

By Representative Logan

1                                   A bill to be entitled  
2           An act relating to tax administration; amending  
3           s. 95.091, F.S.; revising time periods within  
4           which the Department of Revenue and Department  
5           of Business and Professional Regulation may  
6           determine and assess the amount of any tax,  
7           penalty, or interest due under taxes which they  
8           have authority to administer; amending s.  
9           213.015, F.S.; specifying additional taxpayer's  
10          rights; creating s. 213.235, F.S.; providing  
11          for determination of the annual rate of  
12          interest applicable to tax payment  
13          deficiencies; creating s. 213.255, F.S.;  
14          providing for payment of interest on  
15          overpayments of taxes, payment of taxes not  
16          due, or taxes paid in error with respect to  
17          taxes administered by the Department of Revenue  
18          if refund is not made within a specified  
19          period; providing requirements for refund  
20          applications; requiring a bond or other  
21          security under certain conditions; amending s.  
22          213.34, F.S.; providing that no part of the  
23          compensation of an employee or agent of the  
24          state performing a tax audit shall be based on  
25          amounts assessed or collected as a result of  
26          the audit; amending s. 215.26, F.S.; revising  
27          the time period within which application for  
28          refund of taxes must be made; amending s.  
29          197.172, F.S., relating to the rate of interest  
30          on delinquent real and personal property taxes,  
31          s. 193.1145, F.S., relating to the rate of

1 interest on delinquent provisional property  
2 taxes, s. 198.18, F.S., relating to the rate of  
3 interest on delinquent estate taxes, s.  
4 199.282, F.S., relating to the rate of interest  
5 on delinquent intangible personal property  
6 taxes, s. 201.17, F.S., relating to the rate of  
7 interest on delinquent excise taxes on  
8 documents, and s. 203.06, F.S., relating to the  
9 rate of interest on delinquent gross receipts  
10 taxes, to conform; reenacting s. 203.62, F.S.,  
11 relating to the gross receipts tax on  
12 interstate and international telecommunications  
13 services, to incorporate the amendment to s.  
14 203.06, F.S., in a reference thereto; amending  
15 s. 206.44, F.S., relating to the rate of  
16 interest on delinquent motor fuel taxes, to  
17 conform; reenacting ss. 206.06(1), 206.94,  
18 206.97, 206.9915(3), 336.021(2)(a), and  
19 336.025(2)(a), F.S., relating to estimated fuel  
20 taxes, tax on diesel fuel, tax on fuel and  
21 other pollutants, the ninth-cent fuel tax on  
22 motor and diesel fuel, and the local option tax  
23 on motor and diesel fuel for county  
24 transportation systems, to incorporate the  
25 amendment to s. 206.44, F.S., in references  
26 thereto; amending s. 207.007, F.S., relating to  
27 the rate of interest on delinquent tax on the  
28 operation of commercial motor vehicles, ss.  
29 211.076 and 211.33, F.S., relating to the rate  
30 of interest on delinquent taxes on oil and gas  
31 production and severance of minerals, and s.

1           212.12, F.S., relating to the rate of interest  
2           on delinquent taxes on sales, use, and other  
3           transactions, to conform; reenacting ss.  
4           193.501(6)(e) and 193.505(8), F.S., relating to  
5           the interest on a deferred tax liability due  
6           upon a change in assessment status of certain  
7           conservation or recreation land or historically  
8           significant property, and s. 196.1997(7), F.S.,  
9           relating to the interest on taxes which become  
10          due when property is no longer eligible for a  
11          historic property tax exemption, to incorporate  
12          the amendment to s. 212.12, F.S., in references  
13          thereto; amending s. 220.807, F.S., relating to  
14          the interest rate applicable to the corporate  
15          income tax code, and s. 624.5092, F.S.,  
16          relating to the rate of interest on delinquent  
17          insurance premium taxes, to conform; directing  
18          the Department of Revenue to examine and report  
19          on the impact of the act; providing effective  
20          dates.

21  
22          Be It Enacted by the Legislature of the State of Florida:

23  
24                 Section 1. Paragraph (a) of subsection (3) of section  
25          95.091, Florida Statutes, is amended to read:

26                 95.091 Limitation on actions to collect taxes.--

27                 (3)(a)1. With the exception of taxes levied under  
28          chapter 198 and tax adjustments made pursuant to s. 220.23,  
29          the Department of Revenue may determine and assess the amount  
30          of any tax, penalty, or interest due under any tax enumerated  
31          in s. 72.011 which it has authority to administer and the

1 Department of Business and Professional Regulation may  
2 determine and assess the amount of any tax, penalty, or  
3 interest due under any tax enumerated in s. 72.011 which it  
4 has authority to administer:

5       a. Within 3 5 years after the date the tax is due, any  
6 return with respect to the tax is due, or such return is  
7 filed, whichever occurs later;

8       b. Within 4 6 years after the date the taxpayer either  
9 makes a substantial underpayment of tax, or files a  
10 substantially incorrect return;

11       c. At any time while the right to a refund or credit  
12 of the tax is available to the taxpayer;

13       d. At any time after the taxpayer has failed to make  
14 any required payment of the tax, has failed to file a required  
15 return, or has filed a grossly false or fraudulent return; or  
16       e. In any case in which there has been a refund of tax  
17 erroneously made for any reason, within 5 years after making  
18 such refund, or at any time after making such refund if it  
19 appears that any part of the refund was induced by fraud or  
20 the misrepresentation of a material fact.

21       2. For the purpose of this paragraph, a tax return  
22 filed before the last day prescribed by law, including any  
23 extension thereof, shall be deemed to have been filed on such  
24 last day, and payments made prior to the last day prescribed  
25 by law shall be deemed to have been paid on such last day.

26       Section 2. Effective July 1, 1997, subsection (16) is  
27 added to section 213.015, Florida Statutes, 1996 Supplement,  
28 and, effective January 1, 1999, subsections (17), (18), and  
29 (19) are added to said section, to read:

30       213.015 Taxpayer rights.--There is created a Florida  
31 Taxpayer's Bill of Rights to guarantee that the rights,

1 privacy, and property of Florida taxpayers are adequately  
2 safeguarded and protected during tax assessment, collection,  
3 and enforcement processes administered under the revenue laws  
4 of this state. The Taxpayer's Bill of Rights compiles, in one  
5 document, brief but comprehensive statements which explain, in  
6 simple, nontechnical terms, the rights and obligations of the  
7 Department of Revenue and taxpayers. The rights afforded  
8 taxpayers to assure that their privacy and property are  
9 safeguarded and protected during tax assessment and collection  
10 are available only insofar as they are implemented in other  
11 parts of the Florida Statutes or rules of the Department of  
12 Revenue. The rights so guaranteed Florida taxpayers in the  
13 Florida Statutes and the departmental rules are:

14 (16) The right to assurance that no part of the  
15 compensation of employees or agents of any governmental entity  
16 in Florida, when performing tax audits, will be based on the  
17 amount of tax assessed or collected as a result of the audit  
18 (see ss. 213.28 and 213.34).

19 (17) The right to receive interest when a refund is  
20 not paid within 90 days after receipt of a complete  
21 application for refund for overpayments, payment of taxes not  
22 due, or taxes paid in error (see ss. 213.255 and 220.723).

23 (18) The right to market interest rates on delinquent  
24 taxes (see s. 213.235).

25 (19) The right to the same statute of limitations on  
26 assessments and refunds (see ss. 95.091, 213.25, 215.26, and  
27 220.727).

28 Section 3. Section 213.235, Florida Statutes, is  
29 created to read:

30 213.235 Determination of interest on deficiencies.--  
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1           (1) The annual rate of interest applicable to tax  
2 payment deficiencies shall be the adjusted rate established by  
3 the executive director of the department under subsection (2).  
4 This annual rate of interest is applicable to all taxes  
5 enumerated in s. 213.05.

6           (2) If the adjusted prime rate charged by banks,  
7 rounded to the nearest full percent, during either:

8           (a) The 6-month period ending on September 30 of any  
9 calendar year; or

10           (b) The 6-month period ending on March 31 of any  
11 calendar year,

12  
13 differs from the interest rate in effect on such date, the  
14 executive director of the department shall, within 20 days,  
15 establish an adjusted rate of interest equal to such adjusted  
16 prime rate.

17           (3) An adjusted rate of interest established under  
18 this section shall become effective:

19           (a) On January 1 of the succeeding year, if based upon  
20 the adjusted prime rate for the 6-month period ending on  
21 September 30; or

22           (b) On July 1 of the same calendar year, if based upon  
23 the adjusted prime rate for the 6-month period ending on March  
24 31.

25           (4) For the purposes of this section, "adjusted prime  
26 rate charged by banks" means the average predominant prime  
27 rate quoted by commercial banks to large businesses, as  
28 determined by the Board of Governors of the Federal Reserve  
29 System.

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1       (5) Once established, an adjusted rate of interest  
2 shall remain in effect until an adjustment is made under  
3 subsection (2).

4       Section 4. Section 213.255, Florida Statutes, is  
5 created to read:

6       213.255 Interest.--Interest shall be paid on  
7 overpayments of taxes, payment of taxes not due, or taxes paid  
8 in error, subject to the following conditions:

9       (1) A refund application must be filed with the  
10 department within the time specified by s. 215.26.

11       (2) A refund application shall not be processed until  
12 it is determined complete. A refund application is complete  
13 if it is filed on a permitted form and contains:

14       (a) The taxpayer's name, address, identifying number,  
15 and signature.

16       (b) Sufficient information, whether on the application  
17 or attachments, to permit mathematical verification of the  
18 amount of the refund.

19       (c) The amount claimed.

20       (d) The specific grounds upon which the refund is  
21 claimed.

22       (e) The taxable years or periods involved.

23       (f) A completed audit, if an audit is required by the  
24 department.

25       (3) If the refund application is not complete, the  
26 department shall return the application to the taxpayer with  
27 instructions to include any documents needed to complete the  
28 application.

29       (4) Interest shall not commence until 90 days after a  
30 complete refund application has been filed and the amount of  
31 overpayment has not been refunded to the taxpayer or applied

1 as a credit to the taxpayer's account. If the department and  
2 the taxpayer mutually agree that an audit of the claim is  
3 necessary, interest shall not commence until the audit of the  
4 claim is final.

5 (5) If a tax is adjudicated unconstitutional and  
6 refunds are ordered by the court, interest shall not commence  
7 on complete applications until 90 days after the adjudication  
8 becomes final and unappealable or 90 days after a complete  
9 application has been filed, whichever is later.

10 (6) Interest shall be paid until a date determined by  
11 the department which shall be no more than 7 days prior to the  
12 date of the issuance of the refund warrant by the Comptroller.

13 (7) No interest shall be paid if the department has  
14 reasonable cause to believe that it could not recover the  
15 amount of any refund paid in error from the person claiming  
16 the refund, unless such person files a cash bond or a surety  
17 bond in the amount of the refund claimed or such person makes  
18 other security arrangements satisfactory to the department.  
19 The cash or surety bond shall be endorsed by a surety company  
20 authorized to do business in this state and shall be  
21 conditioned upon payment in full of the amount of any refund  
22 paid in error for any reason. The department shall provide a  
23 written notice of its determination that a cash or surety bond  
24 is required, in which event interest shall not commence until  
25 the person filing the claim satisfies this requirement.

26 (8) The rate of interest shall be the adjusted rate  
27 established pursuant to s. 213.235, except that the annual  
28 rate of interest shall never be greater than 11 percent. This  
29 annual rate of interest shall be applied to all refunds of  
30 taxes administered by the department except for corporate

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1 income taxes and emergency excise taxes governed by ss.  
2 220.721 and 220.723.

3 Section 5. Effective July 1, 1997, subsection (1) of  
4 section 213.34, Florida Statutes, is amended to read:

5 213.34 Authority to audit.--

6 (1) The Department of Revenue shall have the authority  
7 to audit and examine the accounts, books, or records of all  
8 persons who are subject to a revenue law made applicable to  
9 this chapter, or otherwise placed under the control and  
10 administration of the department, for the purpose of  
11 ascertaining the correctness of any return which has been  
12 filed or payment which has been made, or for the purpose of  
13 making a return where none has been made. No part of the  
14 compensation of any employee or agent of the state performing  
15 a tax audit shall be based on the amount of tax assessed or  
16 collected as a result of the audit.

17 Section 6. Subsection (2) of section 215.26, Florida  
18 Statutes, 1996 Supplement, is amended to read:

19 215.26 Repayment of funds paid into State Treasury  
20 through error.--

21 (2) Application for refunds as provided by this  
22 section must be filed with the Comptroller, except as  
23 otherwise provided in this subsection, within 3 years after  
24 the right to the refund has accrued or else the right is  
25 barred. ~~Except as provided in chapter 198 and s. 220.23, an~~  
26 ~~application for a refund of a tax enumerated in s. 72.011,~~  
27 ~~which tax was paid after September 30, 1994, must be filed~~  
28 ~~with the Comptroller within 5 years after the date the tax is~~  
29 ~~paid.~~The Comptroller may delegate the authority to accept an  
30 application for refund to any state agency, or the judicial  
31 branch, vested by law with the responsibility for the

1 collection of any tax, license, or account due. The  
2 application for refund must be on a form approved by the  
3 Comptroller and must be supplemented with additional proof the  
4 Comptroller deems necessary to establish the claim; provided,  
5 the claim is not otherwise barred under the laws of this  
6 state. Upon receipt of an application for refund, the judicial  
7 branch or the state agency to which the funds were paid shall  
8 make a determination of the amount due. If an application for  
9 refund is denied, in whole or in part, the judicial branch or  
10 such state agency shall notify the applicant stating the  
11 reasons therefor. Upon approval of an application for refund,  
12 the judicial branch or such state agency shall furnish the  
13 Comptroller with a properly executed voucher authorizing  
14 payment.

15 Section 7. Subsections (1) and (3) of section 197.172,  
16 Florida Statutes, are amended to read:

17 197.172 Interest rate; calculation and minimum.--

18 (1) Real property taxes shall bear interest at the  
19 adjusted rate established pursuant to s. 213.235 ~~of 18 percent~~  
20 ~~per year~~ from the date of delinquency until a certificate is  
21 sold, except that the minimum charge for delinquent taxes paid  
22 prior to the sale of a tax certificate shall be 3 percent.

23 (3) Personal property taxes shall bear interest at the  
24 ~~<U>~~adjusted rate established pursuant to s. 213.235 ~~of 18 percent~~  
25 ~~per year~~ from the date of delinquency until paid or barred  
26 under chapter 95.

27 Section 8. Paragraph (a) of subsection (10) of section  
28 193.1145, Florida Statutes, is amended to read:

29 193.1145 Interim assessment rolls.--

30 (10)(a) Delinquent provisional taxes on real property  
31 shall not be subject to the delinquent tax provisions of

1 chapter 197 until such time as the assessment roll is  
2 reconciled, supplemental bills are issued, and taxes on the  
3 property remain delinquent. However, delinquent provisional  
4 taxes on real property shall accrue interest at an annual rate  
5 ~~of 12 percent~~, computed in accordance with s. 197.172.  
6 Interest accrued on provisional taxes shall be added to the  
7 taxes, interest, costs, and charges due with respect to final  
8 taxes levied. When interest begins to accrue on delinquent  
9 provisional taxes, the property owner shall be given notice by  
10 first-class mail.

11 (b) Delinquent provisional taxes on personal property  
12 shall be subject to all applicable provisions of chapter 197.

13 Section 9. Subsection (2) of section 198.18, Florida  
14 Statutes, is amended to read:

15 198.18 Failure to pay tax; penalties; delinquent or  
16 deficient taxes, interest.--

17 (2) Any deficiency in tax or any tax payment not  
18 received by the department on or before the due date as  
19 provided in s. 198.15, in addition to any other penalties,  
20 shall bear interest at the adjusted rate established pursuant  
21 to s. 213.235 ~~of 1 percent per month of the amount due~~ from  
22 the due date until paid. The department may settle or  
23 compromise such interest pursuant to s. 213.21.

24 Section 10. Subsection (2) of section 199.282, Florida  
25 Statutes, is amended to read:

26 199.282 Penalties for violation of this chapter.--

27 (2) If any annual or nonrecurring tax is not paid by  
28 the statutory due date, then despite any extension granted  
29 under s. 199.232(6), interest shall run on the unpaid balance  
30 from such due date until paid at the adjusted rate established  
31 pursuant to s. 213.235 ~~of 12 percent per year~~.

1           Section 11. Paragraph (c) of subsection (2) of section  
2 201.17, Florida Statutes, 1996 Supplement, as amended by  
3 chapter 96-395, Laws of Florida, is amended to read:

4           201.17 Penalties for failure to pay tax required.--

5           (2) If any document, instrument, or paper upon which  
6 the tax under this chapter is imposed, upon audit or at time  
7 of recordation, does not show the proper amount of tax paid,  
8 or if the tax imposed by this chapter on any document,  
9 instrument, or paper is not timely reported and paid as  
10 required by s. 201.133, the person or persons liable for the  
11 tax upon the document, instrument, or paper shall be subject  
12 to:

13           (c) Payment of interest to the Department of Revenue,  
14 accruing from the date the tax is due until paid, at the  
15 adjusted rate established pursuant to s. 213.235 ~~of 1 percent~~  
16 ~~per month~~, based on the amount of tax not paid.

17           Section 12. Section 203.06, Florida Statutes, is  
18 amended to read:

19           203.06 Interest on delinquent payments.--Any payments  
20 as imposed in this chapter, if not received by the Department  
21 of Revenue on or before the due date as provided by law, shall  
22 include, as an additional part of such amount due, interest at  
23 the adjusted rate established pursuant to s. 213.235 ~~of 1~~  
24 ~~percent per month~~, accruing from the date due until paid.

25           Section 13. For the purpose of incorporating the  
26 amendment to section 203.06, Florida Statutes, in a reference  
27 thereto, section 203.62, Florida Statutes, is reenacted to  
28 read:

29           203.62 Applicability of specified sections of part  
30 I.--The provisions of ss. 203.01, 203.012, 203.013, 203.02,  
31 203.03, 203.04, 203.06, and 203.07 shall be applicable to the

1 levy and collection of taxes imposed pursuant to this part as  
2 if fully set out in this part.

3 Section 14. Subsection (2) of section 206.44, Florida  
4 Statutes, is amended to read:

5 206.44 Penalty and interest for failure to report on  
6 time; penalty and interest on tax deficiencies.--

7 (2) Any payment that is not received by the department  
8 on or before the due date as provided in s. 206.43 shall bear  
9 interest at the adjusted rate established pursuant to s.  
10 213.235 ~~of 1 percent per month~~, from the date due until paid.  
11 Interest on any delinquent tax shall be calculated beginning  
12 on the 21st day of the month for which the tax is due, except  
13 as otherwise provided in this part.

14 Section 15. For the purpose of incorporating the  
15 amendment to section 206.44, Florida Statutes, in a reference  
16 thereto, subsection (1) of section 206.06, Florida Statutes,  
17 as amended by chapter 95-417, Laws of Florida, is reenacted to  
18 read:

19 206.06 Estimate of amount of fuel taxes due and  
20 unpaid.--

21 (1) Whenever any terminal supplier, importer,  
22 exporter, or wholesaler neglects or refuses to make and file  
23 any report for any calendar month, as required by the fuel tax  
24 laws of this state, or files an incorrect or fraudulent  
25 report, or is in default in the payment of any fuel taxes and  
26 penalties thereon payable under the laws of this state, the  
27 department shall, from any information it may be able to  
28 obtain from its office or elsewhere, estimate the number of  
29 gallons of motor fuel with respect to which the terminal  
30 supplier, importer, exporter, or wholesaler has become liable  
31 for taxes under the fuel tax laws of this state and the amount

1 of taxes due and payable thereon, to which sum shall be added  
2 a penalty and interest as provided in s. 206.44.

3 Section 16. For the purpose of incorporating the  
4 amendment to section 206.44, Florida Statutes, in a reference  
5 thereto, section 206.94, Florida Statutes, as amended by  
6 chapter 95-417, Laws of Florida, is reenacted to read:

7 206.94 Department may estimate diesel fuels sold or  
8 used.--When any person neglects or refuses to file any report  
9 as required by s. 206.91 or files an incorrect or fraudulent  
10 report, the department shall determine, after investigation,  
11 the number of gallons of diesel fuels with respect to which  
12 the person has incurred liability under this part for any  
13 particular period and fix the amount of taxes due and payable  
14 thereon, to which taxes due shall be added the penalties and  
15 interest imposed by s. 206.44 as a penalty for the default of  
16 such person. The department may settle or compromise such  
17 penalties pursuant to s. 213.21.

18 Section 17. For the purpose of incorporating the  
19 amendment to section 206.44, Florida Statutes, in a reference  
20 thereto, section 206.97, Florida Statutes, as amended by  
21 chapter 95-417, Laws of Florida, is reenacted to read:

22 206.97 Applicability of specified sections of part  
23 I.--The provisions of ss. 206.01, 206.02, 206.026, 206.027,  
24 206.028, 206.04, 206.051, 206.052, 206.054, 206.055, 206.07,  
25 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
26 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
27 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
28 206.23, 206.24, 206.25, 206.27, 206.28, 206.41, 206.415,  
29 206.416, 206.43, 206.435, 206.44, 206.48, 206.49, 206.56,  
30 206.59, 206.606, 206.608, 206.61, and 206.62 of part I of this  
31 chapter shall, as far as lawful or practicable, be applicable

1 to the tax herein levied and imposed and to the collection  
2 thereof as if fully set out in this part. However, no  
3 provision of any such section shall apply if it conflicts with  
4 any provision of this part.

5 Section 18. For the purpose of incorporating the  
6 amendment to section 206.44, Florida Statutes, in a reference  
7 thereto, subsection (3) of section 206.9915, Florida Statutes,  
8 1996 Supplement, is reenacted to read:

9 206.9915 Legislative intent and general provisions.--

10 (3) The provisions of ss. 206.01, 206.02, 206.026,  
11 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,  
12 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,  
13 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,  
14 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,  
15 206.22, 206.24, 206.27, 206.28, 206.416, 206.42, 206.425,  
16 206.44, 206.48, 206.49, 206.56, 206.59, 206.86, 206.87,  
17 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.8745,  
18 206.94, 206.945, and 206.9815 shall, as far as lawful or  
19 practicable, be applicable to the levy and collection of taxes  
20 imposed pursuant to this part as if fully set out in this part  
21 and made expressly applicable to the taxes imposed herein.

22 Section 19. For the purpose of incorporating the  
23 amendment to section 206.44, Florida Statutes, in a reference  
24 thereto, paragraph (a) of subsection (2) of section 336.021,  
25 Florida Statutes, 1996 Supplement, is reenacted to read:

26 336.021 County transportation system; levy of  
27 ninth-cent fuel tax on motor fuel and diesel fuel.--

28 (2)(a) The tax collected by the department pursuant to  
29 subsection (1) shall be transferred to the Ninth-cent Fuel Tax  
30 Trust Fund, which fund is created for distribution to the  
31 counties pursuant to paragraph (1)(d). The department has the

1 authority to prescribe and publish all forms upon which  
2 reports shall be made to it and other forms and records deemed  
3 to be necessary for proper administration and collection of  
4 the tax levied by any county and shall adopt rules necessary  
5 to enforce this section, which rules shall have the full force  
6 and effect of law. The provisions of ss. 206.026, 206.027,  
7 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,  
8 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
9 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
10 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
11 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.48,  
12 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873,  
13 206.8735, 206.874, 206.8741, 206.8745, 206.94, and 206.945  
14 shall, as far as practicable, be applicable to the levy and  
15 collection of the tax imposed pursuant to this section as if  
16 fully set out in this section.

17 Section 20. Effective July 1, 1999, for the purpose of  
18 incorporating the amendment to section 206.44, Florida  
19 Statutes, in a reference thereto, paragraph (a) of subsection  
20 (2) of section 336.021, Florida Statutes, 1996 Supplement, as  
21 amended by section 17 of chapter 96-397, Laws of Florida, is  
22 reenacted to read:

23 336.021 County transportation system; levy of  
24 ninth-cent fuel tax on motor fuel and diesel fuel.--

25 (2)(a) The tax collected by the department pursuant to  
26 subsection (1) shall be transferred to the Ninth-cent Fuel Tax  
27 Trust Fund, which fund is created for distribution to the  
28 counties pursuant to paragraph (1)(d). The department shall  
29 deduct the administrative costs incurred by it in collecting,  
30 administering, enforcing, and distributing back to the  
31 counties the tax, which administrative costs may not exceed 2



1 percent of collections authorized by this section. The total  
2 administrative cost shall be prorated among those counties  
3 levying the tax according to the following formula, which  
4 shall be revised on July 1 of each year: Two-thirds of the  
5 amount deducted shall be based on the county's proportional  
6 share of the number of taxpayers who are registered and  
7 required to file tax returns on June 30th of the preceding  
8 state fiscal year, and one-third of the amount deducted shall  
9 be based on the county's share of the total amount of the tax  
10 collected during the preceding state fiscal year. The  
11 department has the authority to prescribe and publish all  
12 forms upon which reports shall be made to it and other forms  
13 and records deemed to be necessary for proper administration  
14 and collection of the tax levied by any county and shall adopt  
15 rules necessary to enforce this section, which rules shall  
16 have the full force and effect of law. The provisions of ss.  
17 206.026, 206.027, 206.028, 206.051, 206.052, 206.054, 206.055,  
18 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10,  
19 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17,  
20 206.175, 206.18, 206.199, 206.20, 206.204, 206.205, 206.21,  
21 206.215, 206.22, 206.24, 206.27, 206.28, 206.41, 206.416,  
22 206.44, 206.45, 206.48, 206.49, 206.56, 206.59, 206.626,  
23 206.87, 206.872, 206.873, 206.8735, 206.874, 206.8741,  
24 206.8745, 206.94, and 206.945 shall, as far as practicable, be  
25 applicable to the levy and collection of the tax imposed  
26 pursuant to this section as if fully set out in this section.

27 Section 21. For the purpose of incorporating the  
28 amendment to section 206.44, Florida Statutes, in a reference  
29 thereto, paragraph (a) of subsection (2) of section 336.025,  
30 Florida Statutes, 1996 Supplement, is reenacted to read:

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1           336.025 County transportation system; levy of local  
2 option fuel tax on motor fuel and diesel fuel.--  
3           (2)(a) The tax levied pursuant to paragraph (1)(a)  
4 shall be collected and remitted in the same manner provided by  
5 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to  
6 paragraph (1)(b) shall be collected and remitted in the same  
7 manner provided by s. 206.41(1)(e). The taxes remitted  
8 pursuant to this section shall be transferred to the Local  
9 Option Fuel Tax Trust Fund, which fund is created for  
10 distribution to the county and eligible municipal governments  
11 within the county in which the tax was collected and which  
12 fund is subject to the service charge imposed in chapter 215.  
13 The tax shall be distributed monthly by the department in the  
14 same manner provided by s. 336.021(1)(c) and (d). The  
15 department has the authority to prescribe and publish all  
16 forms upon which reports shall be made to it and other forms  
17 and records deemed to be necessary for proper administration  
18 and collection of the taxes levied by any county and shall  
19 promulgate such rules as may be necessary for the enforcement  
20 of this section, which rules shall have the full force and  
21 effect of law. The provisions of ss. 206.026, 206.027,  
22 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,  
23 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
24 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
25 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
26 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.48,  
27 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873,  
28 206.8735, 206.874, 206.8741, 206.94, and 206.945 shall, as far  
29 as practicable, be applicable to the levy and collection of  
30 taxes imposed pursuant to this section as if fully set out in  
31 this section.

1           Section 22. Effective July 1, 1999, for the purpose of  
2 incorporating the amendment to section 206.44, Florida  
3 Statutes, in a reference thereto, paragraph (a) of subsection  
4 (2) of section 336.025, Florida Statutes, 1996 Supplement, is  
5 reenacted to read:

6           336.025 County transportation system; levy of local  
7 option fuel tax on motor fuel and diesel fuel.--

8           (2)(a) The tax levied pursuant to paragraph (1)(a)  
9 shall be collected and remitted in the same manner provided by  
10 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to  
11 paragraph (1)(b) shall be collected and remitted in the same  
12 manner provided by s. 206.41(1)(e). The taxes remitted  
13 pursuant to this section shall be transferred to the Local  
14 Option Fuel Tax Trust Fund, which fund is created for  
15 distribution to the county and eligible municipal governments  
16 within the county in which the tax was collected and which  
17 fund is subject to the service charge imposed in chapter 215.  
18 The tax shall be distributed monthly by the department in the  
19 same manner provided by s. 336.021(1)(c) and (d). The  
20 department shall deduct the administrative costs incurred by  
21 it in collecting, administering, enforcing, and distributing  
22 back to the counties the tax, which administrative costs may  
23 not exceed 2 percent of collections authorized by this  
24 section. The total administrative costs shall be prorated  
25 among those counties levying the tax according to the  
26 following formula, which shall be revised on July 1 of each  
27 year: Two-thirds of the amount deducted shall be based on the  
28 county's proportional share of the number of taxpayers who are  
29 registered and required to file tax returns on June 30 of the  
30 preceding state fiscal year, and one-third of the amount  
31 deducted shall be based on the county's share of the total

1 amount of the tax collected during the preceding state fiscal  
2 year. The department has the authority to prescribe and  
3 publish all forms upon which reports shall be made to it and  
4 other forms and records deemed to be necessary for proper  
5 administration and collection of the taxes levied by any  
6 county and shall promulgate such rules as may be necessary for  
7 the enforcement of this section, which rules shall have the  
8 full force and effect of law. The provisions of ss. 206.026,  
9 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,  
10 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,  
11 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,  
12 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,  
13 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44,  
14 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87,  
15 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and  
16 206.945 shall, as far as practicable, be applicable to the  
17 levy and collection of taxes imposed pursuant to this section  
18 as if fully set out in this section.

19 Section 23. Subsection (2) of section 207.007, Florida  
20 Statutes, is amended to read:

21 207.007 Offenses; penalties and interest.--

22 (2) In addition to any other penalties, any delinquent  
23 tax shall bear interest at the adjusted rate established  
24 pursuant to s. 213.235 ~~of 1 percent per month, or fraction~~  
25 ~~thereof~~, calculated from the date the tax was due. If the  
26 department enters into a cooperative reciprocal agreement  
27 under the provisions of s. 207.0281, the department shall  
28 collect and distribute all interest due to other jurisdictions  
29 at the same rate as if such interest were due to the state.

30 Section 24. Subsection (1) of section 211.076, Florida  
31 Statutes, as amended to read:

1           211.076 Interest and penalties; failure to pay tax or  
2 file return; estimated tax underpayments.--

3           (1) If any part of the tax imposed by this part is not  
4 paid on or before the due date, interest shall be added to the  
5 amount due at the adjusted rate established pursuant to s.  
6 213.235 ~~of 12 percent per year~~ from the due date until the  
7 date of payment.

8           Section 25. Paragraph (d) of subsection (2) of section  
9 211.33, Florida Statutes, 1996 Supplement, is amended to read:

10          211.33 Administration of the tax; returns; delinquency  
11 penalties and interest; departmental inspections of records.--

12           (2)

13           (d) In addition to the delinquency penalty provided in  
14 paragraph (c), the department shall assess interest on the  
15 unpaid balance of any such tax which becomes delinquent,  
16 without regard to any extensions, at the adjusted rate  
17 established pursuant to s. 213.235 ~~of 12 percent per year~~,  
18 from April 1 to the date of payment. Interest prescribed by  
19 this paragraph shall be deemed assessed upon the assessment of  
20 the tax and shall be collected and paid in the same manner.

21           Section 26. Subsection (3) of section 212.12, Florida  
22 Statutes, 1996 Supplement, is amended to read:

23          212.12 Dealer's credit for collecting tax; penalties  
24 for noncompliance; powers of Department of Revenue in dealing  
25 with delinquents; brackets applicable to taxable transactions;  
26 records required.--

27           (3) When any dealer, or other person charged herein,  
28 fails to remit the tax, or any portion thereof, on or before  
29 the day when such tax is required by law to be paid, there  
30 shall be added to the amount due interest on ~~at the rate of 1~~  
31 ~~percent per month~~ of the amount due from the date due until

1 paid at the adjusted rate established pursuant to s. 213.235.  
2 Interest on the delinquent tax shall be calculated beginning  
3 on the 21st day of the month following the month for which the  
4 tax is due, except as otherwise provided in this part.

5 Section 27. For the purpose of incorporating the  
6 amendment to section 212.12, Florida Statutes, 1996  
7 Supplement, in a reference thereto, paragraph (e) of  
8 subsection (6) of section 193.501, Florida Statutes, is  
9 reenacted to read:

10 193.501 Assessment of lands subject to a conservation  
11 easement, environmentally endangered lands, or lands used for  
12 outdoor recreational or park purposes when land development  
13 rights have been conveyed or conservation restrictions have  
14 been covenanted.--

15 (6) The following terms whenever used as referred to  
16 in this section have the following meanings unless a different  
17 meaning is clearly indicated by the context:

18 (e) "Deferred tax liability" means an amount equal to  
19 the difference between the total amount of taxes that would  
20 have been due in March in each of the previous years in which  
21 the conveyance or covenant was in effect if the property had  
22 been assessed under the provisions of s. 193.011 and the total  
23 amount of taxes actually paid in those years when the property  
24 was assessed under the provisions of this section, plus  
25 interest on that difference computed as provided in s.  
26 212.12(3).

27 Section 28. For the purpose of incorporating the  
28 amendment to section 212.12, Florida Statutes, 1996  
29 Supplement, in a reference thereto, subsection (8) of section  
30 193.505, Florida Statutes, is reenacted to read:

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1           193.505 Assessment of historically significant  
2 property when development rights have been conveyed or  
3 historic preservation restrictions have been covenanted.--

4           (8) For the purposes of this section, the term  
5 "deferred tax liability" means an amount equal to the  
6 difference between the total amount of taxes which would have  
7 been due in March in each of the previous years in which a  
8 covenant executed and accepted pursuant to this section was in  
9 effect if the property had been assessed under the provisions  
10 of s. 193.011 irrespective of any negative impact on fair  
11 market value that restrictions imposed pursuant to this  
12 section may have caused and the total amount of taxes actually  
13 paid in those years, plus interest on that difference computed  
14 as provided in s. 212.12(3).

15           Section 29. For the purpose of incorporating the  
16 amendment to section 212.12, Florida Statutes, 1996  
17 Supplement, in a reference thereto, subsection (7) of section  
18 196.1997, Florida Statutes, is reenacted to read:

19           196.1997 Ad valorem tax exemptions for historic  
20 properties.--

21           (7) To qualify for an exemption, the property owner  
22 must enter into a covenant or agreement with the governing  
23 body for the term for which the exemption is granted. The  
24 form of the covenant or agreement must be established by the  
25 Department of State and must require that the character of the  
26 property, and the qualifying improvements to the property, be  
27 maintained during the period that the exemption is granted.  
28 The covenant or agreement shall be binding on the current  
29 property owner, transferees, and their heirs, successors, or  
30 assigns. Violation of the covenant or agreement results in  
31 the property owner being subject to the payment of the

1 differences between the total amount of taxes which would have  
2 been due in March in each of the previous years in which the  
3 covenant or agreement was in effect had the property not  
4 received the exemption and the total amount of taxes actually  
5 paid in those years, plus interest on the difference  
6 calculated as provided in s. 212.12(3).

7 Section 30. Section 220.807, Florida Statutes, is  
8 amended to read:

9 220.807 ~~Determination of Rate of interest.--~~

10 ~~(1) The annual rate of interest applicable to this~~  
11 ~~chapter shall be the adjusted rate established pursuant to s.~~  
12 ~~213.235 by the Executive Director of the Department of Revenue~~  
13 ~~under subsection (2).~~

14 ~~(2) If the adjusted prime rate charged by banks,~~  
15 ~~rounded to the nearest full percent, during either:~~

16 ~~(a) The 6-month period ending on September 30 of any~~  
17 ~~calendar year; or~~

18 ~~(b) The 6-month period ending on March 31 of any~~  
19 ~~calendar year,~~

20  
21 ~~differs from the interest rate in effect on either such date,~~  
22 ~~the Executive Director of the Department of Revenue shall,~~  
23 ~~within 20 days, establish an adjusted rate of interest equal~~  
24 ~~to such adjusted prime rate.~~

25 ~~(3) An adjusted rate of interest established under~~  
26 ~~this section shall become effective:~~

27 ~~(a) On January 1 of the succeeding year, if based upon~~  
28 ~~the adjusted prime rate for the 6-month period ending on~~  
29 ~~September 30; or~~

30  
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1           ~~(b) On July 1 of the same calendar year, if based upon~~  
2 ~~the adjusted prime rate for the 6-month period ending on March~~  
3 ~~31.~~

4           ~~(4) For the purposes of this section, "adjusted prime~~  
5 ~~rate charged by banks" means the average predominant prime~~  
6 ~~rate quoted by commercial banks to large business, as~~  
7 ~~determined by the Board of Governors of the Federal Reserve~~  
8 ~~System.~~

9           ~~(5) Once established, an adjusted rate of interest~~  
10 ~~shall remain in effect until an adjustment is made under~~  
11 ~~subsection (2).~~

12           Section 31. Paragraph (c) of subsection (2) of section  
13 624.5092, Florida Statutes, is amended to read:

14           624.5092 Administration of taxes; payments.--

15           (2)

16           (c) When any taxpayer fails to pay any amount due  
17 under this section, or any portion thereof, on or before the  
18 day when such tax or installment of tax is required by law to  
19 be paid, there shall be added to the amount due interest at  
20 the adjusted rate established pursuant to s. 213.235 ~~of 12~~  
21 ~~percent per year~~ from the date due until paid.

22           Section 32. (1) The Department of Revenue shall  
23 examine the impact of this act and, by January 1, 1998, the  
24 executive director of the Department of Revenue shall submit  
25 to the Speaker of the House of Representatives, the President  
26 of the Senate, and the chairs of the finance and taxation  
27 committees of the Legislature a report containing  
28 recommendations for the effective and efficient implementation  
29 of this act and methods to minimize its fiscal impact. These  
30 may include ways to increase voluntary compliance with the  
31 state's tax laws.

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(2) This section shall take effect July 1, 1997.

Section 33. Except as otherwise provided therein, this act shall take effect January 1, 1999.

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HOUSE SUMMARY

Revises the time periods within which the Department of Revenue and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under taxes which they have authority to administer.

Provides that the annual rate of interest on tax payment deficiencies shall be a floating rate based on the prime rate.

Provides for payment of interest on overpayments of taxes administered by the Department of Revenue if refund is not made within a specified period. Provides requirements for refund applications. Revises the time period within which a refund application must be made.

Provides that no part of the compensation of an employee or agent of the state performing a tax audit shall be based on amounts assessed or collected as a result of the audit.

Directs the Department of Revenue to examine and report on the impact of the act.