

By Representative Starks

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.
29 194.192, F.S., relating to the rate of interest
30 in judgments against taxpayers for deficient
31 property taxes, ss. 197.172 and 197.402, F.S.,

1 relating to the rate of interest on delinquent
2 real and personal property taxes, s. 193.1145,
3 F.S., relating to the rate of interest on
4 delinquent provisional property taxes, ss.
5 198.15 and 198.18, F.S., relating to the rate
6 of interest on delinquent estate taxes and
7 taxes for which an extension is granted, s.
8 198.155, F.S., relating to the rate of interest
9 on delinquent tax on generation-skipping
10 transfers, s. 198.16, F.S., relating to the
11 rate of interest on deficiencies in such taxes,
12 s. 199.282, F.S., relating to the rate of
13 interest on delinquent intangible personal
14 property taxes, s. 201.17, F.S., relating to
15 the rate of interest on delinquent excise taxes
16 on documents, and s. 203.06, F.S., relating to
17 the rate of interest on delinquent gross
18 receipts taxes, to conform; reenacting s.
19 203.62, F.S., relating to the gross receipts
20 tax on interstate and international
21 telecommunications services, to incorporate the
22 amendment to s. 203.06, F.S., in a reference
23 thereto; amending s. 206.44, F.S., relating to
24 the rate of interest on delinquent motor fuel
25 taxes, to conform; reenacting ss. 206.06(1),
26 206.94, 206.97, 206.9915(3), 336.021(2)(a), and
27 336.025(2)(a), F.S., relating to estimated fuel
28 taxes, tax on diesel fuel, tax on fuel and
29 other pollutants, the ninth-cent fuel tax on
30 motor and diesel fuel, and the local option tax
31 on motor and diesel fuel for county

1 transportation systems, to incorporate the
2 amendment to s. 206.44, F.S., in references
3 thereto; amending s. 207.007, F.S., relating to
4 the rate of interest on delinquent tax on the
5 operation of commercial motor vehicles, ss.
6 211.076 and 211.33, F.S., relating to the rate
7 of interest on delinquent taxes and
8 underpayment of estimated taxes on oil and gas
9 production and severance of minerals, and s.
10 212.12, F.S., relating to the rate of interest
11 on delinquent taxes on sales, use, and other
12 transactions, to conform; reenacting ss.
13 193.501(6)(e), 193.503(9)(b), and 193.505(8),
14 F.S., relating to the interest on a deferred
15 tax liability due upon a change in assessment
16 status of certain conservation or recreation
17 land or historic properties, and s.
18 196.1997(7), F.S., relating to the interest on
19 taxes which become due when property is no
20 longer eligible for a historic property tax
21 exemption, to incorporate the amendment to s.
22 212.12, F.S., in references thereto; amending
23 s. 220.807, F.S., relating to the interest rate
24 applicable to the corporate income tax code,
25 and s. 624.5092, F.S., relating to the rate of
26 interest on delinquent insurance premium taxes,
27 to conform; directing the Department of Revenue
28 to examine and report on the impact of the act;
29 providing effective dates.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Effective January 1, 2000, paragraph (a) of
2 subsection (3) of section 95.091, Florida Statutes, is amended
3 to read:

4 95.091 Limitation on actions to collect taxes.--

5 (3)(a)1. With the exception of taxes levied under
6 chapter 198 and tax adjustments made pursuant to s. 220.23,
7 the Department of Revenue may determine and assess the amount
8 of any tax, penalty, or interest due under any tax enumerated
9 in s. 72.011 which it has authority to administer and the
10 Department of Business and Professional Regulation may
11 determine and assess the amount of any tax, penalty, or
12 interest due under any tax enumerated in s. 72.011 which it
13 has authority to administer:

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

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

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

22 d. At any time after the taxpayer has failed to make
23 any required payment of the tax, has failed to file a required
24 return, or has filed a grossly false or fraudulent return; or

25 e. In any case in which there has been a refund of tax
26 erroneously made for any reason, within 5 years after making
27 such refund, or at any time after making such refund if it
28 appears that any part of the refund was induced by fraud or
29 the misrepresentation of a material fact.

30 2. For the purpose of this paragraph, a tax return
31 filed before the last day prescribed by law, including any

1 extension thereof, shall be deemed to have been filed on such
2 last day, and payments made prior to the last day prescribed
3 by law shall be deemed to have been paid on such last day.

4 Section 2. Subsections (16) and (17) are added to
5 section 213.015, Florida Statutes, and, effective January 1,
6 2000, subsections (18) and (19) are added to said section, to
7 read:

8 213.015 Taxpayer rights.--There is created a Florida
9 Taxpayer's Bill of Rights to guarantee that the rights,
10 privacy, and property of Florida taxpayers are adequately
11 safeguarded and protected during tax assessment, collection,
12 and enforcement processes administered under the revenue laws
13 of this state. The Taxpayer's Bill of Rights compiles, in one
14 document, brief but comprehensive statements which explain, in
15 simple, nontechnical terms, the rights and obligations of the
16 Department of Revenue and taxpayers. The rights afforded
17 taxpayers to assure that their privacy and property are
18 safeguarded and protected during tax assessment and collection
19 are available only insofar as they are implemented in other
20 parts of the Florida Statutes or rules of the Department of
21 Revenue. The rights so guaranteed Florida taxpayers in the
22 Florida Statutes and the departmental rules are:

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

28 (17) The right to market interest rates on delinquent
29 taxes (see s. 213.235).

30 (18) The right to receive interest when a refund is
31 not paid within 90 days after receipt of a complete

1 application for refund for overpayments, payment of taxes not
2 due, or taxes paid in error (see ss. 213.255 and 220.723).

3 (19) The right to the same statute of limitations on
4 assessments and refunds (see ss. 95.091, 213.25, 215.26, and
5 220.727).

6 Section 3. Section 213.235, Florida Statutes, is
7 created to read:

8 213.235 Determination of interest on deficiencies.--

9 (1) The annual rate of interest applicable to tax
10 payment deficiencies shall be the adjusted rate established by
11 the executive director of the department under subsection (2).
12 This annual rate of interest is applicable to all taxes
13 enumerated in s. 213.05.

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 such date, the
22 executive director of the department shall, within 20 days,
23 establish an adjusted rate of interest equal to such adjusted
24 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 businesses, 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 4. Effective January 1, 2000, section 213.255,
13 Florida Statutes, is created to read:

14 213.255 Interest.--Interest shall be paid on
15 overpayments of taxes, payment of taxes not due, or taxes paid
16 in error, subject to the following conditions:

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

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

22 (a) The taxpayer's name, address, identifying number,
23 and signature.

24 (b) Sufficient information, whether on the application
25 or attachments, to permit mathematical verification of the
26 amount of the refund.

27 (c) The amount claimed.

28 (d) The specific grounds upon which the refund is
29 claimed.

30 (e) The taxable years or periods involved.

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1 (f) A completed audit, if an audit is required by the
2 department.

3 (3) If the refund application is not complete, the
4 department shall return the application to the taxpayer with
5 instructions to include any documents needed to complete the
6 application.

7 (4) Interest shall not commence until 90 days after a
8 complete refund application has been filed and the amount of
9 overpayment has not been refunded to the taxpayer or applied
10 as a credit to the taxpayer's account. If the department and
11 the taxpayer mutually agree that an audit of the claim is
12 necessary, interest shall not commence until the audit of the
13 claim is final.

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

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

22 (7) No interest shall be paid if the department has
23 reasonable cause to believe that it could not recover the
24 amount of any refund paid in error from the person claiming
25 the refund, unless such person files a cash bond or a surety
26 bond in the amount of the refund claimed or such person makes
27 other security arrangements satisfactory to the department.
28 The cash or surety bond shall be endorsed by a surety company
29 authorized to do business in this state and shall be
30 conditioned upon payment in full of the amount of any refund
31 paid in error for any reason. The department shall provide a

1 written notice of its determination that a cash or surety bond
2 is required, in which event interest shall not commence until
3 the person filing the claim satisfies this requirement.

4 (8) The rate of interest shall be the adjusted rate
5 established pursuant to s. 213.235, except that the annual
6 rate of interest shall never be greater than 11 percent. This
7 annual rate of interest shall be applied to all refunds of
8 taxes administered by the department except for corporate
9 income taxes and emergency excise taxes governed by ss.
10 220.721 and 220.723.

11 Section 5. Subsection (1) of section 213.34, Florida
12 Statutes, is amended to read:

13 213.34 Authority to audit.--

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

25 Section 6. Effective January 1, 2000, subsection (2)
26 of section 215.26, Florida Statutes, is amended to read:

27 215.26 Repayment of funds paid into State Treasury
28 through error.--

29 (2) Application for refunds as provided by this
30 section must be filed with the Comptroller, ~~except as~~
31 ~~otherwise provided in this subsection,~~ within 3 years after

1 the right to the refund has accrued or else the right is
2 barred. ~~Except as provided in chapter 198 and s. 220.23, an~~
3 ~~application for a refund of a tax enumerated in s. 72.011,~~
4 ~~which tax was paid after September 30, 1994, must be filed~~
5 ~~with the Comptroller within 5 years after the date the tax is~~
6 ~~paid.~~The Comptroller may delegate the authority to accept an
7 application for refund to any state agency, or the judicial
8 branch, vested by law with the responsibility for the
9 collection of any tax, license, or account due. The
10 application for refund must be on a form approved by the
11 Comptroller and must be supplemented with additional proof the
12 Comptroller deems necessary to establish the claim; provided,
13 the claim is not otherwise barred under the laws of this
14 state. Upon receipt of an application for refund, the judicial
15 branch or the state agency to which the funds were paid shall
16 make a determination of the amount due. If an application for
17 refund is denied, in whole or in part, the judicial branch or
18 such state agency shall notify the applicant stating the
19 reasons therefor. Upon approval of an application for refund,
20 the judicial branch or such state agency shall furnish the
21 Comptroller with a properly executed voucher authorizing
22 payment.

23 Section 7. Subsection (2) of section 194.192, Florida
24 Statutes, is amended to read:

25 194.192 Costs; interest on unpaid taxes; penalty.--

26 (2) If the court finds that the amount of tax owed by
27 the taxpayer is greater than the amount the taxpayer has in
28 good faith admitted and paid, it shall enter judgment against
29 the taxpayer for the deficiency and for interest on the
30 deficiency at the adjusted rate established pursuant to s.
31 213.235 ~~of 12 percent per year~~ from the date the tax became

1 delinquent. If it finds that the amount of tax which the
2 taxpayer has admitted to be owing is grossly disproportionate
3 to the amount of tax found to be due and that the taxpayer's
4 admission was not made in good faith, the court shall also
5 assess a penalty at the rate of 10 percent of the deficiency
6 per year from the date the tax became delinquent.

7 Section 8. Subsections (1) and (3) of section 197.172,
8 Florida Statutes, are amended to read:

9 197.172 Interest rate; calculation and minimum.--

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

15 (3) Personal property taxes shall bear interest at the
16 adjusted rate established pursuant to s. 213.235 ~~of 18 percent~~
17 ~~per year~~ from the date of delinquency until paid or barred
18 under chapter 95.

19 Section 9. Subsections (2) and (3) of section 197.402,
20 Florida Statutes, are amended to read:

21 197.402 Advertisement of real or personal property
22 with delinquent taxes.--

23 (2) Within 45 days after the personal property taxes
24 become delinquent, the tax collector shall advertise a list of
25 the names of delinquent personal property taxpayers and the
26 amount of tax due by each. The advertisement shall include a
27 notice that all personal property taxes are drawing interest
28 at the adjusted rate established pursuant to s. 213.235 ~~of 18~~
29 ~~percent per year~~ and that, unless the delinquent taxes are
30 paid, warrants will be issued thereon pursuant to s. 197.413
31 and the tax collector will apply to the circuit court for an

1 order directing levy upon and seizure of the personal property
2 of the taxpayer for the unpaid taxes.

3 (3) Except as provided in s. 197.432(4), on or before
4 June 1 or the 60th day after the date of delinquency,
5 whichever is later, the tax collector shall advertise once
6 each week for 3 weeks and shall sell tax certificates on all
7 real property with delinquent taxes. The tax collector shall
8 make a list of such properties in the same order in which the
9 lands were assessed, specifying the amount due on each parcel,
10 including interest at the adjusted rate established pursuant
11 to s. 213.235 ~~of 18 percent per year~~ from the date of
12 delinquency to the date of sale; the cost of advertising; and
13 the expense of sale.

14 Section 10. Paragraph (a) of subsection (10) of
15 section 193.1145, Florida Statutes, is amended to read:

16 193.1145 Interim assessment rolls.--

17 (10)(a) Delinquent provisional taxes on real property
18 shall not be subject to the delinquent tax provisions of
19 chapter 197 until such time as the assessment roll is
20 reconciled, supplemental bills are issued, and taxes on the
21 property remain delinquent. However, delinquent provisional
22 taxes on real property shall accrue interest at an annual rate
23 ~~of 12 percent~~, computed in accordance with s. 197.172.

24 Interest accrued on provisional taxes shall be added to the
25 taxes, interest, costs, and charges due with respect to final
26 taxes levied. When interest begins to accrue on delinquent
27 provisional taxes, the property owner shall be given notice by
28 first-class mail.

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

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1 Section 11. Subsection (1) of section 198.15, Florida
2 Statutes, is amended to read:

3 198.15 When tax due; extension; interest; penalty.--

4 (1) The tax imposed by this chapter is due and payable
5 on or before the last day prescribed by law for paying the
6 federal estate tax pursuant to the initial estate tax return
7 and shall be paid by the personal representative to the
8 department. The department shall extend the time for payment
9 of the tax or any part of the tax if the time for paying the
10 federal estate tax is extended, provided the personal
11 representative files with the department a copy of the
12 approved federal extension notice within 30 days after
13 receiving such notice. No extension shall be for more than 1
14 year, and the aggregate of extensions with respect to any
15 estate shall not exceed 10 years from the due date. In such
16 case, the amount in respect of which the extension is granted
17 shall be paid on or before the date of the expiration of the
18 period of the extension, unless a further extension is
19 granted. If the time for the payment is thus extended, there
20 shall be collected, as part of such amount, interest thereon
21 at the adjusted rate established pursuant to s. 213.235 ~~of 1~~
22 ~~percent per month of the amount due~~ from the due date of the
23 tax to the date the same is paid.

24 Section 12. Subsection (5) of section 198.155, Florida
25 Statutes, is amended to read:

26 198.155 Payment of tax on generation-skipping
27 transfers.--

28 (5) If the tax, or any portion thereof, is not paid
29 before it becomes delinquent, it shall bear interest from the
30 due date until paid at the adjusted rate established pursuant
31

1 ~~to s. 213.235 of 1 percent per month for each month or~~
2 ~~fraction thereof that it is delinquent.~~

3 Section 13. Subsection (3) of section 198.16, Florida
4 Statutes, is amended to read:

5 198.16 Notice of determination of deficiency in
6 federal tax to be filed with department.--

7 (3) If, based upon any deficiency and the ground
8 therefor, it shall appear that the amount of tax previously
9 paid is less than the amount of tax owing, the difference,
10 together with interest at the adjusted rate established
11 pursuant to s. 213.235 of 1 percent per month from the due
12 date of the tax, shall be paid upon notice and demand by the
13 department. In the event the personal representative or person
14 required to return and pay such tax shall fail to give the
15 notice required by this section, any additional tax which
16 shall be owing may be assessed, or a proceeding in court for
17 the collection of such tax may be begun without assessment at
18 any time prior to the filing of such notice or within 30 days
19 after the delinquent filing of such notice, notwithstanding
20 the provisions of s. 198.28.

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

23 198.18 Failure to pay tax; penalties; delinquent or
24 deficient taxes, interest.--

25 (2) Any deficiency in tax or any tax payment not
26 received by the department on or before the due date as
27 provided in s. 198.15, in addition to any other penalties,
28 shall bear interest at the adjusted rate established pursuant
29 to s. 213.235 of 1 percent per month of the amount due from
30 the due date until paid. The department may settle or
31 compromise such interest pursuant to s. 213.21.

1 Section 15. Subsection (2) of section 199.282, Florida
2 Statutes, 1998 Supplement, is amended to read:

3 199.282 Penalties for violation of this chapter.--

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

9 Section 16. Paragraph (c) of subsection (2) of section
10 201.17, Florida Statutes, is amended to read:

11 201.17 Penalties for failure to pay tax required.--

12 (2) If any document, instrument, or paper upon which
13 the tax under this chapter is imposed, upon audit or at time
14 of recordation, does not show the proper amount of tax paid,
15 or if the tax imposed by this chapter on any document,
16 instrument, or paper is not timely reported and paid as
17 required by s. 201.133, the person or persons liable for the
18 tax upon the document, instrument, or paper shall be subject
19 to:

20 (c) Payment of interest to the Department of Revenue,
21 accruing from the date the tax is due until paid, at the
22 adjusted rate established pursuant to s. 213.235 of 1 percent
23 per month, based on the amount of tax not paid.

24 Section 17. Section 203.06, Florida Statutes, is
25 amended to read:

26 203.06 Interest on delinquent payments.--Any payments
27 as imposed in this chapter, if not received by the Department
28 of Revenue on or before the due date as provided by law, shall
29 include, as an additional part of such amount due, interest at
30 the adjusted rate established pursuant to s. 213.235 of 1
31 percent per month, accruing from the date due until paid.

1 Section 18. For the purpose of incorporating the
2 amendment to section 203.06, Florida Statutes, in a reference
3 thereto, section 203.62, Florida Statutes, is reenacted to
4 read:

5 203.62 Applicability of specified sections of part
6 I.--The provisions of ss. 203.01, 203.012, 203.013, 203.02,
7 203.03, 203.04, 203.06, and 203.07 shall be applicable to the
8 levy and collection of taxes imposed pursuant to this part as
9 if fully set out in this part.

10 Section 19. Subsection (2) of section 206.44, Florida
11 Statutes, is amended to read:

12 206.44 Penalty and interest for failure to report on
13 time; penalty and interest on tax deficiencies.--

14 (2) Any payment that is not received by the department
15 on or before the due date as provided in s. 206.43 shall bear
16 interest at the adjusted rate established pursuant to s.
17 213.235 ~~of 1 percent per month~~, from the date due until paid.
18 Interest on any delinquent tax shall be calculated beginning
19 on the 21st day of the month for which the tax is due, except
20 as otherwise provided in this part.

21 Section 20. For the purpose of incorporating the
22 amendment to section 206.44, Florida Statutes, in a reference
23 thereto, subsection (1) of section 206.06, Florida Statutes,
24 is reenacted to read:

25 206.06 Estimate of amount of fuel taxes due and
26 unpaid.--

27 (1) Whenever any terminal supplier, importer,
28 exporter, or wholesaler neglects or refuses to make and file
29 any report for any calendar month, as required by the fuel tax
30 laws of this state, or files an incorrect or fraudulent
31 report, or is in default in the payment of any fuel taxes and

1 penalties thereon payable under the laws of this state, the
2 department shall, from any information it may be able to
3 obtain from its office or elsewhere, estimate the number of
4 gallons of motor fuel with respect to which the terminal
5 supplier, importer, exporter, or wholesaler has become liable
6 for taxes under the fuel tax laws of this state and the amount
7 of taxes due and payable thereon, to which sum shall be added
8 a penalty and interest as provided in s. 206.44.

9 Section 21. For the purpose of incorporating the
10 amendment to section 206.44, Florida Statutes, in a reference
11 thereto, section 206.94, Florida Statutes, is reenacted to
12 read:

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

24 Section 22. For the purpose of incorporating the
25 amendment to section 206.44, Florida Statutes, in a reference
26 thereto, section 206.97, Florida Statutes, is reenacted to
27 read:

28 206.97 Applicability of specified sections of part
29 I.--The provisions of ss. 206.01, 206.02, 206.026, 206.027,
30 206.028, 206.04, 206.051, 206.052, 206.054, 206.055, 206.07,
31 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,

1 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,
2 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,
3 206.23, 206.24, 206.25, 206.27, 206.28, 206.41, 206.415,
4 206.416, 206.43, 206.435, 206.44, 206.48, 206.49, 206.56,
5 206.59, 206.606, 206.608, 206.61, and 206.62 of part I of this
6 chapter shall, as far as lawful or practicable, be applicable
7 to the tax herein levied and imposed and to the collection
8 thereof as if fully set out in this part. However, no
9 provision of any such section shall apply if it conflicts with
10 any provision of this part.

11 Section 23. For the purpose of incorporating the
12 amendment to section 206.44, Florida Statutes, in a reference
13 thereto, subsection (3) of section 206.9915, Florida Statutes,
14 is reenacted to read:

15 206.9915 Legislative intent and general provisions.--

16 (3) The provisions of ss. 206.01, 206.02, 206.026,
17 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,
18 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
19 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,
20 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,
21 206.22, 206.24, 206.27, 206.28, 206.416, 206.42, 206.425,
22 206.44, 206.48, 206.49, 206.56, 206.59, 206.86, 206.87,
23 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.8745,
24 206.94, 206.945, and 206.9815 shall, as far as lawful or
25 practicable, be applicable to the levy and collection of taxes
26 imposed pursuant to this part as if fully set out in this part
27 and made expressly applicable to the taxes imposed herein.

28 Section 24. For the purpose of incorporating the
29 amendment to section 206.44, Florida Statutes, in a reference
30 thereto, paragraph (a) of subsection (2) of section 336.021,
31

1 Florida Statutes, as amended by section 16 of chapter 97-54,
2 Laws of Florida, is reenacted to read:

3 336.021 County transportation system; levy of
4 ninth-cent fuel tax on motor fuel and diesel fuel.--

5 (2)(a) The tax collected by the department pursuant to
6 subsection (1) shall be transferred to the Ninth-cent Fuel Tax
7 Trust Fund, which fund is created for distribution to the
8 counties pursuant to paragraph (1)(d). The department shall
9 deduct the administrative costs incurred by it in collecting,
10 administering, enforcing, and distributing back to the
11 counties the tax, which administrative costs may not exceed 2
12 percent of collections authorized by this section. The total
13 administrative cost shall be prorated among those counties
14 levying the tax according to the following formula, which
15 shall be revised on July 1 of each year: Two-thirds of the
16 amount deducted shall be based on the county's proportional
17 share of the number of dealers who are registered for purposes
18 of chapter 212 on June 30th of the preceding state fiscal
19 year, and one-third of the amount deducted shall be based on
20 the county's share of the total amount of the tax collected
21 during the preceding state fiscal year. The department has the
22 authority to prescribe and publish all forms upon which
23 reports shall be made to it and other forms and records deemed
24 to be necessary for proper administration and collection of
25 the tax levied by any county and shall adopt rules necessary
26 to enforce this section, which rules shall have the full force
27 and effect of law. The provisions of ss. 206.026, 206.027,
28 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,
29 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,
30 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,
31 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,

1 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45,
2 206.48, 206.49, 206.56, 206.59, 206.626, 206.87, 206.872,
3 206.873, 206.8735, 206.874, 206.8741, 206.8745, 206.94, and
4 206.945 shall, as far as practicable, be applicable to the
5 levy and collection of the tax imposed pursuant to this
6 section as if fully set out in this section.

7 Section 25. For the purpose of incorporating the
8 amendment to section 206.44, Florida Statutes, in a reference
9 thereto, paragraph (a) of subsection (2) of section 336.025,
10 Florida Statutes, as amended by section 18 of chapter 97-54,
11 Laws of Florida, is reenacted to read:

12 336.025 County transportation system; levy of local
13 option fuel tax on motor fuel and diesel fuel.--

14 (2)(a) The tax levied pursuant to paragraph (1)(a)
15 shall be collected and remitted in the same manner provided by
16 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to
17 paragraph (1)(b) shall be collected and remitted in the same
18 manner provided by s. 206.41(1)(e). The taxes remitted
19 pursuant to this section shall be transferred to the Local
20 Option Fuel Tax Trust Fund, which fund is created for
21 distribution to the county and eligible municipal governments
22 within the county in which the tax was collected and which
23 fund is subject to the service charge imposed in chapter 215.
24 The tax shall be distributed monthly by the department in the
25 same manner provided by s. 336.021(1)(c) and (d). The
26 department shall deduct the administrative costs incurred by
27 it in collecting, administering, enforcing, and distributing
28 back to the counties the tax, which administrative costs may
29 not exceed 2 percent of collections authorized by this
30 section. The total administrative costs shall be prorated
31 among those counties levying the tax according to the

1 following formula, which shall be revised on July 1 of each
2 year: Two-thirds of the amount deducted shall be based on the
3 county's proportional share of the number of dealers who are
4 registered for purposes of chapter 212 on June 30 of the
5 preceding state fiscal year, and one-third of the amount
6 deducted shall be based on the county's share of the total
7 amount of the tax collected during the preceding state fiscal
8 year. The department has the authority to prescribe and
9 publish all forms upon which reports shall be made to it and
10 other forms and records deemed to be necessary for proper
11 administration and collection of the taxes levied by any
12 county and shall promulgate such rules as may be necessary for
13 the enforcement of this section, which rules shall have the
14 full force and effect of law. The provisions of ss. 206.026,
15 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,
16 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
17 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,
18 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,
19 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44,
20 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87,
21 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and
22 206.945 shall, as far as practicable, be applicable to the
23 levy and collection of taxes imposed pursuant to this section
24 as if fully set out in this section.

25 Section 26. Subsection (2) of section 207.007, Florida
26 Statutes, is amended to read:

27 207.007 Offenses; penalties and interest.--

28 (2) In addition to any other penalties, any delinquent
29 tax shall bear interest at the adjusted rate established
30 pursuant to s. 213.235 ~~of 1 percent per month, or fraction~~
31 ~~thereof~~, calculated from the date the tax was due. If the

1 department enters into a cooperative reciprocal agreement
2 under the provisions of s. 207.0281, the department shall
3 collect and distribute all interest due to other jurisdictions
4 at the same rate as if such interest were due to the state.

5 Section 27. Subsection (1) and paragraph (a) of
6 subsection (4) of section 211.076, Florida Statutes, are
7 amended to read:

8 211.076 Interest and penalties; failure to pay tax or
9 file return; estimated tax underpayments.--

10 (1) If any part of the tax imposed by this part is not
11 paid on or before the due date, interest shall be added to the
12 amount due at the adjusted rate established pursuant to s.
13 213.235 of 12 percent per year from the due date until the
14 date of payment.

15 (4)(a) Except as provided in paragraph (c), the
16 taxpayer is liable for interest at the adjusted rate
17 established pursuant to s. 213.235 of 12 percent per year and
18 a penalty at the rate of 12 percent per year on any
19 underpayment of estimated tax determined under this
20 subsection.

21 Section 28. Paragraph (f) of subsection (1) and
22 paragraph (d) of subsection (2) of section 211.33, Florida
23 Statutes, are amended to read:

24 211.33 Administration of the tax; returns; delinquency
25 penalties and interest; departmental inspections of records.--

26 (1)

27 (f) Except as provided in subparagraph 3., the
28 taxpayer shall be liable for interest at the adjusted rate
29 established pursuant to s. 213.235 of 12 percent per year and
30 for a penalty in an amount determined at the rate of 20
31

1 percent per year upon the amount of any underpayment of
2 estimated tax determined under this paragraph.

3 1. The amount of any underpayment of estimated tax
4 shall be the excess of:

5 a. The amount of the installment which would be
6 required to be paid if the estimated tax were equal to 80
7 percent of the tax shown on the return for the taxable year
8 or, if no return were filed, 80 percent of the tax for such
9 year, over

10 b. The amount, if any, of the installment paid on or
11 before the last date prescribed for payment.

12 2. The period of the underpayment for which interest
13 and penalties shall apply shall commence on the date the
14 installment was required to be paid and shall terminate on the
15 date on which the amount of underpayment is paid. A payment of
16 estimated tax on any installment date shall be considered a
17 payment of any previous underpayment only to the extent such
18 payment exceeds the amount of the installment determined under
19 sub-subparagraph 1.a. for such installment date.

20 3. No penalty or interest for underpayment of any
21 installment of estimated tax shall be imposed if the total
22 amount of all such payments made on or before the last date
23 prescribed for the payment of such installment equals or
24 exceeds the amount which would have been required to be paid
25 on or before such date if the estimated tax were the lesser
26 of:

27 a. An amount equal to 80 percent of the tax finally
28 due for the taxable year; or

29 b. An amount equal to the tax shown on the taxpayer's
30 return for the preceding taxable year, if a return showing a
31

1 liability for tax was filed by the taxpayer for the preceding
2 year.

3 (2)

4 (d) In addition to the delinquency penalty provided in
5 paragraph (c), the department shall assess interest on the
6 unpaid balance of any such tax which becomes delinquent,
7 without regard to any extensions, at the adjusted rate
8 established pursuant to s. 213.235 ~~of 12 percent per year~~,
9 from April 1 to the date of payment. Interest prescribed by
10 this paragraph shall be deemed assessed upon the assessment of
11 the tax and shall be collected and paid in the same manner.

12 Section 29. Subsection (3) of section 212.12, Florida
13 Statutes, 1998 Supplement, is amended to read:

14 212.12 Dealer's credit for collecting tax; penalties
15 for noncompliance; powers of Department of Revenue in dealing
16 with delinquents; brackets applicable to taxable transactions;
17 records required.--

18 (3) When any dealer, or other person charged herein,
19 fails to remit the tax, or any portion thereof, on or before
20 the day when such tax is required by law to be paid, there
21 shall be added to the amount due interest on ~~at the rate of 1~~
22 ~~percent per month~~ of the amount due from the date due until
23 paid at the adjusted rate established pursuant to s. 213.235.
24 Interest on the delinquent tax shall be calculated beginning
25 on the 21st day of the month following the month for which the
26 tax is due, except as otherwise provided in this chapter.

27 Section 30. For the purpose of incorporating the
28 amendment to section 212.12, Florida Statutes, 1998
29 Supplement, in a reference thereto, paragraph (e) of
30 subsection (6) of section 193.501, Florida Statutes, is
31 reenacted to read:

1 193.501 Assessment of lands subject to a conservation
2 easement, environmentally endangered lands, or lands used for
3 outdoor recreational or park purposes when land development
4 rights have been conveyed or conservation restrictions have
5 been covenanted.--

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

9 (e) "Deferred tax liability" means an amount equal to
10 the difference between the total amount of taxes that would
11 have been due in March in each of the previous years in which
12 the conveyance or covenant was in effect if the property had
13 been assessed under the provisions of s. 193.011 and the total
14 amount of taxes actually paid in those years when the property
15 was assessed under the provisions of this section, plus
16 interest on that difference computed as provided in s.
17 212.12(3).

18 Section 31. (1) For the purpose of incorporating the
19 amendment to section 212.12, Florida Statutes, 1998
20 Supplement, in a reference thereto, paragraph (b) of
21 subsection (9) of section 193.503, Florida Statutes, is
22 reenacted to read:

23 193.503 Classification and assessment of historic
24 property used for commercial or certain nonprofit purposes.--

25 (9)

26 (b) For purposes of this subsection, "deferred tax
27 liability" means an amount equal to the difference between the
28 total amount of taxes that would have been due in March if the
29 property had been assessed under the provisions of s. 193.011
30 and the total amount of taxes actually paid in those years
31 when the property was assessed under the provisions of this

1 section, plus interest on that difference computed as provided
2 in s. 212.12(3).

3 (2) This section shall take effect only if an
4 amendment to the State Constitution which authorizes, or
5 removes impediment to, enactment by the Legislature of the
6 provisions of s. 193.503, Florida Statutes, is approved by the
7 electors at the general election to be held in November 1998.

8 Section 32. For the purpose of incorporating the
9 amendment to section 212.12, Florida Statutes, 1998
10 Supplement, in a reference thereto, subsection (8) of section
11 193.505, Florida Statutes, is reenacted to read:

12 193.505 Assessment of historically significant
13 property when development rights have been conveyed or
14 historic preservation restrictions have been covenanted.--

15 (8) For the purposes of this section, the term
16 "deferred tax liability" means an amount equal to the
17 difference between the total amount of taxes which would have
18 been due in March in each of the previous years in which a
19 covenant executed and accepted pursuant to this section was in
20 effect if the property had been assessed under the provisions
21 of s. 193.011 irrespective of any negative impact on fair
22 market value that restrictions imposed pursuant to this
23 section may have caused and the total amount of taxes actually
24 paid in those years, plus interest on that difference computed
25 as provided in s. 212.12(3).

26 Section 33. For the purpose of incorporating the
27 amendment to section 212.12, Florida Statutes, 1998
28 Supplement, in a reference thereto, subsection (7) of section
29 196.1997, Florida Statutes, is reenacted to read:

30 196.1997 Ad valorem tax exemptions for historic
31 properties.--

1 (7) To qualify for an exemption, the property owner
2 must enter into a covenant or agreement with the governing
3 body for the term for which the exemption is granted. The
4 form of the covenant or agreement must be established by the
5 Department of State and must require that the character of the
6 property, and the qualifying improvements to the property, be
7 maintained during the period that the exemption is granted.
8 The covenant or agreement shall be binding on the current
9 property owner, transferees, and their heirs, successors, or
10 assigns. Violation of the covenant or agreement results in
11 the property owner being subject to the payment of the
12 differences between the total amount of taxes which would have
13 been due in March in each of the previous years in which the
14 covenant or agreement was in effect had the property not
15 received the exemption and the total amount of taxes actually
16 paid in those years, plus interest on the difference
17 calculated as provided in s. 212.12(3).

18 Section 34. Section 220.807, Florida Statutes, is
19 amended to read:

20 220.807 ~~Determination of Rate of interest.--~~

21 ~~(1) The annual rate of interest applicable to this~~
22 ~~chapter shall be the adjusted rate established pursuant to s.~~
23 ~~213.235 by the executive director of the Department of Revenue~~
24 ~~under subsection (2).~~

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

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

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

31

1 ~~differs from the interest rate in effect on either such date,~~
2 ~~the executive director of the Department of Revenue shall,~~
3 ~~within 20 days, establish an adjusted rate of interest equal~~
4 ~~to such adjusted prime rate.~~

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

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

10 ~~(b) On July 1 of the same calendar year, if based upon~~
11 ~~the adjusted prime rate for the 6-month period ending on March~~
12 ~~31.~~

13 ~~(4) For the purposes of this section, "adjusted prime~~
14 ~~rate charged by banks" means the average predominant prime~~
15 ~~rate quoted by commercial banks to large business, as~~
16 ~~determined by the Board of Governors of the Federal Reserve~~
17 ~~System.~~

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

21 Section 35. Paragraph (c) of subsection (2) of section
22 624.5092, Florida Statutes, is amended to read:

23 624.5092 Administration of taxes; payments.--

24 (2)

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

31

1 Section 36. The Department of Revenue shall examine
2 the impact of this act and, by January 1, 2000, the executive
3 director of the Department of Revenue shall submit to the
4 Speaker of the House of Representatives, the President of the
5 Senate, and the chairs of the finance and taxation committees
6 of the Legislature a report containing recommendations for the
7 effective and efficient implementation of this act and methods
8 to minimize its fiscal impact. These may include ways to
9 increase voluntary compliance with the state's tax laws.

10 Section 37. Except as otherwise provided therein, this
11 act shall take effect July 1, 1999.

12
13 *****

14 HOUSE SUMMARY

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

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

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

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

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