to be entitled An act relating to professional regulation; creating the "Irrigation Contracting Practice Act"; providing definitions; providing for the creation and powers of the Irrigation Contracting Licensing Board; providing rulemaking authority; providing for fees; specifying requirements for certification and registration; providing for licensure; providing for biennial license renewal; providing for inactive status of licenses; specifying requirements for business organizations and their qualifying agents; providing for emergency registration upon death of contractor; providing for reports to local officials; providing prohibitions and penalties; providing grounds for disciplinary proceedings; providing for prosecution of criminal violations; specifying the application of the act; providing for review and repeal; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By Senator Woodson—

**SB 1007**—A bill to be entitled An act relating to negligence; amending s. 768.45, F.S.; prescribing matters to be considered by the trier of fact in a claim of negligence for services provided in a hospital emergency room; limiting who may give expert medical testimony; providing an effective date.

—was referred to the Committees on Commerce and Judiciary-Civil.

By Senator Woodson—

**SB 1008**—A bill to be entitled An act relating to pediatric health care; providing for the establishment and licensure of prescribed pediatric extended care centers; providing legislative intent; providing definitions; providing exemptions; requiring licensure; prescribing requirements for license applications; providing grounds for the Department of Health and Rehabilitative Services to deny, revoke, or suspend a license or impose an administrative fine; providing for disposition of fines and fees; providing for license expiration and renewal and for a conditional license; authorizing injunctions; prescribing prerequisites to voluntarily closing a center; providing the department with a right of entry and inspection; providing

for the adoption of rules and enforcement of standards; establishing requirements for constructing or renovating a center; prohibiting certain acts; providing penalties; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By Senators Peterson, Hair, W.D. Childers and Beard—

**SM 1009**—A memorial to the Congress of the United States, urging Congress to adopt a joint resolution providing for an amendment to the Constitution of the United States that requires the federal budget to be in balance except under specified emergency conditions and withdrawing previous memorials to Congress on this subject.

—was referred to the Committee on Rules and Calendar.

By Senators Woodson, Brown, Myers, Dudley and Hair—

**SCR 1010**—A concurrent resolution to the Secretary of the United States Department of the Interior, urging him to remove from the 5-year (1987-1991) Outer Continental Shelf Oil and Gas Leasing Program all waters off the Florida Keys and Everglades coast and impose a 30-mile, 5-year federal coastal buffer around the State of Florida in order to protect Florida's coastal resources.

—was referred to the Committees on Natural Resources and Conservation; and Rules and Calendar.

By Senator Weinstein—

**SB 1011**—A bill to be entitled An act relating to recreational vehicles; amending s. 513.01, F.S., redefining the term "recreational vehicle"; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Woodson—

**SB 1012**—A bill to be entitled An act relating to elections; amending s. 97.021, F.S.; providing definitions; amending s. 101.121, F.S.; providing for persons allowed in polling rooms; amending s. 101.131, F.S.; allowing each political party and each candidate to have one watcher in each polling room at any one time during an election; amending s. 102.031, F.S.; adding the polling room, where the polling place is a shopping center or mall, to the notice requirements for solicitation of voters within 100 feet of any polling place; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Woodson—

**SB 1013**—A bill to be entitled An act relating to long-term care; amending s. 400.304, F.S., revising language with respect to the composition of the State Nursing Home and Long-Term Care Facility Ombudsman Council; amending s. 400.307, F.S., revising language with respect to district nursing home and long-term care ombudsman councils; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Woodson—

**SB 1014**—A bill to be entitled An act relating to medical assistance, amending s. 409.266(6), F.S., 1986 Supplement; expanding payment for medical services to additional eligible persons; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By Senators Woodson and Langley—

**SB 1015**—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.051, F.S., authorizing certain cities to withdraw from participation in the system; specifying employee rights; requiring actuarial reports; providing for increases in applicable contribution rates to fund the act; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By Senator Woodson—

**SB 1016**—A bill to be entitled An act relating to beach restoration and renourishment; imposing a tourism promotion surcharge to pay the state share of costs associated with beach restoration and renourishment projects; providing for penalties and interest for noncompliance with the tourism promotion surcharge; providing for administration and distribution of funds; amending s. 215.22, F.S., including the tourism promotion surcharge within a list of revenue and trust funds from which certain deductions are authorized; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By Senator Woodson—

**SB 1017**—A bill to be entitled An act relating to state lands; creating s. 253.024, F.S.; creating a Preservation Lands Management Trust Fund within the Department of Natural Resources; specifying moneys to be deposited therein; providing uses of the fund; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By Senator Hill—

**SB 1018**—A bill to be entitled An act relating to the administration of correctional institutions for women; amending s. 944.24, F.S.; providing requirements pertaining to the care of a child born to an inmate; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Senator Hill—

**SB 1019**—A bill to be entitled An act relating to court-ordered payments; amending s. 775.089, F.S.; requiring the Department of Corrections to collect and dispense certain court-ordered payments; creating s. 945.31, F.S.; providing for the collection of such payments and authorizing the department to collect a service charge; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Senator Kiser—

**SB 1020**—A bill to be entitled An act relating to tax on sales, use and other transactions; amending s. 212.055, F.S.; authorizing counties to levy a discretionary capital facilities sales surtax; specifying inapplicability of certain exemption provisions and providing an exemption; providing procedures for levy; providing for distribution and use of the proceeds; authorizing issuance of bonds; providing time limitations; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By Senator Thurman—

**SB 1021**—A bill to be entitled An act relating to head-injured persons; providing an appropriation to fund the data collection and referral authorized by ss. 413.611, 413.612, F.S.; providing an effective date.

—was referred to the Committee on Appropriations.

By Senator Scott—

**SB 1022**—A bill to be entitled An act relating to insurance; creating ss. 627.162-627.167, F.S.; providing for prior approval by the Department of Insurance of rates for liability insurance covering the common elements of condominium property; specifying content of rate filings; providing that certain rating organization meetings are open to the public; providing for review, public examination, and hearings; specifying when a filing becomes effective; providing for subsequent disapproval of a filing; specifying basis for approval or disapproval of a filing; requiring notice to policyholders; providing that certain rates may remain in effect; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Thurman—

**SB 1023**—A bill to be entitled An act relating to sales tax; amending s. 212.08, F.S.; deleting a provision which does not allow the sales tax exemption granted to municipalities to be extended to sales of personal property to contractors employed by, or agents of, governmental entities; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Senator Deratany—

**SB 1024**—A bill to be entitled An act relating to the insurance premium tax; amending ss. 175.101, 185.08, F.S.; repealing credits against state insurance premium taxes for municipal excise taxes imposed on property or casualty insurance premiums; amending s. 624.509, F.S.; increasing the insurance premium tax; providing for credits against the tax; providing a limitation; amending s. 624.510, F.S.; providing a credit against the tax on wet marine and transportation insurance; providing a limitation; amending ss. 634.131, 634.313, 634.415, 638.141, F.S.; applying the increase on the insurance premium tax rate to motor vehicle service agreement companies, home warranty associations, service warranty associations, and ambulance service associations; providing service warranty associations with a deduction for sales taxes paid; repealing ss. 624.429(3), 624.512, 624.513, 624.514, F.S., relating to tax liability of domestic insurers and regional home offices of foreign insurers; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By Senator Hill—

**SB 1025**—A bill to be entitled An act relating to the regulation of railway-highway crossings; amending s. 335.141, F.S.; providing for the responsibility for maintenance of certain traffic-control devices and of track structure, rail components, roadbed, and other surfaces in the crossing area; providing an effective date.

—was referred to the Committees on Transportation; Economic, Community and Consumer Affairs; and Appropriations.

By Senator Hill—

**SB 1026**—A bill to be entitled An act relating to reporting unclaimed motor vehicles; amending s. 715.05, F.S.; defining the term "abandoned vehicle" for purposes of removal of such vehicles; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Hill—

**SB 1027**—A bill to be entitled An act relating to liens for recovering, towing, or storing vehicles; amending s. 713.78, F.S.; providing clear title to a vehicle sold by a lienor; providing an effective date.

—was referred to the Committees on Transportation and Judiciary-Civil.

By Senator Hill—

**SB 1028**—A bill to be entitled An act relating to fire prevention and control; amending s. 633.521, F.S., relating to certification of fire protection systems contractors; revising prerequisites to taking the certification examination; providing an effective date.

—was referred to the Committee on Commerce.

By Senator Woodson—

**SB 1029**—A bill to be entitled An act relating to incompetent or mentally ill persons; amending ss. 65.061, 86.041, 90.602, 620.715, 660.41, 790.17, 849.04, 913.03, 941.38, 941.39, 941.40, 941.41, 941.42, and 945.12, F.S., changing statutory usages relating to mental impairment; repealing s. 1.01(5), F.S., eliminating the general definition of the terms "lunatic," "insane persons," and like terms within the statutes; providing an effective date.

—was referred to the Committee on Judiciary-Civil.

By Senator Woodson—

**SB 1030**—A bill to be entitled An act relating to the care of dependent children; creating s. 63.233, F.S.; authorizing the department to

adopt rules; amending s. 284.31, F.S.; providing for the inclusion of foster parents and shelter parents as agents of the state for liability purposes; amending s. 409.145, F.S.; expanding the categories of persons who may continue to receive services in the children's foster care program; amending s. 409.166, F.S.; expanding the eligibility for support and maintenance under the subsidized adoption program; amending s. 768.28, F.S.; providing for the inclusion of foster parents and shelter parents as agents of the state for liability purposes; providing an effective date.

—was referred to the Committees on Governmental Operations, Judiciary-Civil and Appropriations.

By Senator Woodson—

**SB 1031**—A bill to be entitled An act relating to juveniles; providing legislative intent; amending s. 39.01, F.S.; providing a definition; creating s. 39.115, F.S.; requiring establishment of an aftercare program by the Department of Health and Rehabilitative Services; requiring participation of juveniles released from training schools and other residential commitment programs; providing for subsequent release from aftercare commitment status under certain circumstances; providing for contracts with providers; providing for conformance with certain outcome evaluation programs; providing for rules; providing an appropriation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By Senator Woodson—

**SB 1032**—A bill to be entitled An act relating to delinquency prevention; creating s. 959.30, F.S.; providing definitions; authorizing the establishment of a delinquency prevention council; providing duties; authorizing the Department of Health and Rehabilitative Services to establish delinquency prevention program grants; providing for grant application procedures; providing conditions; amending s. 39.04, F.S.; directing the court to order payment of an intake processing fee upon the filing of a petition for delinquency; providing conditions; providing for the deposit of fees collected; creating a Delinquency Prevention Trust Fund; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Finance, Taxation and Claims; and Appropriations.

By Senator Woodson—

**SB 1033**—A bill to be entitled An act relating to juveniles; amending s. 39.071, F.S., requiring legal representation of children at all stages of any delinquency proceedings; amending s. 39.412, F.S.; requiring legal representation of children subject to the deprivation of liberty under contempt of court proceedings; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Appropriations.

By Senator Woodson—

**SB 1034**—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.0515, F.S.; providing for participation in the Special Risk Class of membership of that system by correctional probation officers and supervisors of correctional probation officers; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining and Appropriations.

By Senator Johnson—

**SB 1035**—A bill to be entitled An act relating to public meetings; amending s. 286.011, F.S.; providing that meetings for the review of certain examination activity are exempt from public meetings requirements; providing an effective date.

—was referred to the Committee on Governmental Operations.

By Senator Johnson—

**SB 1036**—A bill to be entitled An act relating to negligence; amending s. 768.28, F.S.; relating to applicability of grant of sovereign immunity in tort; including officers, employees, and agents of state agencies, and of teaching hospitals and private university medical schools under agency contract with the state; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; Judiciary-Civil; and Finance, Taxation and Claims.

By Senator Weinstein—

**SB 1037**—A bill to be entitled An act relating to battery; creating s. 784.046, F.S.; providing for the issuance of restraining orders, without the necessity of legal representation, in cases where acts of repeat violence are alleged; providing definitions; providing duties of the clerk of court; providing for waiver of fees for indigents; providing a form for petition for injunction; providing for service of process; providing for ex parte temporary injunction; providing for injunctive relief of 1 year; providing for extension of such relief; providing for dissemination and verification of injunction; providing for enforcement through contempt proceedings and imposition of fine; providing for arrest for violation of injunction; providing for modification or dissolution of injunction; amending s. 901.15, F.S.; authorizing warrantless arrest by law enforcement officer for violation of repeat violence injunction; providing an effective date.

—was referred to the Committees on Judiciary-Civil and Judiciary-Criminal.

By Senator Scott—

**SB 1038**—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.055, F.S.; authorizing counties to levy, by referendum, for a period of 10 years, a surtax on sales to finance certain capital projects; creating s. 212.056, F.S.; providing for the administration, collection, and disposition of the proceeds of such surtax; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By Senator Crawford—

**SB 1039**—A bill to be entitled An act relating to the "Florida Air and Water Pollution Act"; directing the Department of Environmental Regulation to conduct a study to evaluate the existing classification systems for waters of the state; amending s. 403.061, F.S.; providing criteria with respect to the classification of artificially created or altered water bodies; providing for the discharge of effluent into receiving water bodies under certain conditions; amending s. 403.087, F.S.; authorizing the department to issue operating permits for a sanitary sewage system operating under local government water quality protection programs for a specified period; creating s. 403.0881, F.S.; providing for the issuance of construction permits; providing an appropriation; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Appropriations.

By Senator Thurman—

**SB 1040**—A bill to be entitled An act relating to greyhound dog racing; creating s. 550.1635, F.S., providing a program for greyhound breeders awards; providing an effective date.

—was referred to the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

By Senators Jennings, Barron, Thomas, W.D. Childers, Crenshaw, Scott, Hair, Langley, Deratany, Johnson, Hollingsworth, Brown, Hill, Grant, Peterson, Beard, Malchon and Woodson—

**SB 1096**—A bill to be entitled An act relating to civil liability; amending s. 607.014, F.S.; authorizing corporations to indemnify directors, officers, employees, agents, and volunteers against liability and related expenses; providing for a procedure to pay such expenses; providing limitations on such indemnity; amending s. 617.028, F.S.; providing civil immunity to such persons associated with corporations not for profit; providing limitations on such immunity; providing for the approval and authorization of certain transactions negotiated by such persons; creating s. 607.1645, F.S.; providing officers, directors, and volunteers of a corporation immunity from civil liability; providing limitations; creating s. 607.165, F.S.; providing for the approval and authorization of certain transactions negotiated by an officer or director, the board of directors, or shareholders of a corporation; providing directors, officers, committee members, chief operating officers, executive officers and volunteers, of credit unions immunity from civil liability; providing limitations; providing trustees, officers, or volunteers of a self-insurance trust fund immunity from civil liability; providing limitations; providing trustees, directors, officers, members, or volunteers of a nonprofit organization immunity from civil liability; providing limitations; providing an effective date.

On motion by Senator Jennings, SB 1096 was referred to the Committee on Commerce.

#### FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Health and Rehabilitative Services and Senator D. Childers—

**CS for SB 80**—A bill to be entitled An act relating to acquired immune deficiency syndrome (AIDS); requiring the Department of Health and Rehabilitative Services to inform school boards of students and employees who have been reported to the department as being infected with the acquired immune deficiency syndrome virus; authorizing school boards to test students and employees for such virus; requiring school boards to ensure that students infected with such virus do not come into contact with other students; requiring school boards to ensure that no person infected with such virus is employed in a position involving direct contact with students or food service or food preparation in schools; requiring the state to bear all costs resulting from this act; providing an effective date.

By the Committees on Finance, Taxation and Claims; and Education and Senators D. Childers and Myers—

**CS for CS for SB 86**—A bill to be entitled An act relating to Palm Beach Junior College, Palm Beach County; amending sections 1, 2, and 3 of chapter 79-538, Laws of Florida; providing for an annual ad valorem tax levy, not to exceed one-half mill annually, for 5 years in the county for the purpose of funding fixed capital outlay expenditures of the junior college; providing that the proceeds of said tax levy shall not reduce state funding for the junior college; providing for a referendum; providing form of ballot; providing an effective date.

By the Committee on Health and Rehabilitative Services and Senators Frank, Malchon, Stuart, Jenne, Gordon, Girardeau, Meek, Weinstock and Plummer—

**CS for SB 221**—A bill to be entitled An act relating to the homeless; creating s. 420.621, F.S.; providing definitions; creating s. 420.623, F.S.; providing for establishment of local coalitions for delivery of services to the homeless; providing functions; providing for development of guidelines by the Department of Health and Rehabilitative Services; creating s. 420.625, F.S.; providing legislative findings and intent; providing purpose; providing for establishment of a grant-in-aid program to help local communities serve the homeless; providing for allocation of grant funds to department districts; providing for distribution of funds to local agencies; providing for evaluation of spending plans; providing for local matching funds; creating s. 420.627, F.S.; providing legislative findings; providing a definition; providing for establishment of an emergency financial assistance program for needy families; providing for development of criteria; providing for administration of program; creating s. 409.2351, F.S.; providing for short-term emergency financial assistance for housing; providing appropriations; providing for review and repeal; providing an effective date.

By the Committee on Education and Senators Ros-Lehtinen and Gordon—

**CS for SB 223**—A bill to be entitled An act relating to the public school work experience program; amending s. 240.604, F.S.; changing eligibility requirements for participation in the program; specifying conditions for renewal of financial assistance under the program; providing an effective date.

By the Committee on Education and Senator Weinstein—

**CS for SB 265**—A bill to be entitled An act relating to the Auditor General; amending s. 11.45, F.S.; authorizing district school boards to select an independent auditor to perform a required financial audit; providing for the duty of the Auditor General with respect to such audits; providing that the district school board annual financial audit may be required to be completed in a certain time period; providing for duties of the Auditor General; changing certain reporting requirements; providing an effective date.

By the Committee on Health and Rehabilitative Services and Senator Weinstein—

**CS for SB 323**—A bill to be entitled An act relating to child abuse; amending s. 415.503, F.S.; expanding the meaning of "harm" which constitutes "child abuse or neglect" for purposes of protective services programs and proceedings to include physical dependency of a newborn infant upon scheduled drugs; providing an effective date.

By the Committee on Personnel, Retirement and Collective Bargaining and Senators W. D. Childers, Margolis, Hollingsworth, Thomas, Meek, Barron and Frank—

**CS for SB 399**—A bill to be entitled An act relating to retired public officers and employees; amending s. 112.0801, F.S.; requiring state agencies to allow retired employees or their dependents to participate in the agency's group insurance programs or self-insurance plans; requiring such retirees or their dependents to be offered the same health insurance coverage that is offered to active employees and at the same cost; requiring commingling of claims experience under certain circumstances; providing for notification; providing a date certain to accept or reject health insurance program participation; creating s. 112.363, F.S.; providing for a monthly health insurance subsidy payment for all persons retired under a state-supported retirement system; providing for eligibility; specifying health insurance subsidy amount; creating the Retiree Health Insurance Subsidy Trust Fund; providing for investment of the trust fund; providing for administration of the health insurance subsidy payments by the Division of Retirement of the Department of Administration; providing an appropriation; providing for administration of the health insurance subsidy payments by the Division of Retirement of the Department of Administration; amending ss. 121.052, 121.055, and 121.071, F.S.; increasing the employer contributions for members of the Florida Retirement System; providing an effective date.

By the Committee on Commerce and Senator Thomas—

**CS for SB 413**—A bill to be entitled An act relating to sparklers, fireworks, novelties, and trick noisemakers; amending s. 791.01, F.S.; providing definitions; creating s. 791.013, F.S.; requiring the testing and approval of sparklers; providing penalties; creating s. 791.015, F.S.; providing for the registration of sparkler manufacturers, distributors, and wholesalers; providing for fees; amending s. 791.02, F.S.; providing that possession of fireworks is unlawful, except as specified; requiring that sparklers for sale to the public be obtained only from registered manufacturers, distributors, and wholesalers; requiring certain evidence of such purchases; providing for the exhibition of certain registration certificates; amending s. 791.04, F.S.; requiring the registration of certain manufacturers, distributors, or wholesalers; providing for enforcement; providing an appropriation; providing an effective date.

By the Committee on Education and Senator Johnson—

**CS for SB 496**—A bill to be entitled An act relating to certification of school teachers; amending s. 231.17, F.S.; revising certain requirements for certification; revising requirements for the issuance of a temporary certificate; revising provisions relating to issuance of temporary certificates; providing an effective date.

By the Committee on Education and Senator D. Childers—

**CS for SB 510**—A bill to be entitled An act relating to energy conservation; creating the Public Education Energy Management Incentives Program to promote economical management of energy in district public schools; providing for energy audits, district and school energy management coordinators, and an energy management committee and program in each participating school district; providing contents of district programs; specifying duties of the Governor's Energy Office, in coordination with the Department of Education, with respect to such programs; requiring annual reports to the Commissioner of Education; creating a trust fund, to be administered by the Governor's Energy Office, to finance incentive rewards for school districts which achieve certain energy management goals; providing the amounts of incentive rewards; providing an appropriation; providing for review and repeal; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs—

**CS for SB 574**—A bill to be entitled An act relating to bond financing; amending s. 159.802, F.S.; providing a purpose; amending s. 159.803, F.S.; providing definitions; amending s. 159.804, F.S.; providing for the allocation of the state volume limitation for private activity bonds; amending s. 159.805, F.S.; providing procedures for obtaining allocations; providing limitations on allocations; providing for notice of issuance; amending s. 159.806, F.S.; providing for regional allocation pools; amending s. 159.807, F.S.; providing for a state allocation pool; providing for applicability to the Florida Housing Finance Agency; amending s. 159.809, F.S.; providing for recapture of unused amounts; amending s. 159.81, F.S.; providing for carryforward of unused allocations and volume limitation amounts; amending s. 159.812, F.S.; providing a grandfather

clause; amending s. 159.813, F.S.; providing for future federal amendments; creating s. 159.816, F.S.; providing for the director to sign the volume limitation certificate; repealing s. 159.808, F.S., relating to the small issuer pool; repealing s. 420.5097, F.S., relating to the allocation of single-family mortgage revenue bonds, mortgage credit certificates, or similar instruments; providing an effective date.

By the Committee on Commerce and Senator Jennings—

**CS for SB 589**—A bill to be entitled An act relating to retail installment sales; amending s. 520.03, F.S.; providing licensing procedure; providing for inactive status for licensees; amending s. 520.04, F.S.; defining disciplinary violations; prescribing penalties; amending s. 520.05, F.S.; providing for investigative powers of the Department of Banking and Finance; amending s. 520.06, F.S.; providing the department with the power to issue subpoenas and impose administrative fines; amending s. 520.12, F.S.; prescribing the penalty for willful violation of the act; providing for recovery of court costs; amending s. 520.32, F.S.; establishing a biennial licensing period; providing for inactive status for licensees; amending s. 520.331, F.S.; defining disciplinary violations; prescribing penalties; amending s. 520.332, F.S.; providing the department with the power to issue subpoenas and impose administrative fines; amending s. 520.39, F.S.; prescribing the penalty for willful violation of the act; providing for the recovery of court costs; amending s. 520.51, F.S.; defining the terms "retail installment transaction" and "retail buyer"; amending s. 520.52, F.S.; establishing a biennial licensing period; providing for inactive status for licensees; amending s. 520.53, F.S.; defining disciplinary violations; prescribing penalties; amending s. 520.54, F.S.; providing for maintenance of certain records; amending s. 520.56, F.S.; establishing the department's authority to issue subpoenas and impose administrative fines; amending s. 520.57, F.S.; prescribing the penalty for willful violation of the act; providing for the recovery of court costs; amending s. 520.61, F.S.; eliminating gender distinctions; amending s. 520.62, F.S.; expanding the administrative authority of the department; amending s. 520.63, F.S.; establishing a biennial licensing period; providing for inactive status for licensees; amending s. 520.66, F.S.; defining disciplinary violations; prescribing penalties; amending ss. 520.68, 520.70, 520.71, 520.72, F.S.; eliminating gender distinctions; amending s. 520.73, F.S.; providing for additional notice requirement relating to home improvement contracts; amending s. 520.74, F.S.; providing for a home improvement contractor or holder to be entitled to liquidated damages; amending ss. 520.90, 520.92, F.S.; eliminating gender distinctions; creating s. 520.925, F.S.; providing the department with subpoena power and establishing monetary limits on the amount of administrative fines; amending s. 520.96, F.S.; eliminating gender distinctions; providing for the reimbursement of certain expenses during departmental examinations; amending s. 520.98, F.S.; prescribing the penalty for a willful violation of the act; providing for recovery of court costs; repealing s. 520.93, F.S., relating to the obligation of a home improvement contractor to accept no contract with blank spaces; repealing s. 520.95, F.S., relating to the department's right to information; repealing s. 520.961, F.S., relating to the department's power to obtain an injunction; repealing s. 520.99, F.S., providing for a general penalty for violations of the act; repealing s. 520.991, F.S., providing for appropriations from the General Revenue Fund; repealing s. 520.992, F.S., providing for specific exemptions from ss. 520.60-520.99; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Meek—

**CS for SB 605**—A bill to be entitled An act relating to community services; amending s. 1, ch. 82-228, Laws of Florida; revising the Community Services Block Grant Program Act; changing the definition of the term "department" to refer to the Department of Community Affairs to conform to governmental reorganization; providing for administration of the act by that department; providing for state funding through appropriation; specifying uses of state-appropriated funds; providing for distribution of moneys in the Community Services Block Grant Fund; prescribing duties of the Community Services Block Grant Advisory Committee; deleting provisions that have served their purpose; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Thurman—

**CS for SB 673**—A bill to be entitled An act relating to cosmetology; amending s. 477.0135, F.S.; providing an exemption for graduates of cosmetology schools, pending licensing examination results; providing a limitation; providing an effective date.

By the Committee on Commerce and Senator Thurman—

**CS for SB 676**—A bill to be entitled An act relating to the disposal of cremated remains; amending s. 470.0255, F.S.; providing for the disposal of unclaimed remains of deceased persons cremated prior to October 1, 1986; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Margolis—

**CS for SB 731**—A bill to be entitled An act relating to hearing aid specialist trainees; amending s. 484.041, F.S., providing a definition; amending s. 484.0445, F.S., continuing trainees in trainee status until receipt of examination results; clarifying responsibility for the work of a trainee; providing an effective date.

By the Committee on Health and Rehabilitative Services and Senators Malchon and Gordon—

**CS for SB 737**—A bill to be entitled An act relating to juveniles; amending s. 39.01, F.S.; providing definitions; amending ss. 39.015, 39.11, 39.403, 39.408, 959.24, F.S.; providing conforming language; amending ss. 39.401, 39.402, F.S.; omitting provisions authorizing that certain juveniles be placed in shelter care; creating a new part IV of ch. 39, F.S.; providing definitions and procedures; authorizing the Department of Health and Rehabilitative Services to provide services to certain children and families; providing legislative intent; providing procedures and court jurisdiction; providing for taking into custody a child alleged to be from a family in need of services or alleged to be a child in need of services; providing for placement in a shelter of a child from a family in need of services or a child in need of services; providing for fees; providing for investigation of complaints that a child is from a family in need of services; providing for services and treatment to a family in need of services; providing for fees; providing for case review and service-treatment plans; providing for family mediation; requiring the department to establish a family mediation program in each district; authorizing the department to contract for family mediation services; providing for selection and qualifications of family mediators; providing for disposition of cases; providing for fees; providing for family arbitration; authorizing county arbitration programs; authorizing the department to contract for family arbitration services; providing for selection and qualifications of family arbitrators; providing for arbitration hearings; providing for disposition of cases; providing for a review of dispositions; authorizing the department to file a petition for a child in need of services; providing for summonses and service of process; providing for response to petition and representation of parties; providing duties of the state attorney; authorizing physical and mental examination and treatment of the child and, under certain circumstances, the parent, guardian, or person requesting custody; authorizing emergency treatment; providing for hearings; providing for orders of adjudication; providing for disposition; providing for oaths, records, and confidential information; providing contempt of court sanctions; providing right to counsel; providing for appeals; providing for compensation for appointed counsel; amending s. 232.19, F.S.; conforming provisions relating to habitual truancy; amending s. 27.51, F.S.; requiring the public defender to represent an indigent alleged to be a child in need of services; creating a Child In Need of Services Trust Fund; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Margolis—

**CS for SB 743**—A bill to be entitled An act relating to public accountancy; amending s. 473.305, F.S.; providing for a refund of certain fees; providing a fee increase; providing a late filing fee; amending s. 473.306, F.S.; changing certain licensure prerequisites; amending s. 473.312, F.S.; providing for additional continuing education hours in certain circumstances; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Margolis—

**CS for SB 744**—A bill to be entitled An act relating to barbering; amending s. 476.114, F.S.; providing that certain persons who are licensed to practice barbering in other states are qualified to take the license examination in this state; amending s. 476.192, F.S.; increasing the maximum fees that the Barbers' Board may charge barbers, barbering instructors, and barbershops with respect to licensing; providing an effective date.

By the Committee on Health and Rehabilitative Services and Senator Margolis—

**CS for SB 746**—A bill to be entitled An act relating to the Hospital Cost Containment Board; providing for a study of subacute care; providing an appropriation; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Margolis—

**CS for SB 750**—A bill to be entitled An act relating to the State Minimum Building Codes; amending s. 553.77, F.S.; requiring the Board of Building Codes and Standards of the Department of Community Affairs to issue binding opinions relating to enforcement of specific model codes adopted by state agencies to regulate building construction and other matters related to such model codes; providing an effective date.

By the Committee on Economic, Community and Consumer Affairs and Senator Margolis—

**CS for SB 752**—A bill to be entitled An act relating to real estate brokers, salesmen, and schools; amending s. 475.125, F.S.; revising license renewal periods and fees; amending s. 475.182, F.S.; restating continuing education requirements; revising license renewal periods; amending s. 475.482, F.S.; revising the period for Real Estate Recovery fee collections; amending s. 475.483, F.S.; providing for certain licensed brokers or salesmen to recover from the Real Estate Recovery Fund; providing an effective date.

#### Motion

On motion by Senator Crenshaw, the rules were waived and the Select Committee on the Lottery was granted permission to meet upon adjournment this day until completion of the agenda.

#### MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 514 which he approved on April 20, 1987.

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 30 and 114.

*John B. Phelps, Clerk*

The bills contained in the foregoing message were ordered enrolled.

By direction of the President, the following Conference Committee Report was read:

#### CONFERENCE COMMITTEE REPORT ON CS for SB 777

April 23, 1987

*The Honorable John W. Vogt  
President of the Senate*

*The Honorable Jon Mills  
Speaker, House of Representatives*

Dear Sirs:

Your Conference Committee on the disagreeing votes of the two Houses on the House amendments to Committee Substitute for Senate Bill 777, same being:

An act relating to taxation; providing for a sales and use tax on services; providing definitions; providing exemptions; providing for administration;

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

1. That the House of Representatives recede from its amendments 1 and 2 to CS for SB 777.
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.

3. That the Senate and the House of Representatives pass CS for SB 777 as amended by said Conference Committee amendments.

*s/Timothy Deratany,*  
Chairman  
*s/Dempsey J. Barron*  
*s/Tom C. Brown*  
*s/Robert B. Crawford*  
*s/Jack D. Gordon*  
*s/Toni Jennings*  
*s/James A. Scott*

*s/Winston W. Gardner, Jr.,*  
Vice Chairman  
*s/Samuel P. Bell, III*  
*s/James C. Burke*  
*s/Carl Carpenter, Jr.*  
*s/Thomas B. Drage, Jr.*  
*s/Ronald A. Silver*  
*s/J. J. Holland, Jr.,*  
Alternate

Managers on the part of the  
Senate

Managers on the part of the  
House of Representatives

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

Section 1. Section 212.059, Florida Statutes, is created to read:

212.059 Sales and use tax on services.—It is hereby declared to be the legislative intent to levy an excise tax on the sale of services in this state as hereinafter provided. It is further declared to be the legislative intent to levy a complementary excise tax on the use of services in this state as hereinafter provided.

(1)(a) A tax is hereby imposed on the sale at retail of any service in this state at the rate of 5 percent of the sales price of the service. The tax shall be computed on each taxable sale of a service for the purpose of remitting the amount of tax due the state, and shall include each and every retail sale of a service.

(b) The sale of a service is in this state for purposes of this part if the service is performed wholly within this state, or if the service is performed partly within and partly outside this state but the greater proportion of the service is performed within this state, based on costs of performance as defined in s. 212.02.

(2) A tax is hereby imposed on the use of any service in this state when the sale of the service is at retail outside this state, at the rate of 5 percent of the cost price of the service. The use of a service is in this state for purposes of this part if the benefit of the service is enjoyed in this state. For purposes of determining where the benefit of the services is enjoyed, s. 212.0591(9) shall apply.

(3)(a) The sales and use tax on services imposed by this section shall be collected by the dealer as defined in this part and remitted by him to the state at the time and in the manner as provided in this part.

(b) If the seller of the service is a multistate business and the sale is outside this state, any applicable use tax shall be remitted by the purchaser of the service. However, this paragraph shall not apply to interstate or international transportation services.

(4)(a) The sales and use tax on services imposed by this section shall be due and payable according to the brackets set forth in s. 212.12 at the time of the sale or use of the service unless the dealer elects to remit the tax pursuant to paragraph (b).

(b) A dealer may register with the department as a service provider and elect to remit the tax on a service at the time consideration is paid for such service and on the amount of consideration paid. If such election is made, it shall be applicable to all transactions of such dealer taxed under this section. Such election shall be made and may be changed by the dealer pursuant to procedures established by rule of the department.

(c) However, if a transaction involves both the sale or use of services and the sale or use of tangible personal property, and the tangible personal property is not an inconsequential element of the transaction, the sales and use tax on services shall be due and payable at the time of the sale or use regardless of the time consideration is paid for such services.

(5) Notwithstanding other provisions of this section to the contrary:

(a) Interstate and international transportation services shall be considered sold or used in this state to the extent that the sales price or cost price of the service is apportioned to this state pursuant to paragraph (b).

(b) The sales price of the sale of interstate or international transportation services, or the cost price of the use of interstate or international transportation services, shall be apportioned to the state as provided in this paragraph. There shall be included in the measure of the tax imposed

by this part on the sale or use of interstate or international transportation services that proportion of the sales price or cost price of the Florida service provider which is equal to the proportion of mileage within Florida to the total United States mileage of the Florida service provider for the service transaction in question. For purposes of this paragraph, "Florida service provider" means the person providing transportation services in Florida regardless of the commercial domicile of such person.

Section 2. Section 212.0591, Florida Statutes, is created to read:

212.0591 Rules of construction.—For purposes of the sales and use tax on services, the following rules of construction shall apply:

(1) Unless a provision of this part clearly provides otherwise, references to the SIC Code are intended to describe activities or services and not establishments. Such references shall not be construed to tax or exempt a service solely because it is performed by a person in a referenced establishment. Neither shall such references be construed to preclude taxation or an exemption for a service solely because it is performed by a person not in a referenced establishment.

(2) If the entire sales price of the sale of a service or if the entire cost price of the use of a service cannot be included within the measure of the tax imposed by this part under the Constitution or laws of the United States, there shall be apportioned to the state and included in the measure of the tax imposed by this part on the sale of services that proportion of the sales price which the cost of performing the services within the state bears to the total cost of performing the services, or on the use of services that proportion of the cost price that fairly reflects the benefit of the services enjoyed within the state.

(3) The sales and use tax on services imposed by this part is in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes levied.

(4) The sales and use tax on services imposed by this part shall not be construed to impose an additional tax on transactions to the extent that they are already taxed under other provisions of this chapter.

(5) No exemption from the sales and use tax on services imposed by s. 212.059(1) or (2) shall be deemed to exempt transactions that were subject to taxation pursuant to other provisions of this part on January 1, 1987.

(6) If a transaction involves both the sale or use of a service taxable under this part and the sale or use of intangible or real property not taxable under this part, the charges shall be separately identified and stated with respect to the taxable and nontaxable portions of the transaction. The tax imposed by this part shall apply to the transaction to the extent that the consideration paid in connection with the transaction is payment for the sale or use of services. Failure to separately state the charges shall create a presumption that the entire transaction is taxable.

(7) If a transaction involves both the sale or use of a service taxable under this part and the sale or use of a service exempt under this part, the consideration paid shall be separately identified and stated with respect to the taxable and exempt portions of the transaction as a condition of the exemption.

(8) Neither the taxation of services nor the assessment or collection of taxes under this part shall be construed as making lawful the transaction or incident which is the subject of the tax.

(9) For purposes of determining where a service is used or consumed and where the benefit of the service is enjoyed, the following provisions shall be applicable:

(a) If the purchaser is an individual, and:

1. If the service directly relates to real property, the benefit of the service shall be presumed to be enjoyed in the state where the real property is located; or

2. If subparagraph 1. is not applicable, the benefit of the service shall be presumed to be enjoyed in the state where the greater proportion of the service is performed, based on costs of performance; or

3. Notwithstanding subparagraphs 1. and 2., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed in a state, the service shall be deemed used or consumed in that state.

(b) If the purchaser is a business, and:

1. If the service directly relates to real property, the benefit of the service shall be presumed to be enjoyed in the state where the real property is located; or

2. If the service directly relates to tangible personal property, the benefit of the service shall be presumed to be enjoyed in the state where the property has acquired a business situs if the property has acquired such situs; or

3. If the service directly involves sales to a local market, the benefit of the service shall be presumed to be enjoyed in the state where the purchaser's local market exists; or

4. If subparagraphs 1., 2., and 3. are not applicable, and the purchaser of the service is doing business in this state and in one or more other states, the service shall be presumed to be enjoyed in this state to the extent that the purchaser is doing business in this state. For purposes of determining the extent of the purchaser's business in this state, the apportionment formulas set forth in part IV of chapter 214, as modified by s. 220.15(4), shall be utilized. If the purchaser is a member of an affiliated group, the affiliated group, as defined in s. 212.02, shall be considered the purchaser for purposes of this subparagraph; or

5. If the provisions of subparagraphs 1., 2., 3., and 4. are not applicable, the benefit of the service shall be presumed to be enjoyed in the state where the purchaser is exclusively doing business; or

6. Notwithstanding subparagraphs 1., 2., 3., 4. and 5., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed in a state, the service shall be deemed used or consumed in that state.

(c) Notwithstanding paragraphs (a) and (b), interstate and international transportation services shall be presumed to be enjoyed in this state to the extent that the sales price or cost price of such services is apportioned to this state pursuant to s. 212.059(5).

Section 3. Section 212.0592, Florida Statutes, is created to read:

212.0592 Exemptions from sales or use tax on services.—There shall be exempt from the tax on the sale or use of services imposed by ss. 212.059(1) or (2), 212.0594, and 212.0595 the following:

(1)(a) Services sold in this state for use outside of this state.

(b) A service shall be deemed to be purchased for use in the state where the benefit of the service is enjoyed. For purposes of determining where the benefit of the service is enjoyed, s. 212.0591(9) shall apply.

(c) In order to qualify for this exemption, the provisions of s. 212.0593 shall be met.

(2) Services by an employee to an employer measured by the compensation or remuneration paid to an employee and including retirement plans, insurance and annuity plans. This subsection shall not be construed to limit in any respect the scope of s. 212.06(1)(b).

(3) The occasional or isolated sale of services by a person who does not hold himself out as engaged in business or the use of services purchased in a transaction that is an isolated sale.

(4) Services that partners who are natural persons render to their partnerships, unless the partner renders his services to the partnership in the capacity of an independent contractor.

(5) Services between members of an affiliated group of corporations, as defined in s. 212.02. However, this exemption shall not apply to the sale or use of any service between any such members who are not included in the affiliated group for purposes of this part. If the exemption provided in this subsection is not applicable, the sales price or cost price of the service shall be based upon the fair market value of the service. The sale or use of services between divisions that may be separate taxpayers within the same corporation shall be exempt. Nothing herein shall be construed to require the filing of a consolidated return under chapter 220 in order to qualify for the exemption granted by this subsection.

(6) Agricultural services enumerated in SIC Major Group 07. However, this exemption shall not apply to animal specialty services (Industry Number 0752), unless the services relate to agricultural products as defined in s. 618.01(1), or to landscape and horticultural services (Group Number 078).

(7)(a) Transportation and warehousing services enumerated in SIC Major Groups 40, 42, 44, 45 and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.30(9), potash as described in SIC Industry Number 1474, sulfur as described in SIC Industry Number 1477, nitrogenous fertilizers as enumerated in SIC Industry Number 2873, and phosphatic fertilizers as enumerated in SIC Industry Number 2874. For purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.

(b) Food or other agricultural broker services for agricultural commodities or agricultural products as defined in s. 618.01. For purposes of this paragraph, a food or other agricultural broker is a person who solicits, negotiates, or arranges for the transfer, transportation, purchase, or sale of agricultural commodities, including agricultural commodities in their processed state.

(8) Forestry services enumerated in SIC Group Number 085, and timber cutting, harvesting, estimating and transportation services related to those activities enumerated in SIC Group Numbers 241 and 242.

(9) Educational services enumerated in SIC Group Number 82. However, this exemption shall not apply to educational services enumerated in SIC Industry Number 8299, except those services provided by bible schools. Also included in this exemption shall be the sale of educational services by any nonprofit religious organization described in SIC Industry Number 866.

(10) Fees or other charges for services imposed by governmental entities enumerated in SIC Major Groups 43, 91, 92, 93, 94, 95, 96, and 97, and fees or other charges by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. However, this exemption shall not apply to charges for utility or sanitary services.

(11)(a) Services of a financial nature, of a type customarily performed by a financial institution.

(b) However, this exemption shall not apply to: charges for use of safety deposit boxes; charges for use of night deposit services; charges for issuing cashier's checks; charges for issuing traveler's checks; charges for issuing money orders; charges for preparation of individual tax returns; charges for copies of documents; stop payment charges; return check charges, unless due to insufficient funds; charges for service as personal representative of estates of decedents; credit information and reporting services; overdraft charges; collection fees; hold mail fees; guardianship fees; credit and charge card membership fees; cash vault fees; or data processing services not otherwise exempt, except check processing and check clearing services.

(c) The tax imposed under s. 212.059 shall not apply to a service by a financial institution the charge for which is waived or imputed.

(d) For purposes of this subsection, the term "financial institution" means a financial institution as defined in s. 655.005; any subsidiary thereof; any holding company, other than a diversified savings and loan holding company as defined in s. 408 of the National Housing Act, which controls a financial institution; and any subsidiary of such holding company.

(12) Health services enumerated in SIC Major Group 80 and health services provided by pharmacists licensed pursuant to chapter 465, acupuncturists certified pursuant to chapter 457, respiratory therapists and respiratory therapy technicians registered or certified pursuant to chapter 468, audiologists and speech-language pathologists certified pursuant to chapter 468, physical therapists and physical therapist assistants licensed pursuant to chapter 486, opticians licensed pursuant to chapter 484, hearing aid specialists licensed pursuant to chapter 484, and home health agencies and hospices licensed pursuant to chapter 400.

(13) Insurance services of agents and brokers as enumerated in SIC Major Group 64, insurance service companies, and consideration paid for insurance, including annuities, as defined under the Florida Insurance Code and chapter 440. However, consideration paid for title insurance that is in excess of 110 percent of the risk premium rate promulgated pursuant to s. 627.782 shall not be exempt as consideration paid for insurance.

(14) Interest and "points" that constitute prepayment of interest, paid as consideration for loans, including credit card interest, and discount charges for the purchase of accounts receivable.

(15) Coin-operated laundries and coin-operated dry cleaning establishments enumerated in SIC Number 7215.

(16) Maintenance assessments or fees paid by an association member to a homeowners association, residential condominium owners association, residential property owners association, residential mobile homeowners association, or residential cooperative association.

(17) Membership dues or membership fees paid to membership organizations enumerated in SIC Major Group 86, and to arts, historical, and science organizations, provided such organizations are not-for-profit corporations under chapter 617 or a comparable law of another state or are exempt organizations under the Internal Revenue Code, and membership dues or other fees paid to regulatory athletic associations.

(18) Qualified production services performed by any person for a person principally engaged in the business of producing qualified motion pictures or for a person who owns or leases property used primarily for the production of qualified motion pictures. For purposes of this subsection:

(a) "Qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:

1. Photography, recording, casting, shooting, creation of special effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support, wardrobe, acting, consulting, writing, directing, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing and distributing;

2. The design, planning, engineering, construction, alteration, repair and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in subparagraph 1.; and

3. Property management services directly related to property used in connection with the services described in subparagraphs 1. and 2.

(b) "Qualified motion picture" means all or any part of a series of related images, either on film, tape or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted or altered for exploitation in, on or through any medium or device and at any location, primarily for entertainment, industrial or educational purposes.

(19) Local and long distance trucking and warehousing services enumerated in SIC Major Group 42, except those trucking services related to sanitary services, and except those warehousing services already taxable pursuant to s. 212.031 or s. 212.05.

(20) Local and suburban passenger transportation services enumerated in SIC Industry Number 4111, ambulance services and hearse rental services enumerated in SIC Industry Number 4119, and intercity and rural highway passenger transportation services enumerated in SIC Group Number 413.

(21) Water transportation services described in SIC Group Numbers 441 and 442, towing or tugboat services described in SIC Industry Number 4454, marine cargo handling services described in SIC Industry Number 4463, piloting services, ship cleaning, steamship leasing, marine surveyors and ship repair and maintenance services; storage of cargo at port facilities; transportation services enumerated in SIC Industry Numbers 4712 and 4723, lighterage services, described in SIC Industry Number 4453, and services related to processing and accessorizing of automobiles that are imported through Florida ports. The exemption provided by this subsection also applies to services provided in connection with cargo in international trade by any licensed customhouse broker; any customs bonded warehouse, container freight and examination station, or cartman; or freight consolidator or deconsolidator.

(22) Sanitary services enumerated in SIC Group Number 495, garbage, refuse and debris transportation services enumerated in SIC Industry Number 4212, and septic tank cleaning services enumerated in SIC Industry Number 7699, if such services are sold to residential households or owners of residential models.

(23) Security and commodity brokerage services enumerated in SIC Major Group 62 involving the transfer of securities or commodities. However, this exemption shall not be construed to exempt any financial service taxable under subsection (11), or any accounting or investment services.

(24) Social services enumerated in SIC Major Group 83 and other social services rendered pursuant to any contract between a social service provider and a governmental entity.

(25) Remuneration paid to athletes for services related to their participation in athletic or sports events, and remuneration paid to owners of greyhounds or racehorses for participation in pari-mutuel events, and consideration paid for the right to broadcast athletic or sports events at which admission is charged.

(26) Real estate commissions when the property seller affirmatively demonstrates to the realtor responsible for collecting the tax that at the time of signing the listing contract on the real estate offered for sale the property seller resided thereon and was entitled to the homestead exemption pursuant to s. 196.031.

(27)(a) Legal services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services. However, this exemption shall only be applicable if the criminal charges brought in the case are dismissed or the client is ultimately adjudicated not guilty by a court of competent jurisdiction. This exemption shall only be granted pursuant to a refund of taxes previously paid on such services.

(b) Legal services, provided to a natural person, which relate to child support, child custody, adoption, divorce, guardianship, juvenile cases, landlord/tenant relations, mobile home rentals, enforcement of civil rights or recovery of past or future medical expenses. However, this exemption shall be limited to \$500 in services per person per calendar year.

(28) Services provided by a banking organization as defined in s. 199.023(9) in the conduct of an international banking transaction as defined in s. 199.023(11).

(29) Services provided by travel agents related to arrangement of transportation and accommodations.

(30) Research and development services. For purposes of this subsection, "research and development services" shall mean those activities described in s. 212.052(1)(a).

(31) Religious services provided by religious organizations, religious institutions, or religious leaders.

(32) Any service performed by or through interstate telecommunications by a holder of direct pay permit issued pursuant to s. 212.05(1)(e).

(33) Taxicab services described in SIC Industry Number 4121.

(34) Payment by a franchisee, or receipt by a franchisor, of royalties for use of intangible property, or contributions to a marketing fund or account administered by such franchisor, pursuant to a franchise agreement, which contributions are used solely for the purchase of advertising benefiting franchisees or for the administration of such fund.

(35) Data processing services performed for a financial institution by a service corporation of a financial institution described in SIC Major Group 61, provided:

(a) The service corporation is organized pursuant to s. 545.74, Rules of the Federal Home Loan Bank Board;

(b) All capital stock of the service corporation may be purchased by only savings and loan associations having operations in this state;

(c) No savings and loan association or savings bank owns, or may own, more than 10 percent of such service corporation's outstanding capital stock;

(d) Every eligible savings and loan association or savings bank may own an equal amount of capital stock or may, on such uniform basis as the service corporation may determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, or an amount of such stock equal to its pro-rata share of accounts serviced.

(36) Personal laundry services sold to residents of nursing home facilities licensed under part I of chapter 400.

(37) Services used directly and exclusively for maintenance, retrofitting, repair, or replacement of industrial machinery and equipment at fixed locations, which machinery and equipment is used to manufacture, process, compound, produce, fabricate, or prepare for shipment items of tangible personal property for sale. However, this exemption shall only apply to the tax on such services in excess of \$100,000 of tax per year. The restrictions contained in s. 212.08(5)(b)5. shall apply to this subsection. "Industrial machinery and equipment" shall have the same meaning as in s. 212.08(5)(b)6.a. This subsection shall not be construed to exempt the purchase of services for the maintenance, retrofitting, repair, or replacement related to such industrial machinery and equipment when such services are included as a part of the purchase of tangible personal property or were subject to tax prior to July 1, 1987. The exemptions for maintenance, retrofitting, repair, or replacement services used directly and exclusively for industrial machinery and equipment under this subsection shall not be construed to expand the exemptions provided in s. 212.08(5)(b)1. or 2. beyond their meaning prior to July 1, 1987.

(38) Oil and gas field services enumerated in SIC Group Number 138, and pipeline transportation services enumerated in SIC Group Numbers 461 and 492.

(39) Rail transportation services enumerated in SIC Major Group 40.

(40) Beauty and barber shop services enumerated in SIC Groups 723 and 724.

(41) Employee leasing services enumerated in SIC Industry Number 7369, to the extent that the charge for such services consists of payroll and related employment benefits paid or provided to the leased employees.

Section 4. Section 212.0593, Florida Statutes, is created to read:

212.0593 Administration of s. 212.0592(1).—

(1) Each multistate business having tax nexus in this state under this part shall obtain from the department an exempt purchase permit prior to claiming an exemption under s. 212.0592(1). Upon purchasing a service from a dealer registered under this part, presentation by said multistate business of a valid exempt purchase permit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. The purchaser shall self-accrue any taxes which may be due on the service and remit them to the department in the manner and under the requirements applicable to dealers under this part, subject to such additional reporting requirements as the department may prescribe.

(2) Any business or group of businesses without tax nexus in this state under this part, and any individual resident in another state claiming an exemption under s. 212.0592(1), shall obtain an exempt purchase permit under subsection (1) and consent to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services, or shall execute and present to the selling dealer an exempt purchase affidavit on a form prescribed by the department. The affidavit shall include the federal employer identification number of the business or social security number of the individual, the purchaser's location and mailing address, a statement that the business does not have tax nexus in this state under this part or that the individual is not a resident of this state, the name and registration number of the selling dealer, and a statement of consent by the purchaser to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services. The affidavit shall also contain such other information as the department may prescribe. Acceptance of a valid exempt purchase permit or affidavit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service.

(3) Each dealer shall maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt purchase affidavit under this section. The log shall identify the purchaser, the exempt purchase permit number if applicable, the service sold, the price of the service and such other information as the department may prescribe. The logs and all affidavits accepted by the dealer shall be retained by the dealer for 3 years and made available to the department upon request. Failure to maintain these records or to make them available to the department shall subject the dealer to the penalties provided in s. 212.13.

(4) If a purchaser fails to obtain an exempt purchase permit or execute an exempt purchase affidavit, but otherwise qualifies for an exemption pursuant to s. 212.0592(1), the purchaser may apply to the department for a refund of taxes paid on the exempt amount of the purchase. The application for refund shall be accompanied by an exempt purchase affidavit and shall be submitted within 1 year of the purchaser's payment of the tax. A refund recommended by the department pursuant to this subsection shall be reduced by the amount of any applicable dealer collection allowance previously allowed on the transaction.

Section 5. Section 212.0594, Florida Statutes, is created to read:

212.0594 Construction services; special provisions.—Notwithstanding other provisions of this part to the contrary:

(1) Subcontractors shall not be required to collect the tax on construction services.

(2) The tax on construction services purchased by prime contractors shall be due and payable by the prime contractor at the time consideration is paid for such services, subject to the provisions of subsection (6).

(3) Prime contractors for new construction shall be considered the final consumer of construction services consumed in improving realty. The owner of the affected real property shall be considered the final consumer of construction services other than those related to new construction. The prime contractor or subcontractor who purchases or uses building materials shall be considered the final consumer thereof.

(4) The provisions of s. 212.0592(3) shall not apply to construction services.

(5) The provisions of s. 212.02 relating to the sale of a service for resale shall not apply to construction services.

(6) The tax on purchases of construction services by prime contractors shall be based on the total consideration paid to the subcontractor. However, if the written proposal, contract, or interim or final invoice of the subcontractor specifically describes, itemizes and states the price paid by the subcontractor for the building materials purchased by the subcontractor and incorporated into the improvement in fulfillment of his responsibilities under the subcontract, the tax shall be based on the total consideration less the price of said building materials.

(7) The tax on the purchase of construction services, other than new construction, shall be based on the total consideration paid to the prime contractor less any consideration paid by the prime contractor to subcontractors with respect to the project in question. However, if the contract between the owner of the real estate and the prime contractor specifically describes and itemizes the building materials purchased by the prime contractor and incorporated into the realty in fulfillment of his responsibilities under the contract, at the regular retail price thereof, the tax shall be based on the taxable consideration further reduced by the price of said building materials.

(8) There is hereby imposed a tax on the construction services any prime contractor provides with respect to new construction for himself or others. The tax shall be based upon the cost price to the prime contractor of the services he provides, without any deduction therefrom on account of the cost of materials or supplies used, labor costs, service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the cost of building materials purchased by the prime contractor and incorporated into the new construction, and amounts paid to subcontractors upon which a sales tax has been paid, shall not be included in the cost price. The tax shall be due and payable as otherwise provided in this part at the time the contract for new construction is fulfilled or within 30 days after the certificate of occupancy is issued, whichever is sooner. The retail sale of new construction for which the prime contractor has paid tax pursuant to this subsection shall be exempt from the tax imposed by this section.

(9) No unit of local government shall issue a certificate of occupancy for new construction until the prime contractor certifies, on a form promulgated by the department and submitted to the local government, that the new construction is substantially complete. Such forms shall be provided to local governments by the department, and completed forms shall be returned monthly to the department by the local governments.

(10) For purposes of this section:

(a) "Prime contractor" means a person entering into a contract for the improvement of realty with the person for whose benefit the realty is being improved, and means any person who manufactures factory-built buildings. When new construction is undertaken on speculation or for one's own use, the person responsible for the undertaking shall be considered the prime contractor.

(b) "Subcontractor" means a person entering into a contract for the improvement of realty with a prime contractor or with another subcontractor.

(c) "New construction" means factory-built buildings and any improvement to realty, but does not include any addition or further improvement to existing improvements to realty unless a building permit is required for such addition or further improvements.

(d) "Building materials" means tangible personal property physically incorporated into improvements to realty whether through new construction or addition or repair.

(e) "Construction services" means activity involving the physical fabrication, physical modification, or physical repair of improvements to realty and those services enumerated in SIC Industry Number 8911, land planning services enumerated in SIC Industry Number 7392, and drafting and interior design services enumerated in SIC Industry Number 7399, when such services directly relate to improvements to realty.

Section 6. Section 212.0595, Florida Statutes, is created to read:

212.0595 Advertising; special provisions.—Notwithstanding the provisions of ss. 212.059-212.0593, the following special provisions shall be applicable to the sales and use tax on advertising:

(1) A tax is hereby imposed on advertising sold or used in this state. The tax shall be at the rate of 5 percent of the sales price or cost price of the advertising.

(2) Advertising shall be deemed to have been sold in this state if the greater proportion of the advertising is performed within this state based on costs of performance as defined in s. 212.02.

(3) Advertising shall be deemed to have been used in this state if it was sold outside this state for consumption in this state. Advertising shall be presumed to be consumed in this state to the extent the cost price is apportioned to this state pursuant to subsection (4).

(4)(a) The sales price of the sale of advertising, or the cost price of the use of advertising, shall be apportioned to the state as provided in this subsection. There shall be included in the measure of the tax imposed by this section that proportion of the sales price or cost price which is equal to the proportion of market coverage within Florida to the total United States market coverage for the most recently completed accounting year of the service provider. However, in the case of new or restructured service providers, the department may prescribe by rule another time period or proportion that fairly reflects Florida market coverage.

(b) For purposes of this subsection, "market coverage" means average circulation, in the case of print media, and means population within the signal reception area of the broadcaster, in the case of broadcast media, measured as prescribed by the department by rule.

(c) For advertising other than print or broadcast media, the department shall establish by rule a method for fairly apportioning advertising sold or used in this state.

(5) If advertising is sold in this state, the sales tax imposed by this section shall be collected and remitted by the advertising media provider.

(6) If advertising is not sold in this state, but is used in this state, the advertiser shall self-accrue the use tax imposed by this section and remit the tax directly to the department.

(7) When advertising is purchased and resold, the person reselling the advertising may deduct the consideration paid for the advertising from his charges for purposes of calculating any tax due under this part.

(8) Nothing herein shall be construed to require the advertising media to furnish to the department a listing of persons placing advertising with the advertising media.

(9) Consideration paid pursuant to a written contract for a term in excess of two years, entered into prior to April 1, 1987, and which involves a transaction taxable under this section, shall be exempt from the tax

imposed by this section until the expiration of such contract. This exemption shall not apply to advertising provided pursuant to any extension or renewal of such contract.

Section 7. Section 212.02, Florida Statutes, 1986 Supplement, as amended by chapters 86-152 and 86-166, Laws of Florida, is amended to read:

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

(1)(16) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting, and boating facilities.

(2) "Affiliated group" means an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes.

(3)(9) "Business" means any activity engaged in by any person, or caused to be engaged in by him, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who does not hold himself out as engaged in business, but includes other charges for the sale or rental of tangible personal property, sales of services taxable under this part, sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

(4)(15) The terms "cigarettes," "tobacco," or "tobacco products" referred to in this chapter include all such products as are defined or may be hereafter defined by the laws of the state.

(5) "Cost price" means the actual cost of articles of tangible personal property or services without any deductions therefrom on account of the cost of materials used, labor or service costs, transportation charges, or any expenses whatsoever.

(6) "Costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the type of trade or business in which the taxpayer engages.

(7)(11) The term "department" means the Department of Revenue.

(8) "Employee" means any person who is not an independent contractor and whose wages or remuneration are subject to tax under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or whose wages or remuneration are subject to withholding for federal income tax purposes.

(9) "Employer" means any person who must pay taxes on wages under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or who must withhold taxes from wages for federal income tax purposes.

(10)(22) "Enterprise zone" means an area of the state authorized to be an enterprise zone pursuant to s. 290.0055 and approved by the secretary of the Department of Community Affairs pursuant to s. 290.0065. This subsection shall expire and be void on December 31, 1994.

(11)(20) "Factory-built building" means a structure manufactured in a manufacturing facility for installation or erection as a finished building; "factory-built building" includes, but is not limited to, residential, commercial, institutional, storage, and industrial structures.

(12)(17) "In this state" or "in the state" means within the state boundaries of Florida as defined in s. 1, Art. II of the Constitution of the State exterior limits of Florida and includes all territory within these limits owned by or ceded to the United States.

(13)(14) The term "intoxicating beverages" or "alcoholic beverages" referred to in this chapter includes all such beverages as are so defined or may be hereafter defined by the laws of the state.

(14)(6) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(a) Every building or other structure kept, used, maintained, or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, in which 10 or more rooms are furnished for the accommodation of such guests, and having one or more dining rooms or cafes where meals or lunches are served to such transient or permanent guests, such sleeping accommodations and dining rooms or cafes being conducted in the same building or buildings in connection therewith, shall, for the purpose of this chapter, be deemed a hotel.

(b) Any building, or part thereof, where separate accommodations for two or more families living independently of each other are supplied to transient or permanent guests or tenants shall for the purpose of this chapter be deemed an apartment house.

(c) Every house, boat, vehicle, motor court, trailer court, or other structure or any place or location kept, used, maintained, or advertised as, or held out to the public to be, a place where living quarters or sleeping or housekeeping accommodations are supplied for pay to transient or permanent guests or tenants, whether in one or adjoining buildings, shall for the purpose of this chapter be deemed a roominghouse.

(d) In all hotels, apartment houses, and roominghouses within the meaning of this chapter, the parlor, dining room, sleeping porches, kitchen, office, and sample rooms shall be construed to mean "rooms."

(e) A "tourist camp" is a place where two or more tents, tent houses, or camp cottages are located and offered by a person or municipality for sleeping or eating accommodations, most generally to the transient public for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business.

(f) A "trailer camp," "mobile home park," or "recreational vehicle park" is a place where space is offered, with or without service facilities, by any persons or municipality to the public for the parking and accommodation of two or more automobile trailers, mobile homes, or recreational vehicles which are used for lodging, for either a direct money consideration or an indirect benefit to the lessor or owner in connection with a related business, such space being hereby defined as living quarters, and the rental price thereof shall include all service charges paid to the lessor.

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "lease," "let," "rental" or "service" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements.

(h) "Real property" means any interest in the surface of real property unless the property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. *Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.*

- 5.4. A public or private street or right-of-way occupied or used by a utility for utility purposes.

- 6.5. A public street or road which is used for transportation purposes.

7.6. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.7. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of ocean going vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.

9. *Property used as an integral part of the performance of qualified production services as defined in s. 212.0592(18)(a).*

10. *Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of an airport, a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, or exhibition hall.*

(i) "License," as used in this chapter with reference to the use of real property, means the granting of a privilege to use or occupy a building or a parcel of real property for any purpose.

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

(16)(18) "Nurseryman" or "grower" means any person engaged in the production of nursery stock or horticultural plants.

(17)(1) "Person" includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and includes any political subdivision, municipality, state agency, bureau, or department and the plural as well as the singular number.

(18)(10) "Retailer" means and includes every person engaged in the business of making sales at retail, or for distribution, or use, or consumption, or storage to be used or consumed in this state.

(19)(3)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. "Retail sale" does not include fee-sharing between real estate agents and real estate brokers. A sale of a service shall be considered a sale for resale only if:

1. The purchaser of the service does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;

2. The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;

3. The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;

4. The service, with its value separately stated, will be taxed under this part in a subsequent sale; and

5. The service is purchased pursuant to a service resale permit by a person who is primarily engaged in the business of selling services. The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

(b) The terms "retail sales," "sales at retail," "use," "storage," and "consumption" include the sale, use, storage, or consumption of all tangible advertising materials imported or caused to be imported into this state. Tangible advertising material includes displays, display containers, brochures, catalogs, pricelists, point-of-sale advertising, and technical manuals or any tangible personal property which does not accompany the product to the ultimate consumer.

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale or for packaging in the process of providing a service taxable under this part and do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product. However, said terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when said items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means.

(d) "Gross sales" means the sum total of all sales of tangible personal property or services as defined herein, without any deduction whatsoever of any kind or character, except as provided in this chapter.

(20)(2) "Sale" means and includes:

(a) Any transfer of title or possession, or both, exchange, barter, license, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

(b) The rental of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses or roominghouses, or tourist or trailer camps, as hereinafter defined in this chapter.

(c) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(d) The furnishing, preparing, or serving for a consideration of any tangible personal property for consumption on or off the premises of the person furnishing, preparing, or serving such tangible personal property which includes the sale of meals or prepared food by an employer to his employees.

(e) A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price.

(f) Any transfer, provision, or rendering of services for a consideration.

(21)(4) "Sales price" means the total amount paid for tangible personal property or services, including any services that are a part of the sale and any tangible personal property that is part of the service, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires labor or material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection.

(19) "~~Solar energy system~~" means ~~equipment and requisite hardware which provide and are used for the collection, transfer, storage, and use~~

~~of incident solar energy for water heating, space heating, cooling, or other application which would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity. This subsection is repealed effective June 30, 1984.~~

(22) The term "service" or "services" as used in this part means those activities usually provided for consideration by the following establishments listed in the SIC Manual:

- (a) Agricultural Services (Major Group Number 07).
- (b) Forestry Services (Major Group Number 085).
- (c) Metal Mining Services (Group Number 108).
- (d) Oil and Gas Field Services (Group Number 138).
- (e) Nonmetallic (Nonfuel) Mineral Services (Group Number 148).
- (f) Building Construction-General Contractors and Operative Builders (Major Group Number 15).
- (g) Construction other than Building Construction-General Contractors (Major Group Number 16).
- (h) Construction-Special Trade Contractors (Major Group Number 17).
- (i) Printing, Publishing, and Allied Services (Major Group Number 27).
- (j) Coating, Engraving, and Allied Services (Group Number 347).
- (k) Railroad Transportation (Major Group Number 40).
- (l) Local and Suburban Transit and Interurban Highway Passenger Transportation (Major Group Number 41).
- (m) Motor Freight Transportation and Warehousing (Major Group Number 42).
- (n) U.S. Postal Service (Major Group Number 43).
- (o) Water Transportation (Major Group Number 44).
- (p) Transportation by Air (Major Group Number 45).
- (q) Pipelines, except Natural Gas (Major Group Number 46).
- (r) Transportation Services (Major Group Number 47).
- (s) Communications (Major Group Number 48).
- (t) Electric, Gas, and Sanitary Services (Major Group Number 49).
- (u) Food Brokers (Industry Number 5141).
- (v) Banking (Major Group Number 60).
- (w) Credit Agencies other than Banks (Major Group Number 61).
- (x) Security and Commodity Brokers, Dealers, Exchanges, and Services (Major Group Number 62).
- (y) Insurance (Major Group Number 63).
- (z) Insurance Agents, Brokers, and Service (Major Group Number 64).
- (aa) Real Estate (Major Group Number 65).
- (bb) Combinations of Real Estate, Insurance, Loans, Law Offices (Major Group Number 66).
- (cc) Holding and other Investment Offices (Major Group Number 67).
- (dd) Personal Services (Major Group Number 72).
- (ee) Business Services (Major Group Number 73).
- (ff) Automotive Repair, Services, and Garages (Major Group Number 75).
- (gg) Miscellaneous Repair Services (Major Group Number 76).
- (hh) Motion Pictures (Major Group Number 78).

(ii) Amusement and Recreation Services, except Motion Pictures (Major Group Number 79).

(ji) Health Services (Major Group Number 80).

(kk) Legal Services (Major Group Number 81).

(ll) Educational Services (Major Group Number 82).

(mm) Social Services (Major Group Number 83).

(nn) Museums, Art Galleries, Botanical and Zoological Gardens (Major Group Number 84).

(oo) Membership Organizations (Major Group Number 86).

(pp) Miscellaneous Services (Major Group Number 89).

(qq) Legislative, Judicial, Administrative and Regulatory Activities of Federal, State, Local and International Governments (Major Group Numbers 91, 92, 93, 94, 95, 96, and 97).

In addition, the terms shall include the services of any independent broker of tangible personal property.

(23)(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 includes, but is not limited to, all forms of fuel commonly or commercially known or sold as diesel fuel or kerosene. However, the term "special fuel" does not include butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.

(24) "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1972, as published by the Office of Management and Budget, Executive Office of the President, and as amended in the 1977 Supplement.

(25)(7) "Storage" means and includes any keeping or retention in this state of tangible personal property for use or consumption in this state or for any purpose other than sale at retail in the regular course of business.

(26)(12) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term "tangible personal property" does not include stocks, bonds, notes, insurance, or other obligations or securities; intangibles as defined by the intangible tax law of the state; or pari-mutuel tickets sold or issued under the racing laws of the state; or factory-built buildings during construction or thereafter.

(27)(9) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, or interest therein, except that it does not include the sale at retail of that property in the regular course of business. "Use" also means the consumption or enjoyment of the benefit of services.

(28)(13) The term "use tax" referred to in this chapter includes the use, the consumption, the distribution, and the storage as herein defined of tangible personal property or services.

Section 8. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, 1986 Supplement, as amended by chapters 86-152 and 86-166, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

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

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of

individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5.4. A public or private street or right-of-way occupied or used by a utility for utility purposes.

6.5. A public street or road which is used for transportation purposes.

7.6. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.7. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.

9. Property used as an integral part of the performance of qualified production services as defined in s. 212.0592(18)(a).

10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of an airport, a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, or exhibition hall.

Section 9. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, 1986 Supplement, is reenacted and amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. ~~No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized.~~

2. ~~No tax shall be levied on dues, membership fees, and admission charges imposed by not for profit sponsoring organizations or community or recreational facilities. To receive this exemption, the sponsoring organization or facility must qualify as a not for profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.~~

3. ~~No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.~~

4. No tax shall be levied on admissions to the National Football League championship game.

Section 10. Section 212.05, Florida Statutes, 1986 Supplement, as amended by chapters 86-152, 86-155, and 86-166, Laws of Florida, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this section 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 as follows:

(a)1.a. 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.

b.2. Each occasional or isolated sale of an aircraft, boat, or mobile home, or motor vehicle of a class or type which is required to be regis-

tered, 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. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit, signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this sub-subparagraph. For purposes of this sub-subparagraph ~~subparagraph~~, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).

2. *This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane 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 or airplane 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 or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane 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 or airplane 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 lease or rental of a commercial motor vehicle as defined in s. 316.003(67)(a) 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.* ~~except the rental of motion picture film when an admission is charged for viewing such film 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 a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this subparagraph, the term "telecommunication service" does not include local

service provided through a pay telephone. 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 telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does 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 telecommunication, wired television, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. Fifty percent of the charge imposed for the total channel mileage between the first channel termination point inside this state and the nearest channel termination point outside this state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(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 that part, except that motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

(h) Any person who purchases, installs, rents, or leases a telephone system or telecommunication system for his own use to provide himself with telephone service or telecommunication service which is a substitute for any telephone company switched service or a substitute for any dedicated facility by which a telephone company provides a communication path is exercising a taxable privilege and shall register with the Department of Revenue and pay into the State Treasury a yearly amount equal to 5 percent of the actual cost of operating such system, notwithstanding the provisions of s. 212.081(3)(b). "Actual cost" includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this paragraph, the depreciation expense to be included in actual cost shall be the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

(i) ~~At the rate of 5 percent on charges for cleaning, laundry, and garment services as defined in group 721 of the 1972 Standard Industrial Classification Manual as published by the Executive Office of the President, Office of Management and Budget.~~

(j) ~~At the rate of 5 percent of the consideration for performing or providing any service.~~

(2) The tax shall be collected by the dealer, as defined herein, and remitted by him to the state at the time and in the manner as hereinafter provided.

(3) The tax so levied is in addition to all other taxes, whether levied in the form of excise, license, or privilege taxes, and in addition to all other fees and taxes levied.

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

Section 11. Paragraph (a) of subsection (3) of section 212.054, Florida Statutes, 1986 Supplement, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a) The dealer is located in the county and the sale includes tangible personal property or services, except as otherwise provided herein provided in paragraph (e);

Section 12. Paragraph (b) of subsection (1), paragraphs (g) and (k) of subsection (2), and subsections (4) and (7) of section 212.06, Florida Statutes, 1986 Supplement, are amended to read:

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

(1)

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02(5) defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. *Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a qualified motion picture as defined in s. 212.0592(18)(b) prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes.*

(2)

(g) "Dealer" also means and includes every person who solicits business either by direct representatives, indirect representatives, or manufacturers' agents or by distribution of catalogs or other advertising matter or by any other means whatsoever and by reason thereof receives orders for tangible personal property or services from consumers for use, consumption, distribution, and storage for use or consumption in the state; and such dealer shall collect the tax imposed by this chapter from the purchaser, and no action either in law or in equity on a sale or transaction as provided by the terms of this chapter may be had in this state by any such dealer unless it is affirmatively shown that the provisions of this chapter have been fully complied with.

(k) "Dealer" also means any person who sells, provides, or performs a taxable service for consideration taxable under this part. "Dealer" also means any person who purchases, uses, or consumes a service taxable under this part who cannot prove that the tax levied by this part has been paid to the seller of the taxable service.

(4) On all tangible personal property imported or caused to be imported from other states, territories, the District of Columbia, or any foreign country, and used by him, and on all services purchased in other states, territories, the District of Columbia, or any foreign country, and used by him, the dealer as herein defined, shall pay the tax imposed by this chapter on all articles of tangible personal property so imported and used, and on all services so purchased and used, the same as if such articles or services had been sold at retail for use or consumption in this state. For the purposes of this chapter, the use, or consumption, or distribution, or storage to be used or consumed in this state of tangible personal property shall each be equivalent to a sale at retail; and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(7) The provisions of this chapter do not apply in respect to the use or consumption of tangible personal property or services, or distribution or storage of tangible personal property or services for use or consumption in this state, upon which a like tax equal to or greater than the amount imposed by this chapter has been lawfully imposed and paid in another state. The proof of payment of such tax shall be made according to rules and regulations of the department. If the amount of tax paid in another state is not equal to or greater than the amount of tax imposed by this chapter, then the dealer shall pay to the department an amount sufficient to make the tax paid in the other state and in this state equal to the amount imposed by this chapter.

Section 13. Paragraph (a) of subsection (1) and subsections (2), (4), and (9) of section 212.07, Florida Statutes, 1986 Supplement, are amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(1)(a) The privilege tax herein levied measured by retail sales shall be collected by the dealers from the purchaser or consumer. *Except as otherwise specifically provided, the sales and use tax on services herein levied measured by retail sales shall likewise be collected by the dealers from the purchaser or consumer.*

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale. Such tax shall constitute a part of such price, charge, or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Where it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish an effective tax rate for such industry. The department may also amend this effective tax rate as the industry's pricing or practices change. *Except as otherwise specifically provided, any dealer who neglects, fails, or refuses to collect the tax herein provided upon any, every, and all retail sales made by him or his agents or employees of tangible personal property or services which are subject to the tax imposed by this chapter shall be liable for and pay the tax himself.*

(4) A dealer engaged in any business or in selling any services taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property or services sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) Any person who has purchased at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal

property, admissions, communication or other services taxable under this part, or leased tangible personal property, or who has leased, occupied, or used or was entitled to use any real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space, or spaces for boats in boat docks or marinas and cannot prove that the tax levied by this chapter has been paid to his vendor, lessor, or other person is directly liable to the state for any tax, interest, or penalty due on any such taxable transactions.

Section 14. Paragraphs (b), (c), and (d) of subsection (5), subsections (6) and (7) and paragraph (b) of subsection (12) of section 212.08, Florida Statutes, 1986 Supplement, and paragraph (a) of subsection (2) of said section, as amended by chapters 86-152 and 86-166, Laws of Florida, are amended, paragraphs (f), (n), and (q) of subsection (7) are reenacted and redesignated, and subsection (11) of said section is reenacted and amended, to read:

212.08 Sales, rental, use, consumption, distribution, and storage 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 are hereby specifically exempt from the tax imposed by part I of this chapter.

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery, and equipment, or services pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail. The department shall have 4 years from the date of delivery or date of receipt to perform an audit of such purchases, notwithstanding the provisions of s. 212.14(6).

c. If, in a subsequent audit conducted by the department, it is determined that the machinery, and equipment, or services purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery, or equipment, or services purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

(c) Machinery, and equipment, or services used in production of electrical or steam energy.—The purchase of machinery and equipment for use at a fixed location, which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil, and services directly related to the installation of such machinery and equipment, excluding construction services, is are exempt from the tax imposed by this chapter. Such elec-

trical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed under chapter 212 shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law.

(d) Machinery, and equipment, or services used under federal procurement contract.—

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are partially exempt from the tax imposed in this chapter on that portion of the tax which is in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent. The percentage of increase is measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. In no case may the commencement of production begin later than 2 years following completion of installation of the machinery or equipment.

2. The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery, or equipment, or services reduced by the percentage of gross receipts from cost-reimbursement type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.

3. The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Such refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.

4. For the purposes of this paragraph, the term:

a. "Cost-reimbursement type contracts" has the same meaning as in 32 C.F.R. s. 3-405.

b. "Deflated implicit productive output" means the product of implicit productive output times the quotient of the national defense implicit price deflator for the preceding calendar year divided by the deflator for the year of completion or commencement.

c. "Eligible costs" means the total direct and indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding general and administrative costs, selling expenses, and profit, defined by the uniform cost-accounting standards adopted by the Cost-Accounting Standards Board created pursuant to 50 U.S.C. s. 2168.

d. "Implicit productive output" means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used.

e. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and are used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption of such parts and accessories is consistent with the provisions of this paragraph.

f. "National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.

5. The exclusions provided in subparagraph (b)5. apply to this exemption. This exemption applies only to machinery or equipment purchased pursuant to production contracts with the United States Department

of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons. In no event shall the provisions of this paragraph apply to any expanding business the increase in productive output of which could be measured under the provisions of subparagraph (b)6.b. as physically comparable between the two periods.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS, COMMUNICATIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, the state, or any county, municipality, or political subdivision of this state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity; provided This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959; and further provided This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion. Likewise exempt are film rentals, when an admission is charged for viewing such film.

(7) MISCELLANEOUS EXEMPTIONS.—

(a)(4) Artificial commemorative flowers.—Exempt Also exempted from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

(b)(3) Boiler fuels.—When purchased for use as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residues or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter; however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the use of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation.

(c)(4) Crustacea bait.—Also exempt from the tax imposed by this chapter is the purchase by commercial fishermen of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

(d)(5) Feeds.—Feeds for poultry and livestock, including racehorses and dairy cows, are exempt.

(e) Film rentals.—Film rentals are exempt when an admission is charged for viewing such film, and license fees and direct charges for films, videotapes, and transcriptions used by television or radio stations or networks. However, this exemption shall not be construed to exempt the sale or use of advertising.

(f)(4) Flags.—Also exempt are sales of the flag of the United States and the official state flag of Florida.

(g)(5) Florida Retired Educators Association and its local chapters.—Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

(h)(5) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as "seeing-eye dogs," and the sale of food or other items for such guide dogs.

1. The department shall issue a consumer's certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer's certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer's certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

(i)(e) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention.

(j)(h) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households or owners of residential models, including oil, kerosene, liquefied petroleum gas, coal, wood, and other fuel products used in the household or residential model for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose, the entire sale is taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption.

(k) Meals provided by certain nonprofit organizations.—There is exempt from the tax imposed by this chapter the sale of prepared meals by a nonprofit volunteer organization to handicapped, elderly, or indigent persons when such meals are delivered as a charitable function by the organization to such persons at their places of residence.

(l)(w) ~~Military museums Specified nonprofit corporations.~~—Also exempt are sales to nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and whose primary purpose is to raise money for military museums.

(m)(u) Nonprofit corporation; home for the aged, nursing home, or hospice.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2) or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

(n)(t) Organizations providing special educational, cultural, recreational, and social benefits to minors.—There shall be exempt from the tax imposed by this part nonprofit organizations which are incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors in this state. This exemption is extended only to that level of the organization located in this state that has a salaried executive officer or an elected nonsalaried executive officer.

(o)(a) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property or services by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members within the state or district organization.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations in this state which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality in this state or the purpose of which is to protect wildlife in this state and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities located in this state. The term "educational institutions" includes any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members within the state or district organization.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A.,

and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(p)(~~n~~) Resource recovery equipment.—Also exempt is resource recovery equipment which is owned and operated by or on behalf of any county or municipality, certified by the Department of Environmental Regulation under the provisions of s. 403.715.

(q)(~~b~~) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches served to students, in public, parochial, or nonprofit schools operated for and attended by pupils of grades 1 through 12. School books and food sold or served at community colleges and other institutions of higher learning are taxable.

(r)(~~q~~)—~~Nonprofit organizations designated as State Theater Program facilities.~~—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as State Theater Program facilities as provided in s. 265.287 are exempt from the tax imposed by this chapter.

(s)(~~f~~) Volunteer fire departments.—Also exempt are firefighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit.

#### (11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

(a) The tax imposed on the sale by a manufacturer of flyable aircraft, who designs such aircraft, which sale may include necessary equipment and modifications placed on such flyable aircraft prior to delivery by the manufacturer, shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state in which the aircraft will be domiciled.

(b) This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in this state, or if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.

(c) The maximum tax collectible under this subsection may not exceed 5 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.

(d) The purchaser shall execute a sworn affidavit attesting that he is not a resident of this state and stating where the aircraft will be domiciled. If the aircraft is subsequently used in this state within 6 months of the time of purchase, in violation of the intent of this subsection, the purchaser shall be liable for payment of the full use tax imposed by this chapter and shall be subject to the penalty imposed by s. 212.12(2), which penalty shall be mandatory.

~~(e) The provisions of s. 212.12(1) notwithstanding, manufacturers of flyable aircraft granted the partial sales tax exemption under this subsection shall be allowed to retain a 10 percent deduction of the amount of sales tax due on sales of flyable aircraft manufactured by them if such manufacturers conform to the provisions of this chapter.~~

#### (12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS, OR VIDEO TAPES.—

(b) For the purposes of this subsection, the term:

1. "Amounts paid for the tangible elements" does not include any amounts paid for the copyrightable, artistic, or other intangible elements of such master tapes, records, films, or video tapes, whether designated as royalties or otherwise, including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting a "sale" under s. 212.02(2).

2. "Master films or master video tapes" means films or video tapes utilized by the motion picture and television production industries in making visual images for reproduction.

3. "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

4. "Motion picture or television studio" means a facility in which film or video tape productions or parts of productions are made and which contains the necessary equipment and personnel for this purpose and includes a mobile unit or vehicle that is equipped in much the same manner as a stationary studio and used in the making of film or video tape productions.

5. "Recording studio" means a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

6. "Recording industry" means any person engaged in an occupation or business of making recordings embodying sound for a livelihood or for a profit.

7. "Motion picture or television production industry" means any person engaged in an occupation or business for a livelihood or for profit of making visual motion picture or television visual images for showing on screen or television for theatrical, commercial, advertising, or educational purposes.

Section 15. Paragraph (a) of subsection (3), paragraph (c) of subsection (4), and paragraph (a) of subsection (6) of section 212.095, Florida Statutes, are amended to read:

#### 212.095 Refunds.—

(3)(a) When a sale is made to a person who claims to be entitled to a refund under this section, the seller shall make out a sales invoice, which shall contain the following information:

1. The name and business address of the purchaser.
2. A description of the item *or services* sold.
3. The date on which the purchase was made.
4. The price and amount of tax paid for the item *or services*.
5. The name and place of business of the seller at which the sale was made.
6. The refund permit number of the purchaser.

(4)

(c) Refund application forms shall include at a minimum the following information:

1. The name and address of the person claiming the refund.
2. The refund permit number of such person.
3. The location at which the items *or services* for which a refund is claimed are used.
4. A description of each such item *or service* and the purpose for which such item *or service* was acquired.
5. Copies of the sales invoices of items *or services* for which a refund is being claimed.

(6)(a) Each registered dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the location where the sale is made a complete record or duplicate sales tickets of all items *or services* sold by him for which a refund provided in this section may be claimed, which records shall contain the information required in paragraph (3)(a). No licensed dealer or his agent or employee may acknowledge or assist in the preparation of any claim for tax refund; *this provision does not apply to attorneys or to certified public accountants licensed pursuant to chapter 473 when acting for or on behalf of a client.*

Section 16. Subsection (1) of section 212.11, Florida Statutes, 1986 Supplement, is amended to read:

#### 212.11 Tax returns and regulations.—

(1)(a)1. *Except as provided in subparagraph 3,* each dealer shall calculate his estimated tax liability for any month by one of the following methods:

a. Sixty-six percent of the current month's liability pursuant to this part as shown on the tax return;

b. Sixty-six percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year; or

c. Sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

2. Any estimated tax liability greater than or equal to the threshold amount specified in subsection (5) shall be due, payable, and remitted by the 20th day of the month for which the liability applies. The difference between the estimated tax liability paid and the actual amount and taxes due under this part for such month shall become due and payable by the first day of the following month and shall be remitted by the 20th day thereof.

3. For any dealer who has an estimated tax liability of less than the threshold amount specified in subsection (5) or who was not registered for sales tax purposes for the corresponding month of the preceding year or who first remits taxes to the department on or after the effective date of this section, the current taxes levied pursuant to this part shall be due and payable monthly on the first day of the following month and shall be remitted by the 20th day thereof.

(b) For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers to make a return, on or before the 20th day of the month, to the department, upon forms prepared and furnished by it, showing the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

(c) However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$100 and may authorize a semiannual return and payment when the tax remitted by the dealer for the preceding 6 months did not exceed \$200.

(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers collecting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than \$500 in each month for the previous 3 months. Quarterly payments pursuant to this paragraph shall be due and payable in March, June, September, and December of each year.

(e) The department shall accept returns as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns shall be accepted as timely if postmarked on the next succeeding workday. Any dealer who operates two or more places of business for which returns are required to be filed with the department and maintains records for such places of business in a central office or place shall have the privilege on each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business; however, such consolidated returns must clearly indicate the amounts collected within each county of the state. Any dealer who files a consolidated return shall calculate his estimated tax liability for each county by the same method he uses to calculate his estimated tax liability on the consolidated return as a whole. Each dealer shall file a return for each tax period even though no tax is due for such period.

Section 17. The introductory paragraph of subsection (1), paragraph (b) of subsection (5), and subsections (7) and (9) of section 212.12, Florida Statutes, 1986 Supplement, are amended, and, effective January 1, 1988, paragraph (b) of subsection (1) of said section is amended, to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, and for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or

fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, and owner and remitter shall be allowed 3 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or \$50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of taxable purchases; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that the amounts of gross sales, taxable sales, taxable purchases, and tax collected or due shall be reported by major sales tax source: services; tangible personal property; admissions; transient rentals; commercial leases or licenses; and agricultural equipment.

(5)

(b) In the event any dealer or other person charged herein fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, or fails to make a report and pay the tax as provided by this chapter; or makes a grossly incorrect report, or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state or of the sales or cost price of all services the sale or use of which is taxable under this part, together with interest, plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

(7) In the event the dealer has imported the tangible personal property or has acquired services outside the state for sale or use in this state and he fails to produce an invoice showing the cost price of the articles or services, as defined in this chapter, which are subject to tax, or the invoice does not reflect the true or actual cost price as defined herein, then the department shall ascertain, in any manner feasible, the true cost price, and assess and collect the tax thereon with interest plus penalties, if such have accrued on the true cost price as assessed by it. The assessment so made shall be considered prima facie correct, and the duty shall be on the dealer to show to the contrary.

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, and communication services, and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition of the tax imposed by this chapter to the total price

of such admissions, license fees, rentals, communication or other services, or sale price of such article or articles that are purchased, sold, or leased at any one time by or to a customer or buyer; and the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions, license fees, rentals, and communication services, or upon the sale or use of services, the following brackets shall be applicable to all transactions taxable at the rate of 5 percent:

- (a) On single sales of less than 10 cents, no tax shall be added.
- (b) On single sales in amounts from 10 cents to 20 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 21 cents to 40 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 41 cents to 60 cents, both inclusive, 3 cents shall be added for taxes.
- (e) On sales in amounts from 61 cents to 80 cents, both inclusive, 4 cents shall be added for taxes.
- (f) On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.
- (g) On sales in amounts of more than \$1, 5 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

Section 18. Subsections (2), (3), and (4) of section 212.13, Florida Statutes, are amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property or services licensed within this state is required to permit the department to examine his books and records at all reasonable hours; and, upon his refusal, the department may require him to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state.

(4) For the further purpose of enforcement of this chapter, every wholesaler of tangible personal property or services licensed within this state is required to permit the department to examine his books and records at all reasonable hours. He must also maintain such books and records for a period of not less than 3 years in order to disclose the sales of all goods or services sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the department may reasonably require, and so as to permit the department to determine the volume of goods or services sold by wholesalers to dealers, as defined under this chapter, and the dates and amounts of sales made. The department may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section.

Section 19. Subsection (1) of section 212.14, Florida Statutes, 1986 Supplement, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.—

(1) Any person required to pay a tax imposed under this chapter, or to make a return, either or both, and who renders a return or makes a payment of a tax with intent to deceive or defraud the state, and to prevent the state from collecting the amount of taxes imposed by this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which any return is made, or any tax is paid, or any report is made to the department, may be required by the department to show cause at a time and place to be set by the department, after 10 days' notice in writing requiring such books, records, or papers as the department may require relating to the business of such person for such tax period, and the department may require such person, or persons, or their employee or employees to give testimony under oath and answer interrogatories by the department, or an assistant, respecting the sale, use, consumption, distribution, or storage rental or license for use of real or personal property or services within the state, or admissions collected therein, or the failure to make a true report thereof, as provided by this chapter, or failure to pay the true amount of the tax required to be paid under this chapter. At said hearing, in the event such person fails to produce such books, records, or papers, or to appear and answer questions within the scope of investigation relating to matters concerning taxes to be imposed under this chapter, or prevents or impedes his or her agents or employees from giving testimony, then the department is authorized under this chapter to estimate any unpaid deficiencies in taxes to be assessed against such person upon such information as may be available to it and to issue a distress warrant for the collection of such taxes, interest, or penalties estimated by him to be due and payable, and such assessment shall be deemed prima facie correct. In such cases said warrant shall be issued to any sheriff in the state where such person owns or possesses any property and such property as may be required to satisfy any such taxes, interest, or penalties shall be by such sheriff seized and sold under said distress warrant in the same manner as property is permitted to be seized and sold under distress warrants issued to secure the payments of delinquent taxes as hereinafter provided, and the department shall also have the right to writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law. Respecting the place for the holding of a hearing by the department or its agents as provided in this section, the person whose tax return or report being investigated may by written request to the department require the hearing be set at a place within the judicial circuit of Florida wherein the person's business is located or within the judicial circuit of Florida wherein such person's books and records are kept.

Section 20. Subsections (3) and (7) of section 212.17, Florida Statutes, 1986 Supplement, are amended to read:

212.17 Credits for returned goods, returned payments for services, rentals, or admissions; additional powers of department.—

(3) A dealer who has paid the tax imposed by this chapter on tangible personal property or services may take a credit or obtain a refund for any tax paid by him on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are thereafter in whole or in part paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

(7) The department, where admissions, license fees, or rental payments or payments for services are made and thereafter returned to the payers after the taxes thereon have been paid, shall return or credit the taxpayer for taxes so paid on the moneys returned in the same manner as is provided for returns or credits of taxes where purchases or tangible personal property are returnable to a dealer.

Section 21. Subsection (3) of section 212.18, Florida Statutes, 1986 Supplement, is amended to read:

212.18 Administration of law; rules and regulations.—

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommoda-

tions in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

Section 22. Subsection (3) of section 212.21, Florida Statutes, is amended to read:

212.21 Declaration of legislative intent.—

(3) It is further declared to be the specific legislative intent to exempt from the tax or taxes or from the operation or the imposition thereof only such sales, admissions, uses, storages, consumption or rentals in relation to or in respect of the things set forth by this chapter as exempted from the tax to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States. It is further declared to be the specific legislative intent to tax each and every taxable privilege made subject to the tax or taxes, and each and every taxable service made subject to the tax or taxes, except such sales, admissions, uses, storages, consumptions or rentals as are specifically exempted therefrom by this chapter to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States.

Section 23. Section 212.61, Florida Statutes, is amended to read:

212.61 Definitions.—As used in this part, the term:

(1) "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 such fuel 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 fuel 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 does not require that a person 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 such motor vehicles.

(2) "Refiner," "importer," or "wholesaler" means any person who holds a valid license as a refiner, importer, or wholesaler, as defined in s. 206.01, of motor fuel, issued by the department pursuant to ss. 206.02 and 206.03.

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

The definitions contained in s. 212.02(3), (7), (12), (15), (17), (18), (19), (20), (21), (23), (25), (27), and (28) s. 212.02(1), (2), (3), (4), (7), (8), (9), (10), (11), (13), (17), (21), and (22) apply to the same terms as used in this part.

Section 24. Section 212.235, Florida Statutes, is created to read:

212.235 State Infrastructure Trust Fund; deposits.—

(1) Notwithstanding the provisions of ss. 212.20(1) and 218.61, in fiscal year 1987-1988 an amount equal to 2 percent, and in each fiscal year thereafter an amount equal to 5 percent, of the proceeds remitted pursuant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein, shall be deposited into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including those received pursuant to ss. 201.15(5) and 206.875(3) and interest earned, in excess of \$200 million in fiscal year 1987-1988, and \$500 million thereafter, shall revert to the General Revenue Fund.

(2) Subject to an appropriation each year by the Legislature, moneys in the fund shall only be used for the purposes of:

(a) Acquiring the right-of-way for and constructing state highways and bridges;

(b) Constructing public education capital facilities;

(c) Financing state projects for beach restoration or renourishment or lake or river restoration;

(d) Constructing state correctional facilities;

(e) Constructing other infrastructure projects; or

(f) Issuing revenue bonds to finance state capital outlay projects authorized by this section. Such bonds shall be payable solely from legislative appropriations from the State Infrastructure Trust Fund and shall not be a debt of the state, and the state shall not be liable thereon. Neither the taxing power, the credit, nor the revenues of the state shall be pledged to pay any obligation issued pursuant to this subsection.

Section 25. Section 8 of chapter 86-166, Laws of Florida, is amended to read:

Section 8. Subsections (5), (6), (7), and (8) of section 212.031, Florida Statutes, and paragraph (a) of subsection (3) of section 212.04, Florida Statutes, paragraphs (d), (e), (f), (n), (o), and (p), and (q) of subsection (7), and subsections (10) and (11) of section 212.08, Florida Statutes, and section 212.006, Florida Statutes, and paragraphs (g) and (h) of subsection (5) and subsection (15) of section 212.09, Florida Statutes, as amended by chapters 84-356 and 85-342, Laws of Florida, are repealed July 1, 1987.

Section 26. Subsection (2) of section 212.0821, Florida Statutes, is amended to read:

212.0821 Legislative intent that political subdivisions and public libraries use their sales tax exemption certificates for purchases on behalf of specified groups.—It is the intent of the Legislature that the political subdivisions of the state and the public libraries utilize their sales tax exemption certificates to purchase, with funds provided by the following groups, services, equipment, supplies, and items necessary for the operation of such groups, in addition to the normal exempt purchases that political subdivisions and libraries are empowered to make:

(2) Counties and municipalities shall purchase necessary goods and services requested by REACT groups, neighborhood crime watch groups, and state or locally recognized organizations solely engaged in youth activities identical to those discussed in s. 212.08(7)(n)(u).

Section 27. Paragraph (c) of subsection (4) of section 240.533, Florida Statutes, is amended to read:

240.533 Women's intercollegiate athletics.—

(4) FUNDING.—

(c) In addition to the above amount, an amount equal to the sales taxes which would be collected from admission to athletic events sponsored by an institution within the State University System shall be retained and remitted to the state if the exemption provided in s. 212.04(2)(a) did not apply shall be utilized by each institution to support women's athletics.

Section 28. Paragraph (g) of subsection (1) of section 290.007, Florida Statutes, is amended to read:

290.007 Incentives and programs available in enterprise zones.—

(1) STATE INCENTIVES AND PROGRAMS.—The following incentives and programs are provided by the state to encourage the revitalization of enterprise zones:

(g) The sales tax exemption for electrical energy used in an enterprise zone provided in s. 212.08(15)(44).

Section 29. Section 403.715, Florida Statutes, is amended to read:

403.715 Certification of resource recovery equipment.—For purposes of implementing the tax exemption provided by s. 212.08(7)(p)(e), the department shall establish a system for the examination and certification of resource recovery equipment. Application for certification of equipment shall be submitted to the department on forms prescribed by it which include such pertinent information as the department may require. Within 30 days of receipt of an application by the department, a representative of the department shall inspect the equipment. Within 30 days of such inspection, the department shall issue a written decision granting or denying certification.

Section 30. Paragraph (b) of subsection (3) of section 564.02, Florida Statutes, 1986 Supplement, is amended to read:

564.02 License fees; vendors; manufacturers and distributors.—

(3)

(b) A bona fide religious order, monastery, church, or religious body that has a tax-exempt status as a religious organization as provided by s. 212.08(7)(o)(a) may be licensed as a distributor under this subsection if its sales and distribution are limited to wines sold solely for religious or sacramental purposes to holders of valid permits obtained under s. 564.03; and such religious order, monastery, church, or religious body shall pay a state license tax of \$50 for each and every such distribution establishment to be operated by the licensee.

Section 31. Notwithstanding any other provision of this act, in the case of written contracts which are signed prior to May 1, 1987, for constructing improvements to real property, prime contractors, as defined in s. 212.0594(10), Florida Statutes, responsible for performing the contract shall not be required to remit any tax on services levied pursuant to s. 212.059 or s. 212.0594, Florida Statutes, provided that:

(1) Pursuant to s. 212.0594, Florida Statutes, it is the responsibility of the prime contractor to remit the tax;

(2) The purchase of the services for which the tax is not being remitted is necessary to complete the contract and the tax cannot be legally collected from the final purchaser and cannot be included in the price charged the final purchaser under the terms of the contract;

(3) On the first tax return of the prime contractor in which tax is not remitted pursuant to this section for a specific contract, the prime contractor must submit an application in a manner approved by the Department of Revenue by rule. A complete application shall include proof of the written contract, the amount of tax not being remitted and a sworn statement, signed by the applicant or his representative, attesting to the validity of the application. Subsequent taxes not remitted pursuant to a specific contract must be identified as to amount and application authority at the time such taxes are not paid; and

(4) The purchase of the service occurs before June 30, 1988.

Any person who fraudulently does not remit taxes pursuant to this section shall, in addition to being liable for the payment of any taxes fraudulently not remitted plus a mandatory penalty of 100 percent of the taxes not remitted, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 32. Rule 12A-1.091(6) of the Department of Revenue is hereby repealed. However, the department is hereby authorized to provide by rule for self-accrual of the sales tax under one or more of the following circumstances:

(1) Where authorized by law for purchasers of services;

(2) Where authorized by law for holders of direct pay permits;

(3) Where tangible personal property is subject to tax on a prorated basis, and the proration factor is based upon characteristics of the purchaser;

(4) Where types of tangible personal property whose taxable status will be known only upon use because the purchaser, by virtue of the normal characteristics of his trade or business, regularly consumes the type of property as a supply as well as sells it for resale; and

(5) For commercial rentals where the purchaser rents from a number of independent property owners who, apart from rentals to the purchaser in question, would otherwise not be obligated to register as dealers.

Section 33. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption.

Section 34. Subsection (1) of section 201.02, Florida Statutes, 1986 Supplement, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(1) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his direction, on each \$100 of the consideration therefor the tax shall be 55 50 cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of 55 50 cents for each \$100 or fractional part thereof of the consideration therefor.

Section 35. Effective August 1, 1987, subsections (1) through (4) of section 201.15, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

201.15 Distribution of taxes collected.—All taxes collected under the provisions of this chapter shall be distributed as follows:

(1) Seventy-four and six-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Revenue Fund of the state, to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) *Eleven Twelve and eight-five-tenths* percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) ~~Three and one-tenth~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) Nine and ~~two-eight~~-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) *Six percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the State Infrastructure Trust Fund.*

Section 36. Any penalties provided for pursuant to s. 212.12(2), Florida Statutes, shall be waived by the executive director of the Department of Revenue for returns due for the tax on services newly imposed by this act. If the executive director determines that the interest owed pursuant to s. 214.23, Florida Statutes, will cause an undue hardship on the taxpayer, he may also waive the interest payment. The waiver for penalties and interest shall apply with respect to returns for taxes due and payable for the period between July 1, 1987, and September 30, 1987.

Section 37. When a service that is taxable beginning July 1, 1987, is provided prior to that date, it shall not be taxed, notwithstanding that compensation for the service is paid or payable on or after that date. When a service that is taxable beginning July 1, 1987, is provided on or after that date, the service shall be taxed unless it was prepaid in full prior to April 1, 1987. When a service that is taxable beginning on July 1, 1987, is provided over a period of time beginning prior to that date and ending after that date, the service shall be taxed only upon that portion of the service provided on or after July 1, 1987.

Section 38. Except for the purposes of s. 212.0593, Florida Statutes, nothing contained in this act shall require an attorney or a certified public accountant licensed pursuant to chapter 473, Florida Statutes, to reveal the identity of any client for any reason.

Section 39. Subsection (1) of section 206.87, Florida Statutes, 1986 Supplement, is amended to read:

206.87 Levy of tax.—

(1)(a) An excise tax of 4 cents per gallon is hereby imposed upon every gallon of special fuel used or sold in this state for use, except alternative fuels which are subject to the fee imposed by s. 206.877. 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 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 such tax whether he is the ultimate seller or not.

(b) *In addition to the excise tax levied under paragraph (a) an excise tax of 5 cents is hereby imposed upon every gallon of special fuel used or sold in this state for use, except alternative fuels which are subject to the fee imposed by s. 206.877. 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 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 such tax whether he is the ultimate seller or not.*

Section 40. Subsection (3) is added to section 206.875, Florida Statutes, to read:

206.875 Allocation of tax.—

(3) *Notwithstanding the provisions of subsections (1) and (2), the department shall pay over to the State Treasurer all funds received and collected by it under the provisions of s. 206.87(1)(b) to be credited to the account of the State Infrastructure Trust Fund established pursuant to s. 212.235.*

Section 41. 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 Gas Tax Collection 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 ss. 206.41, 206.45, 206.60, 206.605, 206.875, and 212.69.

Section 42. Section 57.071, Florida Statutes, is amended to read:

57.071 Costs; what taxable.—If costs are awarded to any party the following shall also be allowed:

(1) The reasonable premiums or expenses paid on all bonds or other security furnished by such party.

(2) The expense of the court reporter for per diem, transcribing proceedings and depositions, including opening statements and arguments by counsel.

(3) *Any sales or use tax due on legal services provided to such party, notwithstanding any other provision of law to the contrary.*

Section 43. Paragraph (d) of subsection (3) of section 57.111, Florida Statutes, is amended to read:

57.111 Civil actions and administrative proceedings initiated by state agencies; attorneys' fees and costs.—

(3) As used in this section:

(d) The term "small business party" means:

1. A sole proprietor of an unincorporated business, including a professional practice, whose principal office is in this state, who is domiciled in this state, and whose business or professional practice has, at the time the action is initiated by a state agency, not more than 25 full-time employees or a net worth of not more than \$2 million, including both personal and business investments; or

2. A partnership or corporation, including a professional practice, which has its principal office in this state and has at the time the action is initiated by a state agency not more than 25 full-time employees or a net worth of not more than \$2 million.

3. *Either of the above, without regard to the number of its employees or its net worth, in any action under s. 72.011 or administrative proceeding under that section and s. 120.575(1)(b) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor.*

Section 44. Paragraph (b) of subsection (1) of section 120.57, Florida Statutes, 1986 Supplement, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a prelimi-

nary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

- a. A statement of the time, place, and nature of the hearing.
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4), or s. 120.56, or s. 120.575(1)(b), a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 10 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

6. The record in a case governed by this subsection shall consist only of:

- a. All notices, pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially recognized;
- d. Questions and proffers of proof and objections and rulings thereon;
- e. Proposed findings and exceptions;
- f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

- i. The official transcript.

7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 13., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 12., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

13. In any application for a license or merger pursuant to title XXX-VIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

Section 45. Subsection (1) of section 120.575, Florida Statutes, is amended to read:

120.575 Taxpayer contest proceedings.—

(1)(a) In any administrative proceeding brought pursuant to chapter 120 as authorized in s. 72.011(1), the taxpayer or other substantially affected party shall be designated the "petitioner" and the Department of Revenue shall be designated the "respondent."

(b) In any such administrative proceeding brought pursuant to s. 120.57(1) as authorized in s. 72.011(1) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor, the following procedures shall apply, any provisions of this chapter to the contrary notwithstanding:

1. The petition shall be filed with the division, which shall forward a copy to the department immediately upon receipt of the petition.

2. The panel provided in s. 120.65(5) shall conduct all proceedings under this paragraph.

3. Within 10 days after receiving the petition, the panel shall accept or deny the petition and, if accepted, shall conduct a hearing thereon, unless the petition is withdrawn.

4. Within 30 days after the hearing or receipt of the hearing transcript, whichever is later, the panel shall issue its order, which shall consist of findings of fact, conclusions of law, interpretation of administrative rules, and any other information required by law or rule to be contained in the final order. Such order shall affirm or deny the assessment, interest, or penalty, and shall determine the amount of any assessment, interest, or penalty.

5. The order of the panel shall be final agency action.

Section 46. Subsections (5), (6), (7), (8), and (9) of section 120.65, Florida Statutes, 1986 Supplement, are redesignated as subsections (6), (7), (8), (9), and (10), respectively, and a new subsection (5) is added to said section to read:

120.65 Hearing officers.—

(5) The director shall appoint, from among the full-time hearing officers of the division, a panel consisting of three members to be the hearing officer in all proceedings brought as provided in s. 120.575(1)(b). Such appointments shall be made with due regard to the expertise required for determination of such proceedings. Service as a member of such panel shall be at the pleasure of the director, and such service may be in addition to other duties of employment by the division.

Section 47. The Department of Revenue is directed to undertake a study of service transactions for the purpose of identifying those transactions not taxable pursuant to the definition of service in s. 212.02, Florida Statutes. On or before March 1, 1988, the department shall report to the Governor and the Legislature all service transactions so identified.

Section 48. No later than January 1, 1988, the Department of Revenue shall develop and implement a tax amnesty program for taxpayers subject to the tax laws enumerated in s. 72.011(1), Florida Statutes, except those taxes governed by s. 199.032 and s. 212.0505, Florida Statutes. The tax amnesty program shall be a one-time opportunity for eligible taxpayers to satisfy their tax liabilities under the revenue laws of this state and thereby avoid criminal prosecution and any penalties imposed under such laws. Eligible taxpayers shall have no more than a 6-month period during which to file returns or amended returns and to make full payment of the amount of tax and interest due. An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit or investigation; notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the department; and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under this amnesty program is barred with respect to the amounts paid except as provided in this section. No refund may be made of any penalty paid prior to the date the amnesty program is implemented, and any refund or credit of amounts paid as a result of participation in the amnesty program shall be strictly limited to amounts determined by the department to have been paid in error. A taxpayer who is under a criminal investigation, indictment, information, or prosecution is not eligible to participate in the amnesty program. The department may prescribe such terms, conditions, and methods of payment as it deems necessary for fair and effective administration of the amnesty program, and may establish procedures and guidelines and adopt forms and rules to implement the program. With or without an audit, the department may issue a notice or demand for payment with respect to any tax or interest which it determines to be due with any return filed under the tax amnesty program; such notice and demand for payment shall be prima facie correct in any administrative, judicial, or quasi-judicial proceeding.

Section 49. Subsections (1) and (3) of section 95.091, Florida Statutes, are amended to read:

95.091 Limitation on actions to collect taxes.—

(1)(a) Except in the case of taxes for which certificates have been sold or of taxes enumerated in s. 72.011 levied under chapters 198 and 220, any tax lien granted by law to the state or any of its political subdivisions, any municipality, any public corporation or body politic, or any other entity having authority to levy and collect taxes shall expire 5 years after the date the tax is assessed or becomes delinquent, whichever is later. No action may be begun to collect any tax after the expiration of the lien securing the payment of the tax.

(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 shall expire 20 years after the last date the tax may be assessed, after the tax becomes delinquent, or after the filing of a tax warrant, whichever is later. An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(3)(a) With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011:

1. Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;

2. Within 6 years after the date a taxpayer either makes a substantial underpayment of tax or files a substantially incorrect return;

3. At any time while the right to a refund or credit of the tax is available to the taxpayer;

4. At any time after the taxpayer has failed to make any payment of the tax, has failed to file a required return, or has filed a grossly false or fraudulent return; or

5. In any case in which there has been an erroneous refund of tax, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

(b) The limitations in this subsection shall be tolled for a period of 2 years if the Department of Revenue has issued a notice of intent to conduct an audit or investigation of the taxpayer's account within the applicable period of time as specified in this subsection. Except as otherwise provided by law, the amount of any tax may be determined and assessed within 3 years after the first day of the month following the date on which the tax becomes due and payable. However, this limitation shall be tolled for a period of 2 years by a request for inspection and examination of a taxpayer's books and records by the taxing authority within that period, in which event the period for which tax due may be determined and assessed shall be the 3 years immediately preceding the first day of the month in which a request for inspection and examination of the books and records has been made by the taxing authority.

Section 50. Effective July 1, 1988, subsection (1) of section 198.18, Florida Statutes, is amended to read:

198.18 Failure to pay tax; penalties; delinquent or deficient taxes, interest.—

(1) If any part of a deficiency in tax due under the provisions of this chapter is due to negligence or intentional disregard of the provisions of this chapter or the rules and regulations issued pursuant hereto, with knowledge thereof but without intent to defraud, there shall be added as a penalty 5 percent per month of the total amount of the deficiency in tax to a maximum of 100 percent of the tax due; and, if any part of such deficiency is willfully made with intent to defraud, there shall be added as a penalty 50 percent of the total amount of such deficiency, which penalty shall become due and payable upon notice and demand by the department. The personal representative shall be liable to the state personally and on his official bond, if any, for any loss to the state accruing under the provisions of this section through his negligence or willful neglect. No interest shall be collected upon the amount of any penalty. The department may settle or compromise such penalties pursuant to s. 213.21.

Section 51. Subsections (1) and (3) of section 199.232, Florida Statutes, 1986 Supplement, are amended to read:

199.232 Powers of department.—

(1)(a) The department may audit the books and records of any person to determine whether annual or nonrecurring tax has been properly paid.

~~(b) With regard to annual tax, an audit for any year may be commenced:~~

- ~~1. Within 3 years from the due date for filing the return for the year or from actual filing of the return, whichever is later;~~
- ~~2. At any time while a right to refund for any tax due during the year is available;~~
- ~~3. At any time within 6 years of the date a return is filed if a taxpayer has omitted an amount properly includable therein which is in excess of 25 percent of the amount of the total taxable value stated in the return; or~~
- ~~4. At any time, if a required return is not filed, or if a grossly false or fraudulent return is filed.~~

~~No amount shall be deemed omitted from a return if the amount, or item giving rise to it, is adequately disclosed in the return or statements attached thereto, so that the department was apprised of the nature and amount of the item.~~

~~(c) With regard to nonrecurring tax, an audit may be commenced:~~

- ~~1. Within 3 years from the due date of the tax; or~~
- ~~2. At any time while a right to refund for such tax is available.~~

~~(d) An audit shall be commenced by service of a written notice of intent to audit upon the taxpayer, either in person or by certified mail.~~

~~(3) With or without an audit, the department may assess any tax deficiency resulting from nonpayment or underpayment of the tax, as well as any applicable interest and penalties. The department shall assess on the basis of the best information available to it, including estimates based on the best information available to it if the taxpayer fails to permit inspection of the taxpayer's records, fails to file an annual return, files a grossly incorrect return, or files a false and fraudulent return. To be valid, an assessment must be made within the following time periods:~~

~~(a) As to annual tax for any year:~~

- ~~1. Within 3 years from the due date for filing the return or from actual filing of the return, whichever is later;~~
- ~~2. At any time while a right to refund for any tax due during the year is available;~~
- ~~3. Within 6 years of the date a return is filed if the taxpayer has omitted an amount properly includable therein which is in excess of 25 percent of the total taxable value stated in the return; or~~
- ~~4. At any time, if no return is filed, or if a grossly false or fraudulent return is filed.~~

~~(b) As to nonrecurring tax:~~

- ~~1. Within 3 years from the due date for payment of the tax; or~~
- ~~2. At any time while a right to refund for such tax is available.~~

~~However, the time for making an assessment shall be stayed during the period of an audit.~~

Section 52. Subsection (1) of section 199.218, Florida Statutes, is amended to read:

199.218 Books and records.—

(1) Each taxpayer shall retain all books and other records necessary to identify the taxpayer's intangible personal property and to determine any tax due under this chapter, as well as all books and other records otherwise required by rule of the department with respect to any such tax, until the department's power to make an assessment with respect to such tax has terminated under s. 95.091(3) 199.232(3).

Section 53. Subsection (5) of section 211.125, Florida Statutes, 1986 Supplement, is amended to read:

211.125 Administration of law; books and records; powers of the department; refunds; enforcement provisions; confidentiality.—

(5)(a) The department may assess, with or without an audit, any deficiency resulting from nonpayment or underpayment of the tax, interest, or penalties imposed by this part. The department shall inform the tax-

payer, by written notice, of the amount of any deficiency or overpayment revealed by an audit, including the tax, interest, or penalties due, and shall explain the basis for the determination.

~~(b) Except as otherwise provided in this subsection, an assessment of amounts due for any month may be made at any time within 3 years after the due date of the return or the actual filing of a return, whichever is later, or for any month for which the right to refund is available.~~

~~(c) If a taxpayer omits from a return an amount in excess of 25 percent of the amount of taxable production stated in the return, an assessment of amounts due under this part may be made at any time within 6 years after the date the return was filed. No amount shall be deemed omitted from a return if the amount, or item giving rise to it, is adequately disclosed in the return or statements attached to the return so that the department was apprised of the nature and amount of the item.~~

~~(d) If a required return is not filed, or if a grossly false or fraudulent return is filed, an assessment may be issued at any time.~~

~~(e) The period for making an assessment under this part shall be tolled during the period required by the department to conduct an audit.~~

~~(b)(f) The department shall have the power to make an assessment under this part based upon the best information available to it. The department may make an assessment based upon an estimate of amounts due under this part if the taxpayer fails to file a return, files a grossly incorrect or fraudulent return, or refuses to permit inspection of records. An assessment of the amounts due under this part shall be considered prima facie correct, and the taxpayer shall have the burden of showing any error in it.~~

~~(c)(g) In the event of a deficiency, the department shall issue its written notice to the taxpayer for the tax, penalties, or interest due. Full payment of the total amount assessed shall be made in the manner prescribed by the department in its notice.~~

Section 54. Subsections (3) and (4) of section 211.33, Florida Statutes, 1986 Supplement, are amended, and effective July 1, 1988, subsection (2) of said section is amended, to read:

211.33 Administration of the tax; returns; delinquency penalties and interest; departmental inspections of records.—

(2)(a) Every producer shall file an annual return with the department on or before April 1 of each year for the preceding taxable year. The annual return shall be signed by the producer or his duly authorized agent, shall be verified by oath, and shall include the following:

1. The location of each site of severance operated or controlled by the producer during the taxable period and the total number of acres in each site.
2. The kind and quantity of the solid minerals severed within each county political boundary.

(b) Except as provided in subsection (1), the taxpayer shall pay the amount of any tax due for the preceding tax year by April 1.

(c) If a tax return is not filed by April 1 for any taxes due for the preceding year or if any part of a deficiency in the tax due for the preceding tax year is due to negligence or intentional disregard of this part or the rules promulgated pursuant hereto, the department shall levy a delinquency penalty of 5 percent for each month, or portion thereof, on the amount of tax delinquent, not to exceed 100 25 percent of the total tax due.

(d) In addition to the delinquency penalty provided in paragraph (c), the department shall assess interest on the unpaid balance of any such tax which becomes delinquent, without regard to any extensions, at the rate of 12 percent per year, from April 1 to the date of payment. Interest prescribed by this paragraph shall be deemed assessed upon the assessment of the tax and shall be collected and paid in the same manner.

~~(e) Any taxpayer who makes a substantial underpayment of any tax due under this part shall pay a penalty of 15 percent of the underpayment in addition to the delinquency penalty imposed under paragraph (c). A substantial underpayment of tax due and payable under this part means a deficiency which exceeds 35 percent of the total tax due for any month.~~

(f)(e) The department may settle or compromise any penalty or interest assessed under this subsection pursuant to s. 213.21.

(3)(a) Every producer shall keep and preserve suitable records of production of solid minerals and such other books and documents as may be necessary to ensure compliance. ~~for a period of 3 years from April 1 of the year following the taxable year or 3 years from the date of filing the annual return for the taxable year, whichever is later.~~

~~(b) All such records, books, and documents shall be made available to the department or any of its duly authorized agents for inspection, examination, or audit during business hours, upon written request.~~

(4)(a) The department is authorized to audit or inspect the books, records, documents, and returns of producers and to correct by credit or refund any overpayment of tax, or to make assessment of any deficiency revealed, ~~for the same 3-year period for which producers are required to keep and preserve records.~~

~~(b) No audit shall be made after the expiration of 3 years from the due date for filing the annual return or the date of filing, whichever is later, except when a producer has been contacted by written notice of intent to conduct an audit in the future, delivered either personally by an agent of the department or by certified letter from the department directed to the last known address of the producer, before 3 years from the due date for filing the annual return or the date of filing, whichever is later. In this event, the date of personal contact or the date of the certified letter shall govern the period subject to audit.~~

(b)(e) The department shall inform the producer by written notice of the amount of any overpayment or deficiency determined by an audit, including the basis for determining any tax, penalty, interest, or period subject to credit or refund.

(c)(d) In the event of a deficiency, the department shall make an assessment of the tax, penalty, and interest determined to be due. Full payment of the total amount assessed shall be made by the producer to the place and within the time specified in the written notice of the deficiency.

Section 55. Section 214.50, Florida Statutes, is amended to read:

214.50 Liens; foreclosure.—In addition to any other remedy provided by the laws of this state, and provided that no hearing or proceedings for review provided by this chapter shall be pending and that the time for the taking of review shall have expired, the department may foreclose in any court of competent jurisdiction any lien on real or personal property for any tax, penalty, or interest to the same extent and in the same manner as in the enforcement of other liens. Any proceeding to foreclose shall be instituted not more than 20 5 years after the filing, or availability for filing, of the notice of lien under the provisions of s. 214.45.

Section 56. Subsection (1) of section 214.51, Florida Statutes, is amended to read:

214.51 Collection procedures.—

(1) In addition to any other remedy provided by the laws of this state, if any tax imposed by laws made applicable to this chapter is not paid within the time required by this chapter, the department, or someone designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the department may issue a warrant directed to any sheriff or other person authorized to serve process, commanding said sheriff or other person to levy upon and sell the real and personal property of the taxpayer found within his jurisdiction for the payment of the amount thereof, including penalties, interest, and the cost of executing the warrant. Such warrant shall be returned to the department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other person to whom such a warrant shall be directed shall proceed upon the same in all respects and with like effect as is prescribed by law for executions issued against property upon judgments of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. No proceedings for a levy under this section shall be commenced more than 20 5 years after the filing of the notice of lien under the provisions of this part.

Section 57. Paragraph (c) of subsection (2) of section 220.23, Florida Statutes, is amended to read:

220.23 Federal returns.—

(2) In the event the taxable income, any item of income or deduction, or the income tax liability reported in a federal income tax return of any taxpayer for any taxable year is adjusted by amendment of such return or as a result of any other recomputation or redetermination of federal taxable income or loss, if such adjustment would affect any item or items entering into the computation of such taxpayer's net income subject to tax for any taxable year under this code, the following special rules shall apply:

(c) In any case where notification of an adjustment is required under paragraph (a), then notwithstanding any other provision contained in part I of chapter 214:

1. A notice of deficiency may be issued at any time within 5 2 years after the date such notification is given; or

2. If a taxpayer either fails to notify the department or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued at any time;

3. In either case, the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this code from recomputation of the taxpayer's income for the taxable year after giving effect only to the item or items reflected in the adjustment.

Section 58. Effective July 1, 1988, subsection (6) of section 212.14, Florida Statutes, as amended by chapter 85-342, Laws of Florida, and section 214.09, Florida Statutes, as amended by chapter 85-342, Laws of Florida, are hereby repealed.

Section 59. Effective July 1, 1988, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, 1986 Supplement, as amended by this act, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage 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 are hereby specifically exempt from the tax imposed by part I of this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery, equipment, or services pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the

department or returned to the department by certified or registered mail. ~~The department shall have 4 years from the date of delivery or date of receipt to perform an audit of such purchases, notwithstanding the provisions of s. 212.14(6).~~

c. If, in a subsequent audit conducted by the department, it is determined that the machinery, equipment, or services purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery, equipment, or services purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

Section 60. Effective July 1, 1988, section 214.04, Florida Statutes, is amended to read:

214.04 Limitation on assessment.—No deficiency shall be assessed with respect to a taxable year for which a return was filed unless a notice of deficiency for such year was issued not later than the date prescribed in s. 95.091(3) 214.00.

Section 61. Effective July 1, 1988, paragraphs (a) and (b) of subsection (8) of section 125.0104, Florida Statutes, 1986 Supplement, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(8) PROHIBITED ACTS; ENFORCEMENT; PENALTIES.—

(a) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 62. Effective July 1, 1988, section 198.37, Florida Statutes, is amended to read:

198.37 Failure to make return; penalty.—Any person required under this chapter to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information for the purposes of the computation, assessment, or collection of any tax imposed by this chapter, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, ~~is shall~~, in addition to other penalties provided by law, ~~be~~ guilty of a ~~felony misdemeanor~~ of the ~~third first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 63. Effective July 1, 1988, section 198.39, Florida Statutes, is amended to read:

198.39 False statement in return; penalty.—Whoever knowingly makes any false statement in any notice or return required to be filed under this chapter ~~is shall~~ be guilty of a ~~felony misdemeanor~~ of the ~~third first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 64. Effective July 1, 1988, subsections (1), (3), and (8) of section 199.282, Florida Statutes, 1986 Supplement, are amended to read:

199.282 Penalties for violation of this chapter.—

(1) Any person willfully violating or failing to comply with any of the provisions of this chapter shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(3)(a) If any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be 5 percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of ~~100~~ 25 percent of the total tax not timely paid.

(b) If any annual tax return required by this chapter is not filed by the due date, a penalty of 15 percent of the tax due with the return shall be charged for each year or portion of the year during which the return remains unfiled.

(8) Any person who fails or refuses to file an annual return, or who fails or refuses to make records available for inspection, when requested to do so by the department ~~is shall~~ be guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 65. Effective July 1, 1988, subsection (1) of section 201.17, Florida Statutes, is amended to read:

201.17 Penalties for failure to pay tax required.—

(1) Whoever makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever, without the full amount of the tax herein imposed thereon being fully paid, or whoever makes use of any adhesive stamp to denote any tax imposed by this chapter without canceling or obliterating such stamps as herein provided, is guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 66. Effective July 1, 1988, section 201.18, Florida Statutes, is amended to read:

201.18 Penalties for illegal use of stamps.—

(1) Whoever fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, or document, upon which any tax is imposed by this chapter, any adhesive stamp used in pursuance of this chapter, or fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, or document, upon which any tax is imposed by this chapter:

(a) Any adhesive stamp which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, or document, upon which any tax is imposed by this chapter,

(b) Any adhesive stamp of insufficient value, or

(c) Any forged or counterfeited stamp; or

(2) Whoever willfully removes or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp with intent to use or cause the same to be used after it has already been used, or knowingly or willfully buys, sells, offers for sale, or gives away any such washed or restored stamp to any person for use, or knowingly uses the same, or whoever knowingly and without lawful excuse has in possession any washed, restored, or altered stamp which has been removed from any vellum, parchment, paper, instrument, writing, or document; or

(3) Whoever knowingly or willfully prepares, buys, sells, offers for sale, or has in his or its possession any counterfeit stamps,

is guilty of a *felony misdemeanor* of the *third first* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 67. Effective July 1, 1988, section 201.20, Florida Statutes, is amended to read:

201.20 Penalties for illegally avoiding tax on notes.—Any person using the provisions of s. 201.09 to avoid the payment of any tax justly due is ~~shall be~~ guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 68. Effective July 1, 1988, subsection (7) of section 203.01, Florida Statutes, 1986 Supplement, is amended to read:

203.01 Tax on gross receipts for utility services.—

(7) Any person who provides such services and who fails, neglects, or refuses to collect or remit the tax imposed in this part, either by himself or through his agents or employees, is liable for the tax and is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 69. Effective July 1, 1988, section 203.03, Florida Statutes, is amended to read:

203.03 Penalties.—

(1) Any officer, agent, or representative of any such person who receives any payment for the furnishing of the things or the services above mentioned without first complying with the provisions of this chapter as required, is ~~shall be~~ guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

(2) Any person who willfully violates or fails to comply with the provisions of this chapter is guilty of a *felony* of the *third* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 70. Effective July 1, 1988, subsection (3) of section 203.63, Florida Statutes, is amended to read:

203.63 Tax on interstate and international telecommunication services.—

(3) Any person who provides such services and who fails, neglects, or refuses to collect or remit the tax imposed in this part, either by himself or through his agents or employees, is liable for the tax and is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 71. Effective July 1, 1988, section 206.04, Florida Statutes, is amended to read:

206.04 License number and cards; penalties.—Each refiner, importer, and wholesaler shall be assigned a license number upon qualifying for a license hereunder, and the department shall issue to each such licensee separate license cards for each tank truck operated by that person. Such license card shall indicate the license number so assigned, the motor number of the truck authorized to be operated under such license card, and such other information as the department may prescribe. The license card shall be conspicuously displayed in the vehicle to which it is assigned, and any person operating a tank truck in this state conveying or transporting motor fuel without such license card or, if a common carrier, a bill of lading is ~~shall be~~ guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 72. Effective July 1, 1988, subsection (2) of section 206.11, Florida Statutes, is amended to read:

206.11 Penalties.—

(2) Any person:

(a) Who willfully refuses or neglects to make any statement, report, or return required by the provisions of this law;

(b) Who knowingly makes, or assists any other person in making, a false statement in a return or report or in connection with an application for refund of any tax;

(c) Who knowingly collects, or attempts to collect or causes to be paid to him or to any other person, either directly or indirectly, any refund of such tax without being entitled to the same; or

(d) Who violates any of the provisions of part I or part II of this chapter, a penalty for which is not otherwise provided,

is guilty of a *misdemeanor* of the *first* degree, punishable as provided in s. 775.082 or s. 775.083. For a second or further offense, such person is guilty of a *felony* of the *third* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084; and, in addition thereto, the department may revoke or suspend the license of any violator. Each day or part thereof during which any person engages in business without being the holder of an uncanceled license as provided by part I or part II of this chapter shall constitute a separate offense within the meaning of this section. In addition to the penalty imposed by part I or part II of this chapter, the defendant shall be required to pay all gas taxes, interest, and penalties due to the state. The penalties provided in this section shall be in addition to those provided for in s. 206.44.

Section 73. Effective July 1, 1988, subsections (4) and (5) of section 206.18, Florida Statutes, are amended to read:

206.18 Discontinuance or transfer of business; liability of tax, procedure; penalty for violation.—

(4) In the event any dealer is delinquent in the payment of the tax herein provided for, the department may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such dealer or owing any debts to such dealer at the time of receipt by them of such notice. All persons so notified shall within 5 days after receipt of the notice advise the department of all such credits, other personal property, or debts in their possession, under their control, or owing by them. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the department consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires earlier, except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice shall not be subject to the provisions of this section, wherever held, in any case in which such dealer does not have a prior history of tax delinquencies. All persons notified shall likewise within 5 days advise the department of any subsequent credits or other personal property belonging to such dealer or any debts incurred and owing to such dealer which may come within their possession or under their control during the time prescribed by the notice or until the department consents to a transfer or disposition, whichever expires earlier. If such notice seeks to prevent transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall be delivered or mailed to the office of such bank, at which such deposit is carried or at which such credits or personal property is

~~held. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he shall be liable to the state for any indebtedness due under this chapter from the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. All such credits or other personal property or debts are subject to garnishment by the department for satisfaction of the delinquent tax due.~~

(4)(5) Any violation of the provisions of this section is a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 74. Effective July 1, 1988, section 206.426, Florida Statutes, is amended to read:

206.426 Resale and exemption certificates; offenses; penalties.—Any person who:

(1) Issues or assists in issuing a fraudulent resale or exemption certificate to obtain nontaxed motor fuel from a licensed refiner, importer, or wholesaler;

(2) Has issued a resale or exemption certificate and whose exempt status has become nonexempt and neglects, fails, or refuses to inform the licensed refiner, importer, or wholesaler to whom the certificate was issued of any such change in status;

(3) Has claimed exemption by issuing a license number at the time of purchase to obtain fuel tax exempt when not entitled by provisions of this chapter; or

(4) Has claimed to have exported gallons of motor fuel by affidavit or return and has no proof that said fuel was exported;

is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. In addition, such person shall pay any tax, penalty, and interest assessed, plus a mandatory penalty of not less than \$500, or an amount equal to 100 percent of the tax, whichever is greater.

Section 75. Effective July 1, 1988, subsection (1) of section 206.44, Florida Statutes, 1986 Supplement, is amended to read:

206.44 Penalty and interest for failure to report on time; penalty and interest on tax deficiencies.—

(1) If any refiner, importer, or wholesaler fails to make a report or pay the taxes due as required by this chapter, the department shall add a penalty in the amount of 5 percent of any unpaid tax if the failure is for not more than 1 month, with an additional 5 percent of any unpaid tax for each additional month or fraction thereof during which the failure continues. However, such penalty may not exceed 100 25 percent in the aggregate of any unpaid tax. Furthermore, in no event may the penalty assessed be less than \$5. The department shall collect the tax, together with the penalty and costs, in the same manner as other delinquent taxes are collected.

Section 76. Effective July 1, 1988, subsection (6) of section 206.87, Florida Statutes, 1986 Supplement, is amended to read:

206.87 Levy of tax.—

(6) Any person or dealer who:

(a) Issues or assists in issuing a fraudulent resale or exemption certificate to obtain nontaxed special fuel from a licensed dealer; or

(b) Has issued a resale or exemption certificate and whose exempt status has become nonexempt and who neglects, fails, or refuses to inform the licensed dealer to whom the certificate was issued of such change in status

is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. In addition, such person shall pay any tax due and any penalty and interest assessed, plus a mandatory penalty of not less than \$500 or an amount equal to 100 percent of the tax, whichever is greater.

Section 77. Effective July 1, 1988, subsection (5) of section 206.877, Florida Statutes, 1986 Supplement, is amended to read:

206.877 Motor vehicles fueled by liquefied petroleum gas or compressed natural gas; payment of annual decal fees in lieu of tax.—

(5) Any person who violates the provisions of this section is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, any person who is liable for fueling a vehicle which does not have the proper decal affixed is subject to the provisions of this section and the provisions of s. 206.94.

Section 78. Effective July 1, 1988, subsection (1) of section 206.9931, Florida Statutes, 1986 Supplement, is amended to read:

206.9931 Administrative provisions.—

(1) Any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use, or otherwise and who is not registered or licensed pursuant to other parts of this chapter is hereby required to register and become licensed for the purposes of this part. Such person shall register as either a producer or importer of pollutants and shall be subject to all applicable registration and licensing provisions of this chapter, as if fully set out in this part and made expressly applicable to the taxes imposed herein, including, but not limited to, ss. 206.02, 206.021, 206.022, 206.025, 206.03, 206.04, and 206.05. For the purposes of this section, registrations required exclusively for this part shall be made within 90 days of July 1, 1986, for existing businesses, or prior to the first production or importation of pollutants for businesses created after July 1, 1986. The fee for registration shall be \$30. Failure to timely register is shall be a *felony misdemeanor* of the *third first* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 79. Effective July 1, 1988, subsections (1) and (3) of section 207.007, Florida Statutes, are amended to read:

207.007 Offenses; penalties and interest.—

(1) If any motor carrier fails to file a return and pay any tax liability under this chapter within the time required hereunder, the department shall add a delinquency penalty of 5 percent to the amount of the taxes due if the failure is for not more than 30 days, with an additional 5 percent penalty for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 100 25 percent in the aggregate. However, in no event shall the penalty be less than \$5.

(3) Any person who:

(a) Willfully refuses or neglects to make any statement, report, or return required by the provisions of this chapter;

(b) Knowingly makes, or assists any other person in making, a false statement in a return or report or in connection with an application for registration under this chapter; or

(c) Violates any of the provisions of this chapter, a penalty for which is not otherwise provided,

is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, ~~for a second or further offense~~, the department may revoke or suspend the registration of the violator. Each day or part thereof during which a person operates or causes to be operated a commercial motor vehicle without being the holder of an identifying device or having a valid trip permit, emergency permit, or annual permit as required by this chapter constitutes a separate offense within the meaning of this section. In addition to the penalty imposed by this section, the defendant shall be required to pay all taxes, interest, and penalties due to the state.

Section 80. Effective July 1, 1988, subsection (2) of section 211.076, Florida Statutes, 1986 Supplement, is amended to read:

211.076 Interest and penalties; failure to pay tax or file return; estimated tax underpayments.—

(2) Failure to file any return required by this part by the due date shall require payment of a delinquency penalty. If tax is due with the return, the delinquency penalty shall be 5 percent for each month, or portion thereof, of the amount of tax due with the return, not to exceed 100 25 percent. If no tax is due with the return, the delinquency penalty shall be \$25 for each month, or portion thereof, during which the return was

not filed, not to exceed \$150 in aggregate. The amount of tax due with a return shall be reduced by amounts properly creditable against the tax liability shown on the return on the date the return was due.

Section 81. Effective July 1, 1988, section 211.25, Florida Statutes, 1986 Supplement, is amended to read:

211.25 Tax crimes; punishment for violation of this part.—

(1) Any person who willfully fails to file a return or keep books or records on production of taxable products, or who files a fraudulent return, or who willfully fails or refuses to produce books or records, or who willfully violates any provision of this part or any rule adopted by the department under this part is guilty of a *felony misdemeanor* of the *third first* degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(2) Any person who withholds tax due under this part and willfully fails to make remittance as required by this part, or who purports to make payments due under this part but willfully fails to do so because the remittance fails to clear the bank or depository institution against which it is drawn, is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 82. Effective July 1, 1988, paragraphs (i) and (j) of subsection (3) of section 212.0305, Florida Statutes, 1986 Supplement, are amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.—

(3) APPLICATION; ADMINISTRATION; PENALTIES.—

(i) Any person taxable under this section who, either by himself or through his agents or employees, fails or refuses to charge and collect the taxes herein provided from the person paying any rental or lease is, in addition to being personally liable for the payment of the tax, guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(j) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax; that he will relieve the person paying the rental of the payment of all or any part of the tax; or that the tax will not be added to the rental or lease consideration or, if added, that the tax or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this paragraph is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 83. Effective July 1, 1988, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, 1986 Supplement, as amended by this act, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, or who rents or furnishes any of the things or services taxable under this section, 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 as follows:

(a)1.a. 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.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, 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. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by

each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this sub-subparagraph. For purposes of this sub-subparagraph, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane 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 or airplane 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 or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane 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 or airplane 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.

Section 84. Effective July 1, 1988, paragraph (b) of subsection (2) of section 212.054, Florida Statutes, 1986 Supplement, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)

(b) However:

1. The tax on any sales amount above \$1,000 on any item of tangible personal property and on long distance telephone service shall not be subject to the surtax.

2. In the case of utility, telecommunication, or wired television services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or wired television services shall be subject to the surtax. In the case of utility, telecommunication, or wired television services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently

obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 85. Effective July 1, 1988, subsection (3) of section 212.07, Florida Statutes, 1986 Supplement, and subsection (4) of said section, as amended by this act, are amended to read:

212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—

(3) Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, is, in addition to the penalty of being liable for and paying the tax himself, guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

(4) A dealer engaged in any business or in selling any services taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property or services sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. A second or subsequent offense constitutes a *felony misdemeanor* of the *second first* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 86. Effective July 1, 1988, section 212.085, Florida Statutes, is amended to read:

212.085 Fraudulent claim of exemption; penalties.—When any person shall knowingly fraudulently, for the purpose of evading tax, issue to a vendor or to any agent of the state a certificate or statement in writing in which he claims exemption from sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of 100 percent of the tax, shall be liable for fine and punishment as provided by law for a conviction of a *felony misdemeanor* of the *third second* degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 87. Effective July 1, 1988, subsections (3), (4), and (5) of section 212.10, Florida Statutes, are amended to read:

212.10 Sale of business; liability for tax, procedure, penalty for violation.—

(3) In the event any dealer is delinquent in the payment of the tax herein provided for, the department may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such dealer or owing any debts to such dealer at the time of receipt by them of such notice. All persons so notified shall within 5 days after receipt of the notice advise the department of all such credits, other personal property, or debts in their possession, under their control, or owing by them. After receiving the notice, the persons so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the department consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier, except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice shall not be subject to the provisions of this section, wherever held, in any case in which such dealer does not have a prior history of sales tax delinquencies. All persons notified shall likewise within 5 days advise the department of any subsequent credits or other personal property belonging to such dealer or any debts incurred and owing to such dealer which may come within their possession or under their control during the time prescribed by the notice or until the department consents to a transfer or disposition, whichever expires the earlier. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he shall be liable to the state for any indebtedness due under this chapter from the person with respect

to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. All such credits or other personal property or debts are subject to garnishment by the department for satisfaction of the delinquent tax due.

(4) After notice by the department of a transferee liability under this section, the dealer shall have 60 days within which to file an action as provided in chapter 72.

(3)(5) Any violation of the provisions of this section is a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 88. Effective July 1, 1988, paragraph (a) of subsection (2) and subsection (13) of section 212.12, Florida Statutes, 1986 Supplement, are amended to read:

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

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 100 25 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than \$5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50 percent of the tax bill and for fine and punishment as provided by law for a conviction of a *felony misdemeanor* of the *third second* degree.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records for a period of not less than 3 years, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a *felony misdemeanor* of the *third second* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084, for the first offense; and for subsequent offenses, they are each guilty of a *felony misdemeanor* of the *second first* degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 89. Effective July 1, 1988, subsection (1) of section 212.13, Florida Statutes, and subsection (2) of said section, as amended by this act, are amended to read:

212.13 Records required to be kept; power to inspect; audit procedure.—

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in

order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property or services received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

Section 90. Effective July 1, 1988, subsection (3) of section 212.14, Florida Statutes, 1986 Supplement, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.—

(3) The department may require all reports of taxes to be paid under this chapter to be accompanied with a written statement, of the person or by an officer of any firm or corporation required to pay such taxes setting forth such facts as the department may reasonably require in order to advise the department as to the amount of taxes that are due and payable upon said return. Filing of return not accompanied by payment is prima facie evidence of conversion of the money due. Any person or any duly authorized corporation officer or agent, members of any firm or incorporated society, or organization who refuses to make a return and pay the taxes due, as required by the department and in the manner and in the form that the department may require, or to state in writing that the return is correct to the best of his knowledge and belief, as so required by the department, shall be subject to a penalty of 6 percent per annum of the amount due and shall upon conviction, be guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. The signing of a written return shall have the same legal effect as if made under oath without the necessity of appending such oath thereto.

Section 91. Effective July 1, 1988, subsections (2) and (3) of section 212.15, Florida Statutes, are amended to read:

212.15 Taxes declared state funds; penalties for failure to remit taxes; due and delinquent dates; judicial review.—

(2) Any person who, with intent to unlawfully deprive or defraud the state of its moneys or the use or benefit thereof, fails to remit taxes collected pursuant to this chapter is guilty of theft of state funds, punishable as follows:

(a) If the total amount of stolen revenue is less than \$100, the offense is a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. Upon a second or subsequent conviction within a 3-year period, the offender is guilty of a ~~felony misdemeanor~~ of the ~~second first~~ degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084. ~~Upon a third or subsequent conviction within a 3-year period, the offender is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(b) If the total amount of stolen revenue is \$100 or more, the offense is a felony of the ~~second third~~ degree, punishable as provided in s. 775.082, or s. 775.083, or s. 775.084.

~~(c) If the total amount of stolen revenue is \$20,000 or more, the offense is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(3) Prosecution of a misdemeanor under this section shall commence no later than 2 years from the date of the offense. Prosecution of a felony under this section shall commence no later than 5 years from the date of the offense.~~

Section 92. Effective July 1, 1988, subsection (3) of section 212.18, Florida Statutes, 1986 Supplement, as amended by this act, is amended to read:

212.18 Administration of law; rules and regulations.—

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

Section 93. Effective July 1, 1988, paragraph (d) of subsection (2) of section 212.62, Florida Statutes, is amended to read:

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

(2)

(d) Any refiner, importer, wholesaler, dealer, retail dealer, or retailer who violates the provisions of paragraph (b) or paragraph (c) is guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 94. Effective July 1, 1988, subsection (1) of section 214.40, Florida Statutes, 1986 Supplement, is amended to read:

214.40 Penalties; failure to file timely returns.—

(1) In case of failure to file any tax return required under laws made applicable to this chapter on the date prescribed therefor, including any extensions thereof, there shall be added as a penalty to the amount of tax due with such return 5 percent of the amount of such tax, if the failure is not for more than 1 month, plus an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 100 25 percent in the aggregate. The department may settle or compromise such penalties pursuant to s. 213.21. For purposes of this sec-

tion, the amount of tax due with any return shall be reduced by any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which was properly allowable on the date the return was required to be filed.

Section 95. Effective July 1, 1988, section 214.60, Florida Statutes, is amended to read:

214.60 Willful and fraudulent acts.—Any taxpayer who is subject to the provisions of this chapter and who willfully fails to file a return or keep required books and records, files a fraudulent return, willfully violates any rule or regulation of the department, or willfully attempts in any other manner to evade or defeat any tax imposed by laws made applicable to this chapter or the payment thereof, ~~is shall~~, in addition to other penalties, be guilty of a ~~felony misdemeanor~~ of the ~~third first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 96. Effective July 1, 1988, section 214.61, Florida Statutes, is amended to read:

214.61 Willful failure to pay over.—Any person who accepts money from a taxpayer that is due to the department, for the purpose of acting as the taxpayer's agent to make the payment to the department, but who willfully fails to remit such payment to the department when due or who purports to make such payment but willfully fails to do so because his check or other remittance fails to clear the bank or other depository against which it is drawn ~~is shall~~ be guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 97. Effective July 1, 1988, subsection (9) of section 220.181, Florida Statutes, 1986 Supplement, is amended to read:

220.181 Enterprise zone jobs credit.—

(9)(a) Any person who fraudulently claims this credit is liable for repayment of the credit, plus a mandatory penalty in the amount of 100 percent of the credit, plus interest at the rate provided in chapter 214, and is guilty of a ~~felony misdemeanor~~ of the ~~third second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who makes an underpayment of tax as a result of a grossly overstated claim for this credit is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, a grossly overstated claim means a claim in an amount in excess of 100 percent of the amount of credit allowable under this section.

Section 98. Effective July 1, 1988, section 211.335, Florida Statutes, is created to read:

211.335 Tax crimes; punishment for violation of this part.—

(1) Any person who willfully fails to file a return or keep books and records on production of taxable products, or who files a grossly false or fraudulent return, or who willfully fails or refuses to produce books and records, or who willfully violates any provision of this part, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who fails to make remittance of the tax as required by this part, or who purports to make payments due under this part but willfully fails to do so because the remittance fails to clear the bank or depository institution against which it is drawn, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 99. Section 213.30, Florida Statutes, is created to read:

213.30 Compensation for information relating to a violation of the tax laws.—

(1) The executive director of the department, pursuant to rules adopted by the department, is authorized to compensate persons providing information to the department leading to the punishment of, or collection of taxes, penalties, or interest from, any person committing any crime with respect to the taxes enumerated in s. 72.011(1). The amount of any payment made under this subsection may not exceed 10 percent of any tax, penalties, or interest collected as a result of such information.

(2) Any employee of the department or of any other state or federal agency who comes into possession of information relating to a violation of a revenue law while an employee of such agency may not be compen-

sated under this section. Any former employee of the department or any other state or federal agency who came into possession of information relating to a violation of a revenue law while an employee of such agency may not receive compensation under this section.

(3) The names of all persons supplying information to the department under this section are confidential as provided in s. 213.053 in the same manner as other confidential taxpayer information.

Section 100. Effective July 1, 1988, section 213.70, Florida Statutes, is created to read:

213.70 Priority of tax warrants, distress writs, levies, and executions.—

(1) All tax warrants, levies, and executions issued or obtained by the Department of Revenue and filed, recorded or docketed are entitled to first priority as between all judgments and liens, except those creating a security interest in tangible personal property or real property, filed and recorded against the property of the taxpayer prior to the date of the filing of a warrant by the Department of Revenue.

(2) In the event of a levy by any lienholder or judgment creditor, the tax warrant, levy, or execution of the Department of Revenue shall be paid first from any proceeds resulting from such levy or execution upon the property of a taxpayer.

Section 101. Effective July 1, 1988, section 213.71, Florida Statutes, is created to read:

213.71 Seizure of property for collection of taxes.—

(1) If any person who is liable to pay any tax, penalty, or interest under the revenue laws specified in s. 72.011 neglects or refuses to pay the same within 10 days after notice and demand, the executive director or his designee may collect such tax, penalty, or interest, and such further sum as shall be sufficient to cover the expenses of the levy, by levy upon all real property, tangible or intangible personal property, and rights to property belonging to such person on which there is a tax lien.

(2) The term "levy" as used in this section includes the power of distraint and seizure by any means. A levy may extend only to property possessed and obligations existing at the time thereof.

(3) Whenever any property or right to property upon which levy has been made under this section is insufficient to satisfy the claim of the Department of Revenue for which levy is made, the executive director or his designee may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(4) Levy may be made under subsection (1) with respect to any unpaid tax, penalty, or interest only after the executive director or his designee has notified such persons in writing of the department's intention to make such levy. The notice required under subsection (1) shall be given in person, left at the dwelling or usual place of business of such person, or sent by certified or registered mail to such person's last known address, no less than 10 days before the day of the levy.

(5) If the executive director or his designee makes a finding that the collection of any tax, penalty, or interest will be jeopardized by delay, notice and demand for immediate payment of such tax may be made by the executive director or his designee, and upon failure or refusal to pay such tax, penalty, or interest, collection thereof by levy is lawful without regard to the 10-day period provided in subsection (1).

(6) With respect to a levy described in subsection (1), the executive director or his designee shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, upon the request of the person upon whom the levy was made.

(7) If a levy has been made or is about to be made on any property or right to property, any person having custody or control of any books or records containing evidence or statements relating to the property or right to property subject to levy shall, upon demand of the executive director or his designee, exhibit such books or records to the executive director or his designee.

(8) This section does not authorize the executive director or his designee to levy upon any property subject to exemption under chapter 222.

Section 102. Effective July 1, 1988, section 213.72, Florida Statutes, is created to read:

**213.72 Sale of seized property.—**

(1) As soon as practicable after seizure of property, notice in writing shall be given by the executive director or his designee to the owner of the property, or, in the case of tangible or intangible personal property, to the possessor thereof. Such notice shall be given in person or left at his dwelling or usual place of business if he has such within the county where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such county, the notice may be mailed to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of tangible or intangible personal property, an inventory of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

(2) The executive director or his designee shall, as soon as practicable after the seizure of property, give notice to the owner, in the manner prescribed in subsection (1), and shall cause a notice to be published in a newspaper published or generally circulated within the county wherein such seizure is made, or if there is no newspaper published or generally circulated in such county, shall post the notice at the post office and county courthouse of the county where the seizure is made. The notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale. Whenever levy is made as a result of a determination of jeopardy under s. 213.71(5), public notice of sale of the property seized shall be made within 5 days after the date of seizure.

(3) The time of sale shall not be less than 10 days nor more than 40 days after the time of giving public notice under this section. The place of sale shall be within the county in which the property is seized, except that the executive director or his designee may by special order direct the sale to be made at another location.

Section 103. Effective July 1, 1988, section 213.73, Florida Statutes, is created to read:

**213.73 Manner and conditions of sale of property subject of a levy by the Department of Revenue.—**Whenever a levy is made as a result of an execution upon a tax warrant or lien:

(1) Before the sale, the executive director or his designee shall determine a minimum price for which the property shall be sold, and if no person offers at the sale the amount of the minimum price for such property, the sale may be, in the discretion of the executive director or his designee, rescheduled; the property may be declared to be purchased at such price for the state; or the property may be declared to be sold to the highest bidder. In determining the minimum price, the executive director or his designee shall take into account the expense of making the levy and sale.

(2) The department shall by rule prescribe the manner and other conditions of the sale of property seized. Such regulations shall provide:

(a) That the sale may not be conducted in any manner other than by public auction or by public sale under sealed bids.

(b) In the case of the seizure of several items of property, whether such items must be offered separately, in groups, or in the aggregate or whether such property must be offered in any combination thereof, and sold under whichever method produces the highest aggregate amount.

(c) The extent to which methods additional to those prescribed in s. 213.72, including advertising, may be used in giving notice of the sale.

(d) Under what circumstances the executive director or his designee may adjourn the sale from time to time; however, any such adjournment may not exceed 1 month.

(3) Any person whose property has been levied upon may pay the amount due, together with the expenses of the proceeding, if any, to the department at any time prior to the sale, and upon such payment, the department shall restore such property to him, and all further proceedings in connection with the levy on such property shall cease from the date of such payment.

Section 104. Effective July 1, 1988, section 213.74, Florida Statutes, is created to read:

**213.74 Certificate of sale; deed of real property; legal effect.—**

(1) In the case of property sold as provided in s. 213.72, the executive director or his designee shall give to the purchaser a certificate of sale upon payment in full of the purchase price. Such certificate shall set forth a description of the property purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor.

(2) In the case of any real property sold as provided in s. 213.72, and not redeemed in the manner and within the time provided in s. 213.73, the executive director or his designee shall execute, in accordance with the laws of this state pertaining to the sale of real property under execution, to the purchaser of such real property at such sale, upon his surrender of the certificate of sale, a deed of the real property so purchased by him, reciting the facts set forth in the certificate.

(3) If real property is declared purchased for the state at a sale pursuant to s. 213.72, the executive director or his designee shall present a certificate of sale and execute a deed therefor to the Board of Trustees of the Internal Improvement Trust Fund, and the board of trustees shall, without delay, cause such deed to be duly recorded in the proper clerk's office in the proper manner.

(4) In all cases of sale of tangible or intangible personal property pursuant to s. 213.72, the certificate of sale shall be prima facie evidence of the right of the executive director or his designee to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale and shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold. If such property consists of intangibles such as stock and bonds, the certificate constitutes notice, when received, to any corporation, company, or association of such transfer, and constitutes authority to such corporation, company, or association to record the transfer on its books and records in the same manner as if the intangibles were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not. If the subject of the sale is securities or other evidences of debt, the certificate constitutes a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of such securities or other evidences of debt. If such property consists of a motor vehicle, the certificate constitutes notice when received, to any public official charged with the registration of title of motor vehicles, of such transfer and constitutes authority to such official to record the transfer on his books and records in the same manner as if the certificate of title to such motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate of title, which shall be void whether canceled or not.

(5) In the case of the sale of real property pursuant to s. 213.72, the deed of sale given pursuant to this section shall be prima facie evidence of the facts stated therein and if the proceedings by the executive director or his designee have been substantially in accordance with the provisions of this chapter and the rules of the department, such deed constitutes a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the Department of Revenue attached thereto.

Section 105. Effective July 1, 1988, section 213.75, Florida Statutes, is created to read:

**213.75 Application of payments.—**

(1) Whenever any payment is made to the department with respect to any of the revenue laws of this state, such payment shall be applied as follows:

(a) First, against the accrued interest, if any;

(b) The amount, if any, remaining after the application to interest, shall be credited against any accrued penalty; and

(c) The amount, if any, remaining after application to interest and penalty, shall be credited to any tax due.

(2) If a warrant or lien has been filed and recorded by the department, a payment shall be applied as follows:

(a) First, against the costs of recordation of the warrant or lien, if any;

(b) The amount, if any, remaining shall be applied to accrued interest;

(c) The amount, if any, remaining after the application to interest, shall be credited against any accrued penalty; and

(d) The amount, if any, remaining after application to costs, interest, and penalty, shall be credited to any tax due.

(3) If a levy has been made by the department, a payment shall be applied as follows:

- (a) First, against the costs of execution of the levy, if any;
- (b) The amount, if any, remaining shall be applied to accrued interest;
- (c) The amount, if any, remaining after the application to interest, shall be credited against any accrued penalty; and
- (d) The amount, if any, remaining after application to costs, interest, and penalty, shall be credited to any tax due.

(4) Any surplus proceeds remaining after the application of subsection (3) shall, upon application and satisfactory proof thereof, be refunded by the Comptroller to the person or persons legally entitled thereto pursuant to s. 215.26.

Section 106. Effective July 1, 1988, section 213.76, Florida Statutes, is created to read:

213.76 Freezing of assets and obligations.—

(1) If any person who is obligated to pay a tax is delinquent in the payment of any of the taxes specified in s. 72.011(1), the department may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such person or owing any debts to such person at the time of receipt by them of such notice. All persons so notified shall, within 5 days after receipt of the notice, advise the department of all such credits, other personal property, or debts in their possession, under their control, or owing by them. After receiving the notice, the persons so notified may not transfer or make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive such notice unless the department consents to a transfer or disposition or until 120 days elapse after the receipt of the notice, whichever period expires sooner, except that the credits, other personal property, or debts which exceed the delinquent amount stipulated in the notice are not subject to this section, wherever held, in any case in which such dealer does not have a prior history of sales tax delinquencies. All persons notified shall likewise within 5 days advise the department of any subsequent credits or other personal property belonging to such person or any debts incurred and owing to such person which may come within their possession or under their control during the time prescribed by the notice or until the department consents to a transfer or disposition, whichever expires sooner. If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, to be effective, must be delivered or mailed to the office of such bank at which the deposit is carried or at which the credits or personal property is held. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld under this section, such person is liable to the state for any indebtedness due from the person with respect to whose obligation such notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. All such credits or other personal property or debts are subject to garnishment by the department for satisfaction of the delinquent tax due.

(2) Any violation of this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 107. The Department of Revenue is appropriated the sum of \$600,000 from the General Revenue Fund for the purpose of advertising and providing public notice of the tax amnesty program provided in this act, and in addition, the Department of Revenue is appropriated the sum of \$1.5 million from the General Revenue Fund for personnel and expenses related to the tax amnesty program.

Section 108. Except for violations for which the period of time for bringing an action or enforcing a lien has expired prior to July 1, 1988, the penalties provided by sections 49 through 98 of this act are applicable to the failure to pay taxes which are due before and remain unpaid on July 1, 1988.

Section 109. Effective July 1, 1987, the Department of Revenue is directed to provide for a sales tax hot-line to be operated by the department to provide information to citizens of the state who have questions with respect to the sales tax.

Section 110. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 111. Except as otherwise provided herein, this act shall take effect July 1, 1987.

**Conference Committee Amendment 2**—On page 1, strike the entire title and insert: A bill to be entitled An act relating to taxation; creating s. 212.059, F.S.; providing for levy of the tax on sales, use and other transactions on the sale and use of services; providing for collecting and remitting thereof; providing for apportionment of the tax on interstate and international transportation services; creating s. 212.0591, F.S.; providing rules of construction with respect to said tax; creating s. 212.0592, F.S.; providing exemptions from said tax; creating s. 212.0593, F.S.; providing for administration of the exemption for services sold in this state for use outside this state; providing for exempt purchase permits and affidavits; requiring dealers to maintain monthly logs; providing for application of certain penalty provisions; providing for refunds; creating s. 212.0594, F.S.; providing special provisions applicable to the tax on construction services; prohibiting issuance of certificate of occupancy under certain circumstances; creating s. 212.0595, F.S.; providing special provisions applicable to tax on advertising; amending s. 212.02, F.S.; providing definitions; excluding certain hourly, daily, or mileage charges and car service agreement charges from the meaning of "lease" or "service"; specifying when the sale of a service is a sale for resale; specifying those activities included within the meaning of "services"; excluding factory-built buildings from the meaning of "tangible personal property"; amending s. 212.031, F.S., relating to exemptions from tax on lease or rental of real property; reenacting an exemption for lease payments on recreational property or the common elements of a condominium; exempting property used as an integral part of the performance of certain qualified production services; exempting certain property leased to a person providing food and drink concessionaire services; reenacting and amending s. 212.04(2)(a), F.S.; deleting exemptions for admissions to athletic and other events sponsored by certain institutions, for dues, memberships fees, and admission charges imposed by certain nonprofit organizations, and for certain admissions paid by students; reenacting the exemption for admissions to National Football League championship games; amending ss. 212.05 and 212.054, F.S., to conform; reenacting the exemption for boats removed from the state after purchase or repair and the penalty for violation; including airplanes in said exemption; exempting lease or rental of certain commercial motor vehicles; amending ss. 212.06 and 212.07, F.S., relating to dealers and collection of the tax, and penalties for violations, to include tax on services; exempting certain fabrication labor relating to motion pictures; amending s. 212.08, F.S.; reenacting provisions relating to medical exemptions and providing an additional exemption; providing an exemption for services related to installation of machinery and equipment in new or expanding industry or used to produce electrical or steam energy; revising the exemption for sales to political subdivisions; restructuring other exemptions; exempting certain license fees and charges for films, videotapes, and transcriptions; reenacting exemptions for resource recovery equipment, State Theater Program facilities, and volunteer fire departments; reenacting the partial exemption for sales of flyable aircraft and removing a deduction allowed manufacturers; amending s. 212.095, F.S., relating to refunds, to conform; providing application to attorneys and accountants; amending s. 212.11, F.S.; revising provisions relating to estimated tax liability; authorizing certain quarterly returns; amending s. 212.12, F.S.; including the tax on services within enforcement and collection provisions; providing application of the dealer's credit to persons who remit taxes or fees reported on the same documents utilized for sales and use tax; requiring certain information on returns; amending ss. 212.13, 212.14, 212.17, 212.18, and 212.21, F.S., relating to recordkeeping and inspection, hearings and enforcement regarding unpaid taxes, credits for worthless accounts and returns, dealer registration, legislative intent, and related penalties, to conform; amending s. 212.61, F.S.; correcting a reference; creating s. 212.235, F.S.; providing for deposit of a portion of funds collected under part I of chapter 212 in a State Infrastructure Trust Fund; providing a limitation; providing uses of the fund; authorizing issuance of bonds; amending s. 8 of chapter 86-166, Laws of Florida; deleting the repeal scheduled for July 1, 1987, of

exemptions relating to certain convention hall subleases, certain leases or rentals by fair associations, certain admissions, volunteer fire departments, resource recovery equipment, State Theater Program facilities, motor vehicles sold to residents of another state, flyable aircraft, and electrical energy, building materials, and business property used in, and jobs created in, enterprise zones; amending ss. 212.0821, 290.007, 403.715, and 564.02, F.S.; correcting references; amending s. 240.533, F.S.; providing for retention of sales tax collected on admission to athletic events by institutions in the State University System to support women's athletics; providing for exemption from the tax on services with respect to certain improvements to real property; providing penalties; repealing Rule 12A-1.091(6) of the Department of Revenue, relating to self-accrual; authorizing certain rules relating thereto; providing for emergency rules; providing for client confidentiality; providing for waiver of penalties and interest with respect to the tax on services for a specified period; providing for application of the tax to services provided prior to the effective date of the act, certain prepaid services, and services provided over a specified period; amending s. 201.02, F.S.; providing for the levy of an additional tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; providing for payment of such additional tax into the State Infrastructure Trust Fund; revising the current distribution of the tax; amending s. 206.87, F.S.; providing for the levy of an additional tax on special fuels; providing an exception; providing for collection of the tax; amending s. 206.875, F.S.; providing for payment of the proceeds from such additional tax into the State Infrastructure Trust Fund; amending s. 207.026, F.S., relating to allocation of the tax on commercial motor vehicles, to conform; amending s. 57.071, F.S.; including sales or use tax on legal services within court costs; amending s. 57.111, F.S.; expanding the definition of "small business party" with respect to civil actions or administrative proceedings initiated by state agencies to include certain persons contesting the legality of any assessment of tax imposed for the sale or use of services; amending s. 120.57, F.S.; providing an exception to procedure in a formal proceeding on a decision which affects substantial interests for any proceeding to contest the legality of such tax; amending s. 120.575, F.S.; providing procedure for taxpayer contest proceedings to contest the legality of any assessment of such tax; amending s. 120.65, F.S.; providing for the appointment of a three-member panel to be the hearing officer in such taxpayer contest proceedings; directing the Department of Revenue to undertake a study regarding taxable services and report to the Governor and Legislature; requiring the Department of Revenue to develop and implement a tax amnesty program for certain taxes; providing terms and conditions for such program; amending ss. 95.091, 198.18, 199.232, 211.125, 211.33, 214.50, 214.51, and 220.23, F.S.; repealing ss. 212.14(6) and 214.09, F.S.; providing limitations on actions to collect certain taxes and providing for expiration of tax liens; providing penalties; providing limitations on enforcement of certain tax liens by foreclosure and levy proceedings; amending ss. 199.218, 212.08, and 214.04, F.S.; correcting references; amending ss. 125.0104, 198.37, 198.39, 199.282, 201.17, 201.18, 201.20, 203.01, 203.03, 203.63, 206.04, 206.11, 206.18, 206.426, 206.44, 206.87, 206.877, 206.9931, 207.007, 211.076, 211.25, 212.0305, 212.05, 212.054, 212.07, 212.085, 212.10, 212.12, 212.13, 212.14, 212.15, 212.18, 212.62, 214.40, 214.60, 214.61, and 220.181, F.S.; creating s. 211.335, F.S.; providing penalties for certain tax crimes; creating s. 213.30, F.S.; providing compensation for information concerning tax law violations; creating ss. 213.70, 213.71, 213.72, 213.73, 213.74, 213.75, and 213.76, F.S.; providing for the levy of real and personal property by the Department of Revenue to satisfy certain claims; requiring notice; providing for jeopardy assessments by the department under certain circumstances; providing for the sale of seized property; providing for the transfer of all right, title, and interest in such property; providing the order of payment of obligations from payments to the department; providing for freezing certain assets and obligations; providing a penalty; providing an appropriation; providing application of penalties; directing the Department of Revenue to establish a sales tax hot-line; providing for severability; providing effective dates.

WHEREAS, the Legislature enacted chapter 86-166, Laws of Florida, which repeals the exemption from the sales tax for all services effective July 1, 1987, and

WHEREAS, it is not this Legislature's intent to tax essential services such as medical and health services, agricultural services, social services, or religious or humanitarian services, and

WHEREAS, Florida is one of the nation's fastest growing states and by 1990 will be its fourth largest state and must equitably fund the costs of providing the infrastructure necessitated by such growth, and

WHEREAS, it is the intent of this Legislature to make the sales tax on services fair and equitable by reinstating the sales tax exemptions for essential services, NOW, THEREFORE,

Senator Langley moved that consideration of the Conference Committee Report on CS for SB 777 be postponed until 2:00 p.m., Tuesday, April 28. The motion failed.

The vote was:

Yeas—11

Frank	Langley	Ros-Lehtinen	Weinstein
Jenne	Lehtinen	Stuart	Woodson
Johnson	Plummer	Thurman	

Nays—25

Mr. President	Gordon	Kirkpatrick	Peterson
Barron	Grant	Kiser	Scott
Beard	Grizzle	Malchon	Thomas
Brown	Hair	Margolis	Weinstock
Childers, W. D.	Hill	McPherson	
Crawford	Hollingsworth	Meek	
Deratany	Jennings	Myers	

Excused: Dudley

On motion by Senator Barron, the rules were waived and the report of the Conference Committee on CS for SB 777 was read the second time.

On motion by Senator Deratany, the Conference Committee Report was adopted, and CS for SB 777 passed as recommended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—24

Mr. President	Crawford	Hill	McPherson
Barron	Deratany	Hollingsworth	Meek
Beard	Gordon	Jennings	Peterson
Brown	Grant	Kirkpatrick	Scott
Childers, D.	Grizzle	Malchon	Thomas
Childers, W. D.	Hair	Margolis	Weinstock

Nays—14

Crenshaw	Johnson	Plummer	Weinstein
Frank	Langley	Ros-Lehtinen	Woodson
Girardeau	Lehtinen	Stuart	
Jenne	Myers	Thurman	

Excused: Dudley

Pair

The following pair was announced by the Secretary in accordance with Senate Rule 5.4:

I am paired with Senator Dudley on the Conference Committee Report on CS for SB 777. If he were present he would vote "nay" and I would vote "yea".

*Curt Kiser, 19th District*

#### Explanations of Votes

I voted for Committee Substitute for SB 777, and while it is not a perfect bill, it does provide for the largest tax exemption to ever pass the Florida Legislature. It exempts many services that, in my opinion, should be exempted, such as groceries, medicine, doctor bills, mobile home rent and other necessary items which, traditionally, have not been taxed in Florida. To vote no on this bill, would have meant voting to defeat the only vehicle presently before us to provide for restoring exemptions which automatically would be reinstated on July 1st. The failure to reinstate those exemptions would have increased, materially, the taxes paid in this state and would have significantly impacted the poor, the elderly, the less fortunate, and the medically dependent citizens of our state. As with any omnibus bill of this type, there will be the possibility of inequities that will be recognized when it actually goes into effect. However, I am confident that in the remaining weeks of this year's session and in the session of next year, we will be able to use the procedures that our system

has built in to fine-tune this bill and correct those inequities wherever possible.

No one likes to increase taxes in any area, but Florida is growing at such a rate that as it is now the fourth largest state and very simply, growth is not, in the short run, paying for itself. We must, therefore, in order to balance our budget and to provide for the needs created by growth, place additional revenue at the disposal of the appropriations process. This bill will provide a minimum of nearly three quarters of a billion dollars dedicated to the Infrastructure Trust Fund over the next fiscal year. That money will go a long way towards helping to fight crime, improve the quality of our educational system, and to meet the much needed challenges of transportation. Not only does this bill reinstate many exemptions which were eliminated by last year's session of the Legislature, but it also places into law, a tax base that is more closely tied to our service-based economy and gives us the flexibility to have the growth of our tax base that is in step with the growth of our state.

As a member of the Appropriations Committee, I am committed to spending this money responsibly and wisely to meet the needs of this state.

*John Grant, 21st District*

As I have repeatedly stated, I do not support a sales tax on services; however, I again feel compelled to vote for the Conference Committee Report on CS for SB 777, because I believe not to do so would leave all services taxable. The bill to be voted on does provide some exemptions, and I would prefer to have some exempt services.

I continue to believe there will be many people adversely affected by the tax and that there are other methods of providing the necessary funding to the state. In the absence of any opportunity to vote on alternatives, I feel I must vote for the Conference Committee Report on CS for SB 777.

*Mattox Hair, 9th District*

I have voted no on the Conference Committee Report for CS for SB 777 for the following reasons. Even though much improvement has been made in many of the negative impacts on business, and on the people of the State of Florida, there still is an inherent flaw in this solution. Also, I am as keenly aware of the tremendous needs of the State of Florida for infrastructure, social services, education and public safety as anyone else. However, the method of raising the revenue in this particular package disturbs me greatly, because of its inequities, its diminished ability to collect the tax, as well as several legal challenges, which will probably tie up the tax for a period of time.

I am also keenly aware that without this bill, the full package of exemptions would be gone under last year's sunset act. The best method would have been to undo the sunset and then study these taxes individually. However, the House of Representatives would not have accepted this position.

I voted yes on the original discussion of this bill in order for it to go to conference, and be subjected to input from those who supported it, to hopefully come up with a more equitable distribution of the taxes.

Finally, my decision to vote no was also based on the overwhelming outcry of my constituents in my three counties, even after extensive explanations of the tax and its effect. Because of this outcry, I carry to the floor of the Senate their desire for a no vote.

*William G. "Doc" Myers, 27th District*

I hereby request that the entries of the Journal of the Florida Senate on Thursday, April 23, 1987, reflect my reasoning for my negative vote on the Conference Committee Report on the CS for SB 777.

In that all sales tax exemptions were to sunset in 1986, in order to comprehensively review age-old inequities; I believe it is truly regrettable that this measure has grown into a funding source for infrastructure and governmental needs while failing to attain the Legislature's original goal.

I am sadly disappointed that it is the residents of this state; not the tourists who outnumber resident Floridians by a 4:1 ratio, who have been solely selected to bear the burdens that this tax will impose.

I am apprehensive for the magnitude of the impact that this policy will have on our state in our efforts to achieve a leadership role in economic development and a high standard of living for all Floridians. I am equally concerned for the direction that this legislation has taken since its inception and the absence of a prioritization of our state's needs, given this new direction.

*Karen L. Thurman, 4th District*

First, I fully understand Florida's pressing need to raise additional revenue, primarily to fund solutions to our state's growth-related problems and resulting need for infrastructure.

I believe this bill, as currently written, unfairly discriminates against numerous professions and businesses which have been singled out to bear the burden of our revenue needs. This tax burden will be detrimental to the economic progress of Florida.

Further, I believe the bill to be patently unconstitutional based on the continuing tax exemption offered to a select number of services which were not selected on a rational basis.

This legislation will make it more difficult for our citizens to receive the legal representation guaranteed them under our Federal Constitution, as it will drive up the cost of this representation.

I continue to support, as I have supported throughout the debate on this issue, the continuation of sales tax exemptions for medical and medical-related services, and all professional and personal services. I therefore voted in favor of amendments to reinstate these exemptions earlier in our deliberations.

Finally, I offer viable alternatives to answer the urgent need for raising additional revenue in our state. Among these alternatives, I favor increasing the sales tax above its current level of five percent, and I have also developed a proposal to collect an ad valorem tax on motor vehicles.

For these reasons primarily, I am compelled to vote against the 1987 Sales Tax Bill.

*Peter M. Weinstein, 29th District*

#### MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Barron, by two-thirds vote CS for SB 315 was withdrawn from the Committee on Health and Rehabilitative Services.

#### MESSAGES FROM THE HOUSE OF REPRESENTATIVES

*The Honorable John W. Vogt, President*

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for SB 777 as amended by the Conference Committee Report.

*John B. Phelps, Clerk*

The bill contained in the foregoing message was ordered engrossed and then enrolled.

#### ENROLLING REPORTS

Senate Bills 30, 114 and CS for SB 777 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on April 23, 1987.

*Joe Brown, Secretary*

#### CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 21 was corrected and approved.

#### CO-INTRODUCERS

Senator Kirkpatrick—SB 1; Senator Thomas—SB 508; Senator Gordon—SB 737; Senator Woodson—SB 1002; Senators Hill and Crenshaw—SB 1268

#### RECESS

Senator Barron moved that the Senate stand in recess for the purpose of holding committee meetings and conducting other Senate business until Tuesday, April 28 at 10:00 a.m. The motion was adopted.

Pursuant to the motion by Senator Barron, the Senate recessed at 6:03 p.m. to reconvene at 10:00 a.m. Tuesday, April 28.