

By Senator Burt

16-651B-98

See HB

1 A bill to be entitled
2 An act relating to administration of revenue
3 laws; amending s. 68.082, F.S.; providing
4 nonapplicability to certain returns, claims,
5 records, or statements relating to any tax
6 administered by the Department of Revenue;
7 amending s. 199.052, F.S.; requiring banks and
8 financial organizations filing annual
9 intangible personal property tax returns for
10 their customers to file information using
11 machine-sensible media; amending s. 212.0515,
12 F.S.; modifying requirements relating to
13 quarterly records required to be submitted to
14 the Department of Revenue by certain persons
15 selling food or beverages to operators for
16 resale through vending machines; eliminating a
17 penalty for failure to file such reports;
18 eliminating the department's authority to adopt
19 rules relating to such reports; amending s.
20 212.054, F.S.; eliminating a requirement that
21 certain dealers collect the surtax on tangible
22 personal property or specified service under
23 certain conditions; prescribing the effective
24 date of an increase or decrease in the rate of
25 any discretionary sales surtax; requiring the
26 governing body of any county levying a
27 discretionary sales surtax and a county school
28 board levying the school capital outlay surtax
29 to provide notice to the department; amending
30 s. 212.055, F.S.; providing an effective date
31 for any change in the distribution formula of a

1 local government infrastructure surtax or a
2 small county surtax; amending ss. 212.097,
3 212.098, F.S.; redefining the term "new
4 business"; amending s. 212.11, F.S.; providing
5 requirements relating to sales tax returns
6 filed through electronic data interchange;
7 amending s. 212.12, F.S.; revising provisions
8 relating to the dealer's credit for collecting
9 sales tax; specifying that the credit is also
10 for the filing of timely returns; authorizing
11 the department to deny, rather than reduce, the
12 credit if an incomplete return is filed;
13 revising the definition of "incomplete return";
14 amending s. 212.17, F.S.; providing that the
15 department shall prescribe the format for
16 filing returns through electronic data
17 interchange and specifying that failure to use
18 the format does not relieve a dealer from the
19 payment of tax; amending s. 213.053, F.S.,
20 relating to information sharing; amending s.
21 213.0535, F.S.; providing for participation in
22 RISE; amending s. 213.21, F.S.; revising
23 provisions that authorize the department to
24 delegate to the executive director authority to
25 approve a settlement or compromise of tax
26 liability, in order to increase the limit on
27 the amount of tax reduction with respect to
28 which such delegation may be made; specifying a
29 time period for which the department may settle
30 and compromise tax and interest due when a
31 taxpayer voluntarily self-discloses a tax

1 liability and authorizing further settlement
2 and compromise under certain circumstances;
3 amending s. 213.28, F.S.; prescribing
4 qualifications of certified public accountants
5 contracting with the department to perform
6 audits; amending s. 213.67, F.S.; subjecting
7 the garnishee to liability in the event that
8 property subject to the freeze is transferred
9 or disposed of by the garnishee; prohibiting
10 disposition of assets of a delinquent taxpayer
11 which come into the possession of another
12 person after that person receives garnishment
13 notice from the department for a specified
14 period; requiring the garnishee to notify the
15 department of such assets; providing that the
16 garnishment notice remains in effect while a
17 taxpayer's contest of an intended levy is
18 pending; providing a financial institution
19 receiving notice with a right of setoff;
20 amending s. 213.755, F.S.; defining terms for
21 use in any revenue law administered by the
22 department; amending s. 220.03, F.S.; revising
23 definitions; providing retroactive application;
24 providing effective dates.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsection (4) is added to section 68.082,
29 Florida Statutes, to read:
30 68.082 False claims against the state; definitions;
31 liability.--

1 (4) This section does not apply to returns, claims,
2 records, or statements made in connection with any tax
3 administered by the Department of Revenue.

4 Section 2. Subsection (15) is added to section
5 199.052, Florida Statutes, to read:

6 199.052 Annual tax returns; payment of annual tax.--

7 (15) All banks and financial organizations filing
8 annual intangible tax returns for their customers shall file
9 return information for taxes due January 1, 1999, and
10 thereafter using machine-sensible media. The information
11 required by this subsection must be reported by banks or
12 financial organizations on machine-sensible media, using
13 specifications and instructions of the department. A bank or
14 financial organization that demonstrates to the satisfaction
15 of the department that a hardship exists is not required to
16 file intangible tax returns for its customers using
17 machine-sensible media. The department shall adopt rules
18 necessary to administer this subsection.

19 Section 3. Subsection (5) of section 212.0515, Florida
20 Statutes, is amended to read:

21 212.0515 Sales from vending machines; special
22 provisions; registration; penalties.--

23 ~~(5)(a) Any person who sells food or beverages to an~~
24 ~~operator for resale through vending machines shall submit to~~
25 ~~the department on or before the 20th day of the month~~
26 ~~following the close of each calendar quarter a report which~~
27 ~~identifies by dealer registration number each operator~~
28 ~~described in paragraph (b) who has purchased such items from~~
29 ~~said person and states the net dollar amount of purchases made~~
30 ~~by each operator from said person. In addition, the report~~
31 ~~shall also include the purchaser's name, dealer registration~~

1 ~~number, and sales price for any tax-free sale for resale of~~
2 ~~canned soft drinks of 25 cases or more.~~

3 (a)~~(b)~~ Each operator who purchases food or beverages
4 for resale in vending machines shall annually provide to the
5 dealer from whom the items are purchased a certificate on a
6 form prescribed and issued by the department. The certificate
7 must affirmatively state that the purchaser is a vending
8 machine operator. The certificate shall initially be provided
9 upon the first transaction between the parties and by November
10 1 of each year thereafter.

11 (b)~~(c)~~ ~~A penalty of \$250 is imposed on any person who~~
12 ~~is required to file the quarterly report required by this~~
13 ~~subsection who fails to do so or who files false information.~~
14 A penalty of \$250 is imposed on any operator who fails to
15 comply with the requirements of this subsection or who
16 provides the dealer with false information. Penalties accrue
17 interest as provided for delinquent taxes under this chapter
18 and apply in addition to all other applicable taxes, interest,
19 and penalties.

20 (d) ~~The department is authorized to adopt rules~~
21 ~~regarding the form in which the quarterly report required by~~
22 ~~this subsection is to be submitted, which form may include~~
23 ~~magnetic tape or other means of electronic transmission.~~

24 Section 4. Section 212.054, Florida Statutes, is
25 amended to read:

26 212.054 Discretionary sales surtax; limitations,
27 administration, and collection.--

28 (1) No general excise tax on sales shall be levied by
29 the governing body of any county unless specifically
30 authorized in s. 212.055. Any general excise tax on sales
31

1 authorized pursuant to said section shall be administered and
2 collected exclusively as provided in this section.

3 (2)(a) The tax imposed by the governing body of any
4 county authorized to so levy pursuant to s. 212.055 shall be a
5 discretionary surtax on all transactions occurring in the
6 county which transactions are subject to the state tax imposed
7 on sales, use, services, rentals, admissions, and other
8 transactions by this chapter. The surtax, if levied, shall be
9 computed as the applicable rate or rates authorized pursuant
10 to s. 212.055 times the amount of taxable sales and taxable
11 purchases representing such transactions. If the surtax is
12 levied on the sale of an item of tangible personal property or
13 on the sale of a service, the surtax shall be computed by
14 multiplying the rate imposed by the county within which the
15 sale occurs by the amount of the taxable sale. The sale of an
16 item of tangible personal property or the sale of a service is
17 not subject to the surtax if the property, the service, or the
18 tangible personal property representing the service is
19 delivered within a county that does not impose a discretionary
20 sales surtax.

21 (b) However:

22 1. The tax on any sales amount above \$5,000 on any
23 item of tangible personal property and on long-distance
24 telephone service shall not be subject to the surtax. For
25 purposes of administering the \$5,000 limitation on an item of
26 tangible personal property, if two or more taxable items of
27 tangible personal property are sold to the same purchaser at
28 the same time and, under generally accepted business practice
29 or industry standards or usage, are normally sold in bulk or
30 are items that, when assembled, comprise a working unit or
31 part of a working unit, such items must be considered a single

1 item for purposes of the \$5,000 limitation when supported by a
2 charge ticket, sales slip, invoice, or other tangible evidence
3 of a single sale or rental. The limitation provided in this
4 subparagraph does not apply to the sale of any other service.

5 2. In the case of utility, telecommunication, or
6 television system program services billed on or after the
7 effective date of any such surtax, the entire amount of the
8 tax for utility, telecommunication, or television system
9 program services shall be subject to the surtax. In the case
10 of utility, telecommunication, or television system program
11 services billed after the last day the surtax is in effect,
12 the entire amount of the tax on said items shall not be
13 subject to the surtax.

14 3. In the case of written contracts which are signed
15 prior to the effective date of any such surtax for the
16 construction of improvements to real property or for
17 remodeling of existing structures, the surtax shall be paid by
18 the contractor responsible for the performance of the
19 contract. However, the contractor may apply for one refund of
20 any such surtax paid on materials necessary for the completion
21 of the contract. Any application for refund shall be made no
22 later than 15 months following initial imposition of the
23 surtax in that county. The application for refund shall be in
24 the manner prescribed by the department by rule. A complete
25 application shall include proof of the written contract and of
26 payment of the surtax. The application shall contain a sworn
27 statement, signed by the applicant or its representative,
28 attesting to the validity of the application. The department
29 shall, within 30 days after approval of a complete
30 application, certify to the county information necessary for
31 issuance of a refund to the applicant. Counties are hereby

1 authorized to issue refunds for this purpose and shall set
2 aside from the proceeds of the surtax a sum sufficient to pay
3 any refund lawfully due. Any person who fraudulently obtains
4 or attempts to obtain a refund pursuant to this subparagraph,
5 in addition to being liable for repayment of any refund
6 fraudulently obtained plus a mandatory penalty of 100 percent
7 of the refund, is guilty of a felony of the third degree,
8 punishable as provided in s. 775.082, s. 775.083, or s.
9 775.084.

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

13 (a)1. The sale includes an item of tangible personal
14 property, a service, or tangible personal property
15 representing a service, and the item of tangible personal
16 property, the service, or the tangible personal property
17 representing the service is delivered within the county. If
18 there is no reasonable evidence of delivery of a service, the
19 sale of a service is deemed to occur in the county in which
20 the purchaser accepts the bill of sale.

21 ~~2. However, a dealer selling tangible personal~~
22 ~~property, or delivering a service or tangible personal~~
23 ~~property representing a service, into a county which, before~~
24 ~~November 9 of any year, adopts or revises any surtax~~
25 ~~authorized in s. 212.055, from outside such a county, is not~~
26 ~~required to collect the surtax at the new or revised rate on~~
27 ~~such transaction until February 1 of the year following the~~
28 ~~year of the adoption or revision of the surtax. However, if~~
29 ~~the surtax is adopted or revised between November 9 and~~
30 ~~December 31 of any year, such dealer is not required to~~
31 ~~collect such surtax at the new or revised rate until February~~

1 ~~1 of the year after the subsequent year. The department shall~~
2 ~~notify all dealers of all surtax rates in effect on November 9~~
3 ~~no later than February 1 of the subsequent year.~~

4 2.3. The sale of any motor vehicle or mobile home of a
5 class or type which is required to be registered in this state
6 or in any other state shall be deemed to have occurred only in
7 the county identified as the residence address of the
8 purchaser on the registration or title document for such
9 property.

10 (b) The event for which an admission is charged is
11 located in the county.

12 (c) The consumer of utility or television system
13 program services is located in the county, or the
14 telecommunication services are provided to a location within
15 the county.

16 (d)1. The user of any aircraft or boat of a class or
17 type which is required to be registered, licensed, titled, or
18 documented in this state or by the United States Government
19 imported into the county for use, consumption, distribution,
20 or storage to be used or consumed in the county is located in
21 the county.

22 2. However, it shall be presumed that such items used
23 outside the county for 6 months or longer before being
24 imported into the county were not purchased for use in the
25 county, except as provided in s. 212.06(8)(b).

26 3. This paragraph does not apply to the use or
27 consumption of items upon which a like tax of equal or greater
28 amount has been lawfully imposed and paid outside the county.

29 (e) The purchaser of any motor vehicle or mobile home
30 of a class or type which is required to be registered in this
31 state is a resident of the taxing county as determined by the

1 address appearing on or to be reflected on the registration
2 document for such property.

3 (f)1. Any motor vehicle or mobile home of a class or
4 type which is required to be registered in this state is
5 imported from another state into the taxing county by a user
6 residing therein for the purpose of use, consumption,
7 distribution, or storage in the taxing county.

8 2. However, it shall be presumed that such items used
9 outside the taxing county for 6 months or longer before being
10 imported into the county were not purchased for use in the
11 county.

12 (g) The real property which is leased or rented is
13 located in the county.

14 (h) The transient rental transaction occurs in the
15 county.

16 (i) The delivery of any aircraft or boat of a class or
17 type which is required to be registered, licensed, titled, or
18 documented in this state or by the United States Government is
19 to a location in the county. However, this paragraph does not
20 apply to the use or consumption of items upon which a like tax
21 of equal or greater amount has been lawfully imposed and paid
22 outside the county.

23 (j) The dealer owing a use tax on purchases or leases
24 is located in the county.

25 (k) The delivery of tangible personal property other
26 than that described in paragraph (d), paragraph (e), or
27 paragraph (f) is made to a location outside the county, but
28 the property is brought into the county within 6 months after
29 delivery, in which event, the owner must pay the surtax as a
30 use tax.

31

1 (1) The coin-operated amusement or vending machine is
2 located in the county.

3 (m) The florist taking the original order to sell
4 tangible personal property is located in the county,
5 notwithstanding any other provision of this section.

6 (4)(a) The department shall administer, collect, and
7 enforce the tax authorized under s. 212.055 pursuant to the
8 same procedures used in the administration, collection, and
9 enforcement of the general state sales tax imposed under the
10 provisions of this chapter, except as provided in this
11 section. The provisions of this chapter regarding interest
12 and penalties on delinquent taxes shall apply to the surtax.
13 Discretionary sales surtaxes shall not be included in the
14 computation of estimated taxes pursuant to s. 212.11.

15 Notwithstanding any other provision of law, a dealer need not
16 separately state the amount of the surtax on the charge
17 ticket, sales slip, invoice, or other tangible evidence of
18 sale. For the purposes of this section and s. 212.055, the
19 "proceeds" of any surtax means all funds collected and
20 received by the department pursuant to a specific
21 authorization and levy under s. 212.055, including any
22 interest and penalties on delinquent surtaxes.

23 (b) The proceeds of a discretionary sales surtax
24 collected by the selling dealer located in a county which
25 imposes the surtax shall be returned, less the cost of
26 administration, to the county where the selling dealer is
27 located. The proceeds shall be transferred to the
28 Discretionary Sales Surtax Clearing Trust Fund. A separate
29 account shall be established in such trust fund for each
30 county imposing a discretionary surtax. The amount deducted
31 for the costs of administration shall not exceed 3 percent of

1 the total revenue generated for all counties levying a surtax
2 authorized in s. 212.055. The amount deducted for the costs
3 of administration shall be used only for those costs which are
4 solely and directly attributable to the surtax. The total
5 cost of administration shall be prorated among those counties
6 levying the surtax on the basis of the amount collected for a
7 particular county to the total amount collected for all
8 counties. No later than March 1 of each year, the department
9 shall submit a written report which details the expenses and
10 amounts deducted for the costs of administration to the
11 President of the Senate, the Speaker of the House of
12 Representatives, and the governing authority of each county
13 levying a surtax. The department shall distribute the moneys
14 in the trust fund each month to the appropriate counties,
15 unless otherwise provided in s. 212.055.

16 (c)1. Any dealer located in a county that does not
17 impose a discretionary sales surtax but who collects the
18 surtax due to sales of tangible personal property or services
19 delivered outside the county shall remit monthly the proceeds
20 of the surtax to the department to be deposited into an
21 account in the Discretionary Sales Surtax Clearing Trust Fund
22 which is separate from the county surtax collection accounts.
23 The department shall distribute funds in this account using a
24 distribution factor determined for each county that levies a
25 surtax and multiplied by the amount of funds in the account
26 and available for distribution. The distribution factor for
27 each county equals the product of:

28 a. The county's latest official population determined
29 pursuant to s. 186.901;

30 b. The county's rate of surtax; and

31

1 c. The number of months the county has levied a surtax
2 during the most recent distribution period;

3
4 divided by the sum of all such products of the counties
5 levying the surtax during the most recent distribution period.

6 2. The department shall compute distribution factors
7 for eligible counties once each quarter and make appropriate
8 quarterly distributions.

9 3. A county that fails to timely provide the
10 information required by this section to the department
11 authorizes the department, by such action, to use the best
12 information available to it in distributing surtax revenues to
13 the county. If this information is unavailable to the
14 department, the department may partially or entirely
15 disqualify the county from receiving surtax revenues under
16 this paragraph. A county that fails to provide timely
17 information waives its right to challenge the department's
18 determination of the county's share, if any, of revenues
19 provided under this paragraph.

20 (5) No discretionary sales surtax or increase or
21 decrease in the rate of any discretionary sales surtax shall
22 take effect on a date other than January 1. No discretionary
23 sales surtax shall terminate on a day other than December 31
24 ~~the last day of a calendar quarter.~~

25 (6) The governing body of any county levying a
26 discretionary sales surtax shall enact an ordinance levying
27 the surtax in accordance with the procedures described in s.
28 125.66(2) ~~and shall notify the department within 10 days after~~
29 ~~adoption of the ordinance. The notice shall include the time~~
30 ~~period during which the surtax will be in effect, the rate, a~~
31 ~~copy of the ordinance, and such other information as the~~

1 ~~department may prescribe by rule. Notification and final~~
2 ~~adoption of the surtax shall occur no later than 45 days prior~~
3 ~~to initial imposition of the surtax.~~

4 (7)(a) The governing body of any county levying a
5 discretionary sales surtax or the school board of any county
6 levying the school capital outlay surtax authorized by s.
7 212.055(7) shall notify the department within 10 days after
8 final adoption by ordinance or referendum of an imposition,
9 termination, or rate change of the surtax, but no later than
10 November 16 prior to the effective date. The notice must
11 specify the time period during which the surtax will be in
12 effect and the rate and must include a copy of the ordinance
13 and such other information as the department requires by rule.
14 Failure to timely provide such notification to the department
15 shall result in the delay of the effective date for a period
16 of 1 year.

17 (b) In addition to the notification required by
18 paragraph (a), the governing body of any county proposing to
19 levy a discretionary sales surtax or the school board of any
20 county proposing to levy the school capital outlay surtax
21 authorized by s. 212.055(7) shall notify the department by
22 October 1 if the referendum or consideration of the ordinance
23 that would result in imposition, termination, or rate change
24 of the surtax is scheduled to occur on or after October 1 of
25 that year. Failure to timely provide such notification to the
26 department shall result in the delay of the effective date for
27 a period of 1 year.

28 (8)(7) With respect to any motor vehicle or mobile
29 home of a class or type which is required to be registered in
30 this state, the tax due on a transaction occurring in the
31 taxing county as herein provided shall be collected from the

1 purchaser or user incident to the titling and registration of
2 such property, irrespective of whether such titling or
3 registration occurs in the taxing county.

4 Section 5. Section 212.055, Florida Statutes, as
5 amended by section 17 of chapter 97-384, Laws of Florida, is
6 amended to read:

7 212.055 Discretionary sales surtaxes; legislative
8 intent; authorization and use of proceeds.--It is the
9 legislative intent that any authorization for imposition of a
10 discretionary sales surtax shall be published in the Florida
11 Statutes as a subsection of this section, irrespective of the
12 duration of the levy. Each enactment shall specify the types
13 of counties authorized to levy; the rate or rates which may be
14 imposed; the maximum length of time the surtax may be imposed,
15 if any; the procedure which must be followed to secure voter
16 approval, if required; the purpose for which the proceeds may
17 be expended; and such other requirements as the Legislature
18 may provide. Taxable transactions and administrative
19 procedures shall be as provided in s. 212.054.

20 (1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.--

21 (a) Each charter county which adopted a charter prior
22 to June 1, 1976, and each county the government of which is
23 consolidated with that of one or more municipalities, may levy
24 a discretionary sales surtax, subject to approval by a
25 majority vote of the electorate of the county or by a charter
26 amendment approved by a majority vote of the electorate of the
27 county.

28 (b) The rate shall be up to 1 percent.

29 (c) The proposal to adopt a discretionary sales surtax
30 as provided in this subsection and to create a trust fund
31 within the county accounts shall be placed on the ballot in

1 accordance with law at a time to be set at the discretion of
2 the governing body.

3 (d) Proceeds from the surtax shall be:

4 1. Deposited by the county in the trust fund and shall
5 be used only for the purposes of development, construction,
6 equipment, maintenance, operation, supportive services,
7 including a countywide bus system, and related costs of a
8 fixed guideway rapid transit system;

9 2. Remitted by the governing body of the county to an
10 expressway or transportation authority created by law to be
11 used, at the discretion of such authority, for the
12 development, construction, operation, or maintenance of roads
13 or bridges in the county, for the operation and maintenance of
14 a bus system, or for the payment of principal and interest on
15 existing bonds issued for the construction of such roads or
16 bridges, and, upon approval by the county commission, such
17 proceeds may be pledged for bonds issued to refinance existing
18 bonds or new bonds issued for the construction of such roads
19 or bridges; or

20 3. For each county, as defined in s. 125.011(1), used
21 for the development, construction, operation, or maintenance
22 of roads and bridges in the county; for the expansion,
23 operation, and maintenance of an existing bus system; or for
24 the payment of principal and interest on existing bonds issued
25 for the construction of fixed guideway rapid transit systems,
26 roads, or bridges; and such proceeds may be pledged by the
27 governing body of the county for bonds issued to refinance
28 existing bonds or new bonds issued for the construction of
29 such fixed guideway rapid transit systems, roads, or bridges.

30 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

31

1 (a)1. The governing authority in each county may levy
2 a discretionary sales surtax of 0.5 percent or 1 percent. The
3 levy of the surtax shall be pursuant to ordinance enacted by a
4 majority of the members of the county governing authority and
5 approved by a majority of the electors of the county voting in
6 a referendum on the surtax. If the governing bodies of the
7 municipalities representing a majority of the county's
8 population adopt uniform resolutions establishing the rate of
9 the surtax and calling for a referendum on the surtax, the
10 levy of the surtax shall be placed on the ballot and shall
11 take effect if approved by a majority of the electors of the
12 county voting in the referendum on the surtax.

13 2. If the surtax was levied pursuant to a referendum
14 held before July 1, 1993, the surtax may not be levied beyond
15 the time established in the ordinance, or, if the ordinance
16 did not limit the period of the levy, the surtax may not be
17 levied for more than 15 years. The levy of such surtax may be
18 extended only by approval of a majority of the electors of the
19 county voting in a referendum on the surtax.

20 (b) A statement which includes a brief general
21 description of the projects to be funded by the surtax and
22 which conforms to the requirements of s. 101.161 shall be
23 placed on the ballot by the governing authority of any county
24 which enacts an ordinance calling for a referendum on the levy
25 of the surtax or in which the governing bodies of the
26 municipalities representing a majority of the county's
27 population adopt uniform resolutions calling for a referendum
28 on the surtax. The following question shall be placed on the
29 ballot:

30
31 FOR the -cent sales tax

1 AGAINST the -cent sales tax

2
3 (c) Pursuant to s. 212.054(4), the proceeds of the
4 surtax levied under this subsection shall be distributed to
5 the county and the municipalities within such county in which
6 the surtax was collected, according to:

7 1. An interlocal agreement between the county
8 governing authority and the governing bodies of the
9 municipalities representing a majority of the county's
10 municipal population, which agreement may include a school
11 district with the consent of the county governing authority
12 and the governing bodies of the municipalities representing a
13 majority of the county's municipal population; or

14 2. If there is no interlocal agreement, according to
15 the formula provided in s. 218.62.

16
17 ~~Any change in the distribution formula must take effect on the~~
18 ~~first day of any month that begins at least 60 days after~~
19 ~~written notification of that change has been made to the~~
20 ~~department.~~

21 (d)1. The proceeds of the surtax authorized by this
22 subsection and any interest accrued thereto shall be expended
23 by the school district or within the county and municipalities
24 within the county, or, in the case of a negotiated joint
25 county agreement, within another county, to finance, plan, and
26 construct infrastructure and to acquire land for public
27 recreation or conservation or protection of natural resources
28 and to finance the closure of county-owned or municipally
29 owned solid waste landfills that are already closed or are
30 required to close by order of the Department of Environmental
31 Protection. Any use of such proceeds or interest for purposes

1 of landfill closure prior to July 1, 1993, is ratified.
2 Neither the proceeds nor any interest accrued thereto shall be
3 used for operational expenses of any infrastructure, except
4 that any county with a population of less than 50,000 that is
5 required to close a landfill by order of the Department of
6 Environmental Protection may use the proceeds or any interest
7 accrued thereto for long-term maintenance costs associated
8 with landfill closure. Counties, as defined in s. 125.011(1),
9 may, in addition, use the proceeds to retire or service
10 indebtedness incurred for bonds issued prior to July 1, 1987,
11 for infrastructure purposes.

12 2. For the purposes of this paragraph,
13 "infrastructure" means:

14 a. Any fixed capital expenditure or fixed capital
15 outlay associated with the construction, reconstruction, or
16 improvement of public facilities which have a life expectancy
17 of 5 or more years and any land acquisition, land improvement,
18 design, and engineering costs related thereto.

19 b. A fire department vehicle, an emergency medical
20 service vehicle, a sheriff's office vehicle, a police
21 department vehicle, or any other vehicle, and such equipment
22 necessary to outfit the vehicle for its official use or
23 equipment that has a life expectancy of at least 5 years.

24 (e) School districts, counties, and municipalities
25 receiving proceeds under the provisions of this subsection may
26 pledge such proceeds for the purpose of servicing new bond
27 indebtedness incurred pursuant to law. Local governments may
28 use the services of the Division of Bond Finance of the State
29 Board of Administration pursuant to the State Bond Act to
30 issue any bonds through the provisions of this subsection. In
31 no case may a jurisdiction issue bonds pursuant to this

1 subsection more frequently than once per year. Counties and
2 municipalities may join together for the issuance of bonds
3 authorized by this subsection.

4 (f) Counties and municipalities shall not use the
5 surtax proceeds to supplant or replace user fees or to reduce
6 ad valorem taxes existing prior to the levy of the surtax
7 authorized by this subsection.

8 ~~(g) Notwithstanding s. 212.054(5), the surtax must~~
9 ~~take effect on the first day of a month, as fixed by the~~
10 ~~ordinance adopted pursuant to paragraph (a), and may not take~~
11 ~~effect until at least 60 days after the date that the~~
12 ~~referendum approving the levy is held.~~

13 (g)(h)1. Notwithstanding paragraph (d), a county that
14 has a population of 50,000 or less on April 1, 1992, or any
15 county designated as an area of critical state concern on the
16 effective date of this act, and that imposed the surtax before
17 July 1, 1992, may use the proceeds and interest of the surtax
18 for any public purpose if:

- 19 a. The debt service obligations for any year are met;
20 b. The county's comprehensive plan has been determined
21 to be in compliance with part II of chapter 163; and
22 c. The county has adopted an amendment to the surtax
23 ordinance pursuant to the procedure provided in s. 125.66
24 authorizing additional uses of the surtax proceeds and
25 interest.

26 2. A municipality located within a county that has a
27 population of 50,000 or less on April 1, 1992, or within a
28 county designated as an area of critical state concern on the
29 effective date of this act, and that imposed the surtax before
30 July 1, 1992, may not use the proceeds and interest of the
31 surtax for any purpose other than an infrastructure purpose

1 authorized in paragraph (d) unless the municipality's
2 comprehensive plan has been determined to be in compliance
3 with part II of chapter 163 and the municipality has adopted
4 an amendment to its surtax ordinance or resolution pursuant to
5 the procedure provided in s. 166.041 authorizing additional
6 uses of the surtax proceeds and interest. Such municipality
7 may expend the surtax proceeds and interest for any public
8 purpose authorized in the amendment.

9 3. Those counties designated as an area of critical
10 state concern which qualify to use the surtax for any public
11 purpose may use only up to 10 percent of the surtax proceeds
12 for any public purpose other than for infrastructure purposes
13 authorized by this section.

14 (h)~~(i)~~ Notwithstanding paragraph (d), a county in
15 which 40 percent or more of the just value of real property is
16 exempt or immune from ad valorem taxation, and the
17 municipalities within such a county, may use the proceeds and
18 interest of the surtax for operation and maintenance of parks
19 and recreation programs and facilities established with the
20 proceeds of the surtax.

21 (i)~~(j)~~ Notwithstanding any other provision of this
22 section, a county shall not levy local option sales surtaxes
23 authorized in this subsection and subsections (3), (4), (5),
24 and (6) in excess of a combined rate of 1 percent.

25 (3) SMALL COUNTY SURTAX.--

26 (a) The governing authority in each county that has a
27 population of 50,000 or less on April 1, 1992, may levy a
28 discretionary sales surtax of 0.5 percent or 1 percent. The
29 levy of the surtax shall be pursuant to ordinance enacted by
30 an extraordinary vote of the members of the county governing
31 authority if the surtax revenues are expended for operating

1 purposes. If the surtax revenues are expended for the purpose
2 of servicing bond indebtedness, the surtax shall be approved
3 by a majority of the electors of the county voting in a
4 referendum on the surtax.

5 (b) A statement that includes a brief general
6 description of the projects to be funded by the surtax and
7 conforms to the requirements of s. 101.161 shall be placed on
8 the ballot by the governing authority of any county that
9 enacts an ordinance calling for a referendum on the levy of
10 the surtax for the purpose of servicing bond indebtedness.

11 The following question shall be placed on the ballot:

12
13 FOR the -cent sales tax
14 AGAINST the -cent sales tax
15

16 (c) Pursuant to s. 212.054(4), the proceeds of the
17 surtax levied under this subsection shall be distributed to
18 the county and the municipalities within the county in which
19 the surtax was collected, according to:

20 1. An interlocal agreement between the county
21 governing authority and the governing bodies of the
22 municipalities representing a majority of the county's
23 municipal population, which agreement may include a school
24 district with the consent of the county governing authority
25 and the governing bodies of the municipalities representing a
26 majority of the county's municipal population; or

27 2. If there is no interlocal agreement, according to
28 the formula provided in s. 218.62.

29
30 ~~Any change in the distribution formula shall take effect on~~
31 ~~the first day of any month that begins at least 60 days after~~

1 ~~written notification of that change has been made to the~~
2 ~~department.~~

3 (d)1. If the surtax is levied pursuant to a
4 referendum, the proceeds of the surtax and any interest
5 accrued thereto may be expended by the school district or
6 within the county and municipalities within the county, or, in
7 the case of a negotiated joint county agreement, within
8 another county, for the purpose of servicing bond indebtedness
9 to finance, plan, and construct infrastructure and to acquire
10 land for public recreation or conservation or protection of
11 natural resources. However, if the surtax is levied pursuant
12 to an ordinance approved by an extraordinary vote of the
13 members of the county governing authority, the proceeds and
14 any interest accrued thereto may be used for operational
15 expenses of any infrastructure or for any public purpose
16 authorized in the ordinance under which the surtax is levied.

17 2. For the purposes of this paragraph,
18 "infrastructure" means any fixed capital expenditure or fixed
19 capital costs associated with the construction,
20 reconstruction, or improvement of public facilities that have
21 a life expectancy of 5 or more years and any land acquisition,
22 land improvement, design, and engineering costs related
23 thereto.

24 (e) A school district, county, or municipality that
25 receives proceeds under this subsection following a referendum
26 may pledge the proceeds for the purpose of servicing new bond
27 indebtedness incurred pursuant to law. Local governments may
28 use the services of the Division of Bond Finance pursuant to
29 the State Bond Act to issue any bonds through the provisions
30 of this subsection. A jurisdiction may not issue bonds
31 pursuant to this subsection more frequently than once per

1 year. A county and municipality may join together to issue
2 bonds authorized by this subsection.

3 ~~(f) Notwithstanding s. 212.054(5), the surtax shall~~
4 ~~take effect on the first day of a month, as fixed by the~~
5 ~~ordinance adopted pursuant to paragraph (a). A surtax levied~~
6 ~~pursuant to a referendum shall not take effect until at least~~
7 ~~60 days after the date that the referendum approving the levy~~
8 ~~is held.~~

9 (f)~~(g)~~ Notwithstanding any other provision of this
10 section, a county shall not levy local option sales surtaxes
11 authorized in this subsection and subsections (2), (4), (5),
12 and (6) in excess of a combined rate of 1 percent.

13 (4) INDIGENT CARE SURTAX.--

14 (a) The governing body in each county the government
15 of which is not consolidated with that of one or more
16 municipalities, which has a population of at least 800,000
17 residents and is not authorized to levy a surtax under
18 subsection (5) or subsection (6), may levy, pursuant to an
19 ordinance either approved by an extraordinary vote of the
20 governing body or conditioned to take effect only upon
21 approval by a majority vote of the electors of the county
22 voting in a referendum, a discretionary sales surtax at a rate
23 that may not exceed 0.5 percent.

24 (b) If the ordinance is conditioned on a referendum, a
25 statement that includes a brief and general description of the
26 purposes to be funded by the surtax and that conforms to the
27 requirements of s. 101.161 shall be placed on the ballot by
28 the governing body of the county. The following questions
29 shall be placed on the ballot:

30

31 FOR THE . . .CENTS TAX

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AGAINST THE . . . CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance adopted pursuant to paragraph (a) or, if the surtax is made subject to a referendum, at least 60 days after the date of approval by the electors of the ordinance adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in paragraph (d)~~(e)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment

1 including, but not limited to, case management. It must also
2 provide that any hospitals that are owned and operated by
3 government entities on May 21, 1991, must, as a condition of
4 receiving funds under this subsection, afford public access
5 equal to that provided under s. 286.011 as to meetings of the
6 governing board, the subject of which is budgeting resources
7 for the rendition of charity care as that term is defined in
8 the Florida Hospital Uniform Reporting System (FHURS) manual
9 referenced in s. 408.07. The plan shall also include
10 innovative health care programs that provide cost-effective
11 alternatives to traditional methods of service delivery and
12 funding.

13 (d)~~(e)~~ For the purpose of this subsection, the term
14 "qualified resident" means residents of the authorizing county
15 who are:

16 1. Qualified as indigent persons as certified by the
17 authorizing county;

18 2. Certified by the authorizing county as meeting the
19 definition of the medically poor, defined as persons having
20 insufficient income, resources, and assets to provide the
21 needed medical care without using resources required to meet
22 basic needs for shelter, food, clothing, and personal
23 expenses; or not being eligible for any other state or federal
24 program, or having medical needs that are not covered by any
25 such program; or having insufficient third-party insurance
26 coverage. In all cases, the authorizing county is intended to
27 serve as the payor of last resort; or

28 3. Participating in innovative, cost-effective
29 programs approved by the authorizing county.

30 (e)~~(f)~~ Moneys collected pursuant to this subsection
31 remain the property of the state and shall be distributed by

1 the Department of Revenue on a regular and periodic basis to
2 the clerk of the circuit court as ex officio custodian of the
3 funds of the authorizing county. The clerk of the circuit
4 court shall:

5 1. Maintain the moneys in an indigent health care
6 trust fund;

7 2. Invest any funds held on deposit in the trust fund
8 pursuant to general law; and

9 3. Disburse the funds, including any interest earned,
10 to any provider of health care services, as provided in
11 paragraphs (c) ~~(d)~~ and (d) ~~(e)~~, upon directive from the
12 authorizing county.

13 (f) ~~(g)~~ Notwithstanding any other provision of this
14 section, a county shall not levy local option sales surtaxes
15 authorized in this subsection and subsections (2) and (3) in
16 excess of a combined rate of 1 percent.

17 (g) ~~(h)~~ This subsection expires October 1, 2005.

18 (5) COUNTY PUBLIC HOSPITAL SURTAX.--Any county as
19 defined in s. 125.011(1) may levy the surtax authorized in
20 this subsection pursuant to an ordinance either approved by
21 extraordinary vote of the county commission or conditioned to
22 take effect only upon approval by a majority vote of the
23 electors of the county voting in a referendum. In a county as
24 defined in s. 125.011(1), for the purposes of this subsection,
25 "county public general hospital" means a general hospital as
26 defined in s. 395.002 which is owned, operated, maintained, or
27 governed by the county or its agency, authority, or public
28 health trust.

29 (a) The rate shall be 0.5 percent.

30 (b) If the ordinance is conditioned on a referendum,
31 the proposal to adopt the county public hospital surtax shall

1 be placed on the ballot in accordance with law at a time to be
2 set at the discretion of the governing body. The referendum
3 question on the ballot shall include a brief general
4 description of the health care services to be funded by the
5 surtax.

6 (c) Proceeds from the surtax shall be:

7 1. Deposited by the county in a special fund, set
8 aside from other county funds, to be used only for the
9 operation, maintenance, and administration of the county
10 public general hospital; and

11 2. Remitted promptly by the county to the agency,
12 authority, or public health trust created by law which
13 administers or operates the county public general hospital.

14 (d) The county shall continue to contribute each year
15 at least 80 percent of that percentage of the total county
16 budget appropriated for the operation, administration, and
17 maintenance of the county public general hospital from the
18 county's general revenues in the fiscal year of the county
19 ending September 30, 1991.

20 (e) Notwithstanding any other provision of this
21 section, a county may not levy local option sales surtaxes
22 authorized in this subsection and subsections (2) and (3) in
23 excess of a combined rate of 1 percent.

24 (6) SMALL COUNTY INDIGENT CARE SURTAX.--

25 (a) The governing body in each county that has a
26 population of 50,000 or less on April 1, 1992, may levy,
27 pursuant to an ordinance approved by an extraordinary vote of
28 the governing body, a discretionary sales surtax at a rate of
29 0.5 percent. Any county that levies the surtax authorized by
30 this subsection shall continue to expend county funds for the
31 medically poor and related health services in an amount equal

1 to the amount that it expended for the medically poor and
2 related health services in the fiscal year preceding the
3 adoption of the authorizing ordinance.

4 ~~(b) Notwithstanding s. 212.054(5), the sales surtax~~
5 ~~may take effect on the first day of any month, as fixed by the~~
6 ~~ordinance adopted pursuant to paragraph (a), but may not take~~
7 ~~effect until at least 60 days after the date of adoption of~~
8 ~~the ordinance.~~

9 (b)(c) The ordinance adopted by the governing body
10 providing for the imposition of the surtax shall set forth a
11 brief plan for providing health care services to qualified
12 residents, as defined in paragraph (c)~~(d)~~. Such plan and
13 subsequent amendments to it shall fund a broad range of health
14 care services for both indigent persons and the medically
15 poor, including, but not limited to, primary care and
16 preventive care as well as hospital care. It shall emphasize
17 a continuity of care in the most cost-effective setting,
18 taking into consideration both a high quality of care and
19 geographic access. Where consistent with these objectives, it
20 shall include, without limitation, services rendered by
21 physicians, clinics, community hospitals, mental health
22 centers, and alternative delivery sites, as well as at least
23 one regional referral hospital where appropriate. It shall
24 provide that agreements negotiated between the county and
25 providers will include reimbursement methodologies that take
26 into account the cost of services rendered to eligible
27 patients, recognize hospitals that render a disproportionate
28 share of indigent care, provide other incentives to promote
29 the delivery of charity care, and require cost containment
30 including, but not limited to, case management. It shall also
31 provide that any hospitals that are owned and operated by

1 government entities on May 21, 1991, must, as a condition of
2 receiving funds under this subsection, afford public access
3 equal to that provided under s. 286.011 as to meetings of the
4 governing board, the subject of which is budgeting resources
5 for the rendition of charity care as that term is defined in
6 the rules of the Health Care Cost Containment Board. The plan
7 shall also include innovative health care programs that
8 provide cost-effective alternatives to traditional methods of
9 service delivery and funding.

10 (c)~~(d)~~ For the purpose of this subsection, "qualified
11 resident" means residents of the authorizing county who are:

12 1. Qualified as indigent persons as certified by the
13 authorizing county;

14 2. Certified by the authorizing county as meeting the
15 definition of the medically poor, defined as persons having
16 insufficient income, resources, and assets to provide the
17 needed medical care without using resources required to meet
18 basic needs for shelter, food, clothing, and personal
19 expenses; or not being eligible for any other state or federal
20 program, or having medical needs that are not covered by any
21 such program; or having insufficient third-party insurance
22 coverage. In all cases, the authorizing county is intended to
23 serve as the payor of last resort; or

24 3. Participating in innovative, cost-effective
25 programs approved by the authorizing county.

26 (d)~~(e)~~ Moneys collected pursuant to this subsection
27 remain the property of the state and shall be distributed by
28 the Department of Revenue on a regular and periodic basis to
29 the clerk of the circuit court as ex officio custodian of the
30 funds of the authorizing county. The clerk of the circuit
31 court shall:

- 1 1. Maintain the moneys in an indigent health care
2 trust fund;
3 2. Invest any funds held on deposit in the trust fund
4 pursuant to general law; and
5 3. Disburse the funds, including any interest earned,
6 to any provider of health care services, as provided in
7 paragraphs (b)~~(c)~~ and (c)~~(d)~~, upon directive from the
8 authorizing county.

9 ~~(e)~~(f) Notwithstanding any other provision of this
10 section, a county shall not levy local option sales surtaxes
11 authorized in this subsection and subsections (2) and (3) in
12 excess of a combined rate of 1 percent.

13 ~~(f)~~(g) This subsection expires October 1, 1998.

14 (7) SCHOOL CAPITAL OUTLAY SURTAX.--

15 (a) The school board in each county may levy, pursuant
16 to resolution conditioned to take effect only upon approval by
17 a majority vote of the electors of the county voting in a
18 referendum, a discretionary sales surtax at a rate that may
19 not exceed 0.5 percent.

20 (b) The resolution shall include a statement that
21 provides a brief and general description of the school capital
22 outlay projects to be funded by the surtax. If applicable, the
23 resolution must state that the district school board has been
24 recognized by the State Board of Education as having a Florida
25 Frugal Schools Program. The statement shall conform to the
26 requirements of s. 101.161 and shall be placed on the ballot
27 by the governing body of the county. The following question
28 shall be placed on the ballot:

29

30 FOR THE CENTS TAX
31 AGAINST THE CENTS TAX

1
2 ~~(c)~~ Notwithstanding s. 212.054(5), the sales surtax
3 may take effect on the first day of any month, as fixed by the
4 resolution adopted pursuant to paragraph (a), but may not take
5 effect until at least 60 days after the date of approval by
6 the electors of the resolution adopted pursuant to paragraph
7 (a).

8 (d)~~(d)~~ The resolution providing for the imposition of
9 the surtax shall set forth a plan for use of the surtax
10 proceeds for fixed capital expenditures or fixed capital costs
11 associated with the construction, reconstruction, or
12 improvement of school facilities and campuses which have a
13 useful life expectancy of 5 or more years, and any land
14 acquisition, land improvement, design, and engineering costs
15 related thereto. Additionally, the plan shall include the
16 costs of retrofitting and providing for technology
17 implementation, including hardware and software, for the
18 various sites within the school district. Surtax revenues may
19 be used for the purpose of servicing bond indebtedness to
20 finance projects authorized by this subsection, and any
21 interest accrued thereto may be held in trust to finance such
22 projects. Neither the proceeds of the surtax nor any interest
23 accrued thereto shall be used for operational expenses. If the
24 district school board has been recognized by the State Board
25 of Education as having a Florida Frugal Schools Program, the
26 district's plan for use of the surtax proceeds must be
27 consistent with this subsection and with uses assured under
28 the Florida Frugal Schools Program.

29 (d)~~(e)~~ Any school board imposing the surtax shall
30 implement a freeze on noncapital local school property taxes,
31 at the millage rate imposed in the year prior to the

1 implementation of the surtax, for a period of at least 3 years
2 from the date of imposition of the surtax. This provision
3 shall not apply to existing debt service or required state
4 taxes.

5 (e)~~(f)~~ Surtax revenues collected by the Department of
6 Revenue pursuant to this subsection shall be distributed to
7 the school board imposing the surtax in accordance with law.

8 Section 6. Paragraph (c) of subsection (2) of section
9 212.097, Florida Statutes, is amended to read:

10 212.097 Urban High-Crime Area Job Tax Credit
11 Program.--

12 (2) As used in this section, the term:

13 (c) "New business" means any eligible business first
14 beginning operation on a site in a qualified high-crime area
15 and clearly separate from any other commercial or business
16 operation of the business entity within a qualified high-crime
17 area. A business entity that operated an eligible business
18 within a qualified high-crime area within the 48 months before
19 the period provided for application by subsection (3) is date
20 ~~shall not be~~ considered a new business.

21 Section 7. Paragraph (d) of subsection (2) of section
22 212.098, Florida Statutes, is amended to read:

23 212.098 Rural Job Tax Credit Program.--

24 (2) As used in this section, the term:

25 (d) "New business" means any eligible business first
26 beginning operation on a site in a qualified county and
27 clearly separate from any other commercial or business
28 operation of the business entity within a qualified county. A
29 business entity that operated an eligible business within a
30 qualified county within the 48 months before the period
31

1 provided for application by subsection (3) is ~~date shall~~ not
2 ~~be~~ considered a new business.

3 Section 8. Subsection (1) of section 212.11, Florida
4 Statutes, is amended to read:

5 212.11 Tax returns and regulations.--

6 (1)(a) Each dealer shall calculate his or her
7 estimated tax liability for any month by one of the following
8 methods:

9 1. Sixty-six percent of the current month's liability
10 pursuant to this part as shown on the tax return;

11 2. Sixty-six percent of the tax reported on the tax
12 return pursuant to this part by a dealer for the taxable
13 transactions occurring during the corresponding month of the
14 preceding calendar year; or

15 3. Sixty-six percent of the average tax liability
16 pursuant to this part for those months during the preceding
17 calendar year in which the dealer reported taxable
18 transactions.

19 (b) For the purpose of ascertaining the amount of tax
20 payable under this chapter, it shall be the duty of all
21 dealers to file ~~make~~ a return and remit the tax, on or before
22 the 20th day of the month, to the department, upon forms
23 prepared and furnished by it or in a format prescribed by it.
24 Such return must show, ~~showing~~ the rentals, admissions, gross
25 sales, or purchases, as the case may be, arising from all
26 leases, rentals, admissions, sales, or purchases taxable under
27 this chapter during the preceding calendar month.

28 (c) However, the department may require:

29 1. A quarterly return and payment when the tax
30 remitted by the dealer for the preceding four calendar
31 quarters did not exceed \$1,000.

1 2. A semiannual return and payment when the tax
2 remitted by the dealer for the preceding four calendar
3 quarters did not exceed \$500.

4 3. An annual return and payment when the tax remitted
5 by the dealer for the preceding four calendar quarters did not
6 exceed \$100.

7 4. A quarterly return and monthly payment when the tax
8 remitted by the dealer for the preceding four calendar
9 quarters exceeded \$1,000 but did not exceed \$12,000.

10 (d) The department may authorize dealers who are newly
11 required to file returns and pay tax quarterly to file returns
12 and remit the tax for the 3-month periods ending in February,
13 May, August, and November, and may authorize dealers who are
14 newly required to file returns and pay tax semiannually to
15 file returns and remit the tax for the 6-month periods ending
16 in May and November.

17 (e) The department shall accept returns, except those
18 required to be initiated through an electronic data
19 interchange, as timely if postmarked on or before the 20th day
20 of the month; if the 20th day falls on a Saturday, Sunday, or
21 federal or state legal holiday, returns shall be accepted as
22 timely if postmarked on the next succeeding workday. Any
23 dealer who operates two or more places of business for which
24 returns are required to be filed with the department and
25 maintains records for such places of business in a central
26 office or place shall have the privilege on each reporting
27 date of filing a consolidated return for all such places of
28 business in lieu of separate returns for each such place of
29 business; however, such consolidated returns must clearly
30 indicate the amounts collected within each county of the
31 state. Any dealer who files a consolidated return shall

1 calculate his or her estimated tax liability for each county
2 by the same method the dealer uses to calculate his or her
3 estimated tax liability on the consolidated return as a whole.
4 Each dealer shall file a return for each tax period even
5 though no tax is due for such period.

6 (f)1. A taxpayer who is required to remit taxes by
7 electronic funds transfer shall make a return in a manner form
8 that is initiated through an electronic data interchange. The
9 acceptable method of transfer, the method, form, and content
10 of the electronic data interchange, giving due regard to
11 developing uniform standards for formats as adopted by the
12 American National Standards Institute, the circumstances under
13 which an electronic data interchange shall serve as a
14 substitute for the filing of another form of return, and the
15 means, if any, by which taxpayers will be provided with
16 acknowledgments, shall be as prescribed by the department. The
17 department must accept such returns as timely if initiated and
18 accepted on or before the 20th day of the month. If the 20th
19 day falls on a Saturday, Sunday, or federal or state legal
20 holiday, returns must be accepted as timely if initiated and
21 accepted on the next succeeding workday.

22 2. The department may waive the requirement to make a
23 return through an electronic data interchange due to problems
24 arising from the taxpayer's computer capabilities, data
25 systems changes, and taxpayer operating procedures. To obtain
26 a waiver, the taxpayer shall demonstrate in writing to the
27 department that such circumstances exist.

28 Section 9. Subsection (1) of section 212.12, Florida
29 Statutes, is amended to read:

30 212.12 Dealer's credit for collecting tax; penalties
31 for noncompliance; powers of Department of Revenue in dealing

1 with delinquents; brackets applicable to taxable transactions;
2 records required.--

3 (1) Notwithstanding any other provision of law and for
4 the purpose of compensating persons granting licenses for and
5 the lessors of real and personal property taxed hereunder, for
6 the purpose of compensating dealers in tangible personal
7 property, for the purpose of compensating dealers providing
8 communication services and taxable services, for the purpose
9 of compensating owners of places where admissions are
10 collected, and for the purpose of compensating remitters of
11 any taxes or fees reported on the same documents utilized for
12 the sales and use tax, as compensation for the keeping of
13 prescribed records, filing timely tax returns,and the proper
14 accounting and remitting of taxes by them, such seller,
15 person, lessor, dealer, owner, and remitter (except dealers
16 who make mail order sales) shall be allowed 2.5 percent of the
17 amount of the tax due and accounted for and remitted to the
18 department, in the form of a deduction in submitting his or
19 her report and paying the amount due by him or her; the
20 department shall allow such deduction of 2.5 percent of the
21 amount of the tax to the person paying the same for remitting
22 the tax and making of tax returns in the manner herein
23 provided, for paying the amount due to be paid by him or her,
24 and as further compensation to dealers in tangible personal
25 property for the keeping of prescribed records and for
26 collection of taxes and remitting the same. However, if the
27 amount of the tax due and remitted to the department for the
28 reporting period exceeds \$1,200, no allowance shall be allowed
29 for all amounts in excess of \$1,200. The executive director
30 of the department is authorized to negotiate a collection
31 allowance, pursuant to rules promulgated by the department,

1 with a dealer who makes mail order sales. The rules of the
2 department shall provide guidelines for establishing the
3 collection allowance based upon the dealer's estimated costs
4 of collecting the tax, the volume and value of the dealer's
5 mail order sales to purchasers in this state, and the
6 administrative and legal costs and likelihood of achieving
7 collection of the tax absent the cooperation of the dealer.
8 However, in no event shall the collection allowance negotiated
9 by the executive director exceed 10 percent of the tax
10 remitted for a reporting period.

11 (a) The collection allowance may not be granted, nor
12 may any deduction be permitted, if the required tax return or
13 tax is delinquent at the time of payment.

14 (b) The Department of Revenue may deny ~~reduce~~ the
15 collection allowance ~~by 10 percent or \$50, whichever is less,~~
16 if a taxpayer files an incomplete return.

17 1. An "incomplete return" is, for purposes of this
18 chapter, a return which is lacking such uniformity,
19 completeness, and arrangement that the physical handling,
20 verification, ~~or~~ review of the return, or determination of
21 other taxes and fees reported on the return may not be readily
22 accomplished.

23 2. The department shall adopt rules requiring such
24 information as it may deem necessary to ensure that the tax
25 levied hereunder is properly collected, reviewed, compiled,
26 reported,and enforced, including, but not limited to: the
27 amount of gross sales; the amount of taxable sales; the amount
28 of tax collected or due; the amount of lawful refunds,
29 deductions, or credits claimed; the amount claimed as the
30 dealer's collection allowance; the amount of penalty and
31 interest; the amount due with the return; and such other

1 information as the Department of Revenue may specify. The
2 department shall require that transient rentals and
3 agricultural equipment transactions be separately shown. ~~For~~
4 ~~returns remitted on or after February 1, 1992, the department~~
5 ~~shall also require that~~ Sales made through vending machines as
6 defined in s. 212.0515 must be separately shown on the return.
7 ~~For returns remitted on or after February 1, 1995, Sales made~~
8 through coin-operated amusement machines as defined by s.
9 212.02 and the number of machines operated must be separately
10 shown on the return or on a form prescribed by the department.
11 If a separate form is required, the same penalties for late
12 filing, incomplete filing, or failure to file as provided for
13 the sales tax return shall apply to said form.

14 (c) The collection allowance and other credits or
15 deductions provided in this chapter shall be applied
16 proportionally to any taxes or fees reported on the same
17 documents used for the sales and use tax.

18 Section 10. Subsection (4) of section 212.17, Florida
19 Statutes, is amended to read:

20 212.17 Credits for returned goods, rentals, or
21 admissions; additional powers of department.--

22 (4)(a) The department shall design, prepare, print and
23 furnish to all dealers, except dealers filing through
24 electronic data interchange, or make available or prescribe to
25 the said dealers, all necessary forms for filing returns and
26 instructions to ensure a full collection from dealers and an
27 accounting for the taxes due, but failure of any dealer to
28 secure such forms does shall not relieve the such dealer from
29 the payment of the said tax at the time and in the manner
30 herein provided.

31

1 (b) The department shall prescribe the format and
2 instructions necessary for filing returns in a manner that is
3 initiated through an electronic data interchange to ensure a
4 full collection from dealers and an accounting for the taxes
5 due. The failure of any dealer to use such format does not
6 relieve the dealer from the payment of the tax at the time and
7 in the manner provided.

8 Section 11. Effective January 1, 1999, subsection (1)
9 of section 213.053, Florida Statutes, is amended to read:

10 213.053 Confidentiality and information sharing.--

11 (1) The provisions of this section apply to s.
12 125.0104, county government; s. 125.0108, tourist impact tax;
13 chapter 175, municipal firefighters' pension trust funds;
14 chapter 185, municipal police officers' retirement trust
15 funds;chapter 198, estate taxes; chapter 199, intangible
16 personal property taxes; chapter 201, excise tax on documents;
17 chapter 203, gross receipts taxes; chapter 211, tax on
18 severance and production of minerals; chapter 212, tax on
19 sales, use, and other transactions; chapter 220, income tax
20 code; chapter 221, emergency excise tax; s. 252.372, emergency
21 management, preparedness, and assistance surcharge;s.
22 370.07(3), Apalachicola Bay oyster surcharge; chapter 376,
23 pollutant spill prevention and control; s. 403.718, waste tire
24 fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste
25 newsprint disposal fees; ~~s. 403.7197, advance disposal fees;~~
26 s. 538.09, registration of secondhand dealers; s. 538.25,
27 registration of secondary metals recyclers; s. 624.501, ss.
28 624.509-624.5106 ss. 624.509-624.514, and 624.515, insurance
29 ~~code+ administration and general provisions;~~ s. 681.117, motor
30 vehicle warranty enforcement; and s. 896.102, reports of
31 financial transactions in trade or business.

1 Section 12. Effective October 1, 1998, paragraph (a)
2 of subsection (4) of section 213.0535, Florida Statutes, is
3 amended to read:

4 213.0535 Registration Information Sharing and Exchange
5 Program.--

6 (4) There are two levels of participation:

7 (a) Each unit of state or local government responsible
8 for administering one or more of the provisions specified in
9 subparagraphs 1.-7. is a level-one participant. Level-one
10 participants shall exchange, monthly or quarterly, as
11 determined jointly by each participant and the department, the
12 data enumerated in subsection (2) for each new registrant, new
13 filer, or initial reporter, permittee, or licensee, with
14 respect to the following taxes, licenses, or permits:

15 1. The sales and use tax imposed under chapter 212.

16 2. The tourist development tax imposed under s.
17 125.0104.

18 3. The tourist impact tax imposed under s. 125.0108.

19 4. Local occupational license taxes imposed under
20 chapter 205.

21 5. Convention development taxes imposed under s.
22 212.0305.

23 6. Public lodging and food service establishment
24 licenses issued pursuant to chapter 509.

25 7. Beverage law licenses issued pursuant to chapter
26 561.

27 Section 13. Paragraph (a) of subsection (2) of section
28 213.21, Florida Statutes, is amended and subsection (7) is
29 added to that section to read:

30 213.21 Informal conferences; compromises.--
31

1 (2)(a) The executive director of the department or his
2 or her designee is authorized to enter into a written closing
3 agreement with any taxpayer settling or compromising the
4 taxpayer's liability for any tax, interest, or penalty
5 assessed under any of the chapters specified in s. 72.011(1).
6 When such a closing agreement has been approved by the
7 department and signed by the executive director or his or her
8 designee and the taxpayer, it shall be final and conclusive;
9 and, except upon a showing of fraud or misrepresentation of
10 material fact or except as to adjustments pursuant to ss.
11 198.16 and 220.23, no additional assessment may be made by the
12 department against the taxpayer for the tax, interest, or
13 penalty specified in the closing agreement for the time period
14 specified in the closing agreement, and the taxpayer shall not
15 be entitled to institute any judicial or administrative
16 proceeding to recover any tax, interest, or penalty paid
17 pursuant to the closing agreement. The department is
18 authorized to delegate to the executive director the authority
19 to approve any such closing agreement resulting in a tax
20 reduction of ~~\$250,000~~~~\$100,000~~ or less.

21 (7)(a) When a taxpayer voluntarily self-discloses a
22 liability for tax to the department, the department may settle
23 and compromise the tax and interest due under the voluntary
24 self-disclosure to those amounts due for the 5 years
25 immediately preceding the date that the taxpayer initially
26 contacted the department concerning the voluntary
27 self-disclosure. For purposes of this paragraph, the term
28 "years" means tax years or calendar years, whichever is
29 applicable to the tax that is voluntarily self-disclosed. A
30 voluntary self-disclosure does not occur if the department has
31 contacted or informed the taxpayer that the department is

1 inquiring into the taxpayer's liability for tax or whether the
2 taxpayer is subject to tax in this state.

3 (b) The department may further settle and compromise
4 the tax and interest due under a voluntary self-disclosure
5 when the department is able to determine that such further
6 settlement and compromise is in the best interests of this
7 state. When making this determination the department shall
8 consider, but is not limited to, the following:

9 1. The amount of tax and interest that will be
10 collected and compromised under the voluntary self-disclosure;

11 2. The financial ability of the taxpayer and the
12 future outlook of the taxpayer's business and the industry
13 involved;

14 3. Whether the taxpayer has paid or will be paying
15 other taxes to the state;

16 4. The future voluntary compliance of the taxpayer;
17 and

18 5. Any other factor that the department considers
19 relevant to this determination.

20 (c) This subsection does not limit the department's
21 ability to enter into further settlement and compromise of the
22 liability that is voluntarily self-disclosed based on any
23 other provision of this section.

24 (d) This subsection does not apply to a voluntary
25 self-disclosure when the taxpayer collected, but failed to
26 remit, the tax to the state.

27 Section 14. Subsection (6) of section 213.28, Florida
28 Statutes, is amended to read:

29 213.28 Contracts with private auditors.--

30 (6) Certified public accountants entering into such
31 contracts must be in good standing under the laws of the state

1 in which they are licensed ~~and in which the work is performed.~~
2 They shall be bound by the same confidentiality requirements
3 and subject to the same penalties as the department under s.
4 213.053. Any return, return information, or documentation
5 obtained from the Internal Revenue Service under an
6 information-sharing agreement is confidential and exempt from
7 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
8 State Constitution and shall not be divulged or disclosed in
9 any manner by an officer or employee of the department to any
10 certified public accountant under a contract authorized by
11 this section, unless the department and the Internal Revenue
12 Service mutually agree to such disclosure.

13 Section 15. Section 213.67, Florida Statutes, is
14 amended to read:

15 213.67 Garnishment.--

16 (1) If a person is delinquent in the payment of any
17 taxes, penalties, and interest owed to the department, the
18 executive director or his or her designee may give notice of
19 the amount of such delinquency by registered mail to all
20 persons having in their possession or under their control any
21 credits or personal property, exclusive of wages, belonging to
22 the delinquent taxpayer, or owing any debts to such delinquent
23 taxpayer at the time of receipt by them of such notice.
24 Thereafter, any person who has been notified may not transfer
25 or make any other disposition of such credits, other personal
26 property, or debts until the executive director or his or her
27 designee consents to a transfer or disposition or until 60
28 days after the receipt of such notice. If during the effective
29 period of the notice to withhold, any person so notified makes
30 any transfer or disposition of the property or debts required
31 to be withheld hereunder, he or she is liable to the state for

1 any indebtedness owed to the department by the person with
2 respect to whose obligation the notice was given to the extent
3 of the value of the property or the amount of the debts thus
4 transferred or paid if, solely by reason of such transfer or
5 disposition, the state is unable to recover the indebtedness
6 of the person with respect to whose obligation the notice was
7 given. If the delinquent taxpayer contests the intended levy
8 in circuit court or under chapter 120, the notice under this
9 section remains effective until that final resolution of the
10 contest. Any financial institution receiving such notice will
11 maintain a right of set-off for any transaction involving a
12 debit card occurring on or before the date of receipt of such
13 notice.~~The notice provided for in this section may be renewed~~
14 ~~when the taxpayer contests the intended levy in circuit court~~
15 ~~or under chapter 120, pending the final resolution of that~~
16 ~~action.~~

17 (2) All persons who have been notified must, within 5
18 days after receipt of the notice, advise the executive
19 director or his or her designee of the credits, other personal
20 property, or debts in their possession, under their control,
21 or owing them, and must advise the executive director or
22 designee within 5 days after coming into possession or control
23 of any subsequent credits, personal property, or debts owed
24 during the time prescribed by the notice. Any such person
25 coming into possession or control of such subsequent credits,
26 personal property, or debts may not transfer or dispose of
27 them during the time prescribed by the notice or before the
28 department consents to a transfer.

29 (3) During the last 30 days of the 60-day period set
30 forth in subsection (1), the executive director or his or her
31 designee may levy upon such credits, other personal property,

1 or debts. The levy must be accomplished by delivery of a
2 notice of levy by registered mail, upon receipt of which the
3 person possessing the credits, other personal property, or
4 debts shall transfer them to the department or pay to the
5 department the amount owed to the delinquent taxpayer.

6 (4) A notice that is delivered under this section is
7 effective at the time of delivery against all credits, other
8 personal property, or debts of the delinquent taxpayer which
9 are not at the time of such notice subject to an attachment,
10 garnishment, or execution issued through a judicial process.

11 (5) Any person acting in accordance with the terms of
12 the notice or levy issued by the executive director or his or
13 her designee is expressly discharged from any obligation or
14 liability to the delinquent taxpayer with respect to such
15 credits, other personal property, or debts of the delinquent
16 taxpayer affected by compliance with the notice of freeze or
17 levy.

18 (6)(a) Levy may be made under subsection (3) upon
19 credits, other personal property, or debt of any person with
20 respect to any unpaid tax, penalties, and interest only after
21 the executive director or his or her designee has notified
22 such person in writing of the intention to make such levy.

23 (b) No less than 30 days before the day of the levy,
24 the notice of intent to levy required under paragraph (a)
25 shall be given in person or sent by certified or registered
26 mail to the person's last known address.

27 (c) The notice required in paragraph (a) must include
28 a brief statement that sets forth in simple and nontechnical
29 terms:

30 1. The provisions of this section relating to levy and
31 sale of property;

1 2. The procedures applicable to the levy under this
2 section;

3 3. The administrative and judicial appeals available
4 to the taxpayer with respect to such levy and sale, and the
5 procedures relating to such appeals; and

6 4. The alternatives, if any, available to taxpayers
7 which could prevent levy on the property.

8 (7) A taxpayer may contest the notice of intent to
9 levy provided for under subsection (6) by filing an action in
10 circuit court. Alternatively, the taxpayer may file a petition
11 under the applicable provisions of chapter 120. After an
12 action has been initiated under chapter 120 to contest the
13 notice of intent to levy, an action relating to the same levy
14 may not be filed by the taxpayer in circuit court, and
15 judicial review is exclusively limited to appellate review
16 pursuant to s. 120.68. Also, after an action has been
17 initiated in circuit court, an action may not be brought under
18 chapter 120.

19 (8) An action may not be brought to contest a notice
20 of intent to levy under chapter 120 or in circuit court, later
21 than 21 days after the date of receipt of the notice of intent
22 to levy.

23 (9) The department shall provide notice to the
24 Comptroller, in electronic or other form specified by the
25 Comptroller, listing the taxpayers for which tax warrants are
26 outstanding. Pursuant to subsection (1), the Comptroller
27 shall, upon notice from the department, withhold all payments
28 to any person or business, as defined in s. 212.02, which
29 provides commodities or services to the state, leases real
30 property to the state, or constructs a public building or
31 public work for the state. The department may levy upon the

1 withheld payments in accordance with subsection (3). The
2 provisions of s. 215.422 do not apply from the date the notice
3 is filed with the Comptroller until the date the department
4 notifies the Comptroller of its consent to make payment to the
5 person or 60 days after receipt of the department's notice in
6 accordance with subsection (1), whichever occurs earlier.

7 (10) The department may bring an action in circuit
8 court for an order compelling compliance with any notice
9 issued under this section.

10 Section 16. Section 213.755, Florida Statutes, is
11 amended to read:

12 213.755 Payment of taxes by electronic funds
13 transfer.--

14 (1) The executive director of the Department of
15 Revenue shall have authority to require a taxpayer to remit
16 taxes by electronic funds transfer where the taxpayer,
17 including consolidated filers, is subject to tax and has paid
18 that tax in the prior state fiscal year in an amount of
19 \$50,000 or more.

20 (2) As used in any revenue law administered by the
21 department, the term:

22 (a) "Payment" means any payment or remittance required
23 to be made or paid within a prescribed period or on or before
24 a prescribed date under the authority of any provision of a
25 revenue law which the department has the responsibility for
26 regulating, controlling, and administering. The term does not
27 include any remittance unless the amount of the remittance is
28 actually received by the department.

29 (b) "Return" means any report, claim, statement,
30 notice, application, affidavit, or other document required to
31 be filed within a prescribed period or on or before a

1 prescribed date under the authority of any provision of a
2 revenue law which the department has the responsibility of
3 regulating, controlling, and administering.

4 (3) Solely for the purposes of administering this
5 section:

6 (a)~~(1)~~ Taxes levied under parts I and II of chapter
7 206 shall be considered a single tax.

8 (b)~~(2)~~ A person required to remit a tax acting as a
9 collection agent or dealer for the state shall nonetheless be
10 considered the taxpayer.

11 Section 17. Paragraph (n) of subsection (1) and
12 paragraph (c) of subsection (2) of section 220.03, Florida
13 Statutes, are amended to read:

14 220.03 Definitions.--

15 (1) SPECIFIC TERMS.--When used in this code, and when
16 not otherwise distinctly expressed or manifestly incompatible
17 with the intent thereof, the following terms shall have the
18 following meanings:

19 (n) "Internal Revenue Code" means the United States
20 Internal Revenue Code of 1986, as amended and in effect on
21 January 1, 1998 ~~1997~~, except as provided in subsection (3).

22 (2) DEFINITIONAL RULES.--When used in this code and
23 neither otherwise distinctly expressed nor manifestly
24 incompatible with the intent thereof:

25 (c) Any term used in this code shall have the same
26 meaning as when used in a comparable context in the Internal
27 Revenue Code and other statutes of the United States relating
28 to federal income taxes, as such code and statutes are in
29 effect on January 1, 1998 ~~1997~~. However, if subsection (3) is
30 implemented, the meaning of any term shall be taken at the
31 time the term is applied under this code.

1 Section 18. Amendments to section 220.03, Florida
2 Statutes, made by section 17 of this act shall take effect
3 upon becoming a law, and shall operate retroactively to
4 January 1, 1998.

5 Section 19. Except as otherwise expressly provided by
6 this act, this act shall take effect July 1, 1998.

7
8 *****

9 SENATE SUMMARY

10 Revises various provisions relating to administration of
11 revenue laws by the Department of Revenue. Major changes
include:

12 1. False claims against the state: Provides that s.
13 68.082, F.S., does not apply to returns, claims, records,
14 or statements relating to any tax administered by the
Department of Revenue.

15 2. Intangible taxes: Requires banks and financial
16 organizations filing annual intangible tax returns for
their customers to file information using
machine-sensible media.

17 3. Sales tax: Revises reporting requirements of sellers
18 to operators of vending machines. Eliminates certain
dealers' responsibility to collect tangible personal
19 property sales tax. Requires certain counties and school
boards that levy specified surtax to provide notice to
20 the department. Provides requirements relating to sales
tax returns filed through electronic data interchange.
21 Revises provisions relating to the dealer's credit for
collecting sales tax. Authorizes the department to deny,
22 rather than reduce, the dealer's credit if an incomplete
return is filed. Revises certain definitions and
23 provisions relating to a dealer's credit for collecting
the sales tax.

24 4. General administration: Requires the department to
25 prescribe the format for filing returns through
electronic data interchange. Failure to use the format
26 does not relieve a dealer from paying the tax. Increases
the limit on settlements or compromises concerning which
27 the executive director may be delegated authority to
approve. Specifies a time period during which the
28 department may settle and compromise tax and interest due
when a taxpayer voluntarily self-discloses a tax
29 liability, and authorizes further settlement and
compromise under certain circumstances.

30 5. Enforcement and refunds: Revises provisions relating
31 to effectiveness of a garnishment notice and the
garnishee's obligations. Provides a financial institution
receiving a garnishment notice with a right of setoff.