

By the Committee on Finance & Taxation and Representative
Starks

1 A bill to be entitled
2 An act relating to taxation; repealing the
3 following sections of chapter 95-272, Laws of
4 Florida, which are scheduled to take effect
5 July 1, 1997, which sections would eliminate
6 the reorganization of the structure of the
7 Department of Revenue enacted by that chapter:
8 ss. 15 and 16, which amend ss. 20.04 and 20.21,
9 F.S., relating to the organizational structure
10 of the department; ss. 17, 18, 19, 20, 21, 22,
11 23, 24, 25, and 26, which amend ss. 189.412,
12 195.087, 195.096, 195.097, 200.068, 200.0684,
13 213.015, 213.053, 213.2201, and 409.2599, F.S.,
14 relating to approval of property appraisers'
15 and tax collectors' budgets, review of
16 assessment rolls, certification of compliance
17 of taxing authorities, taxpayer rights, child
18 support enforcement, and department
19 publications, to conform; and s. 27, which
20 re-creates s. 213.0451, F.S., relating to
21 positions within the department; repealing s.
22 12, ch. 96-324, s. 3, ch. 96-403, and ss. 54
23 and 63, ch. 96-406, Laws of Florida, which are
24 intended to preserve the amendments to ss.
25 20.04, 189.412, 195.096, and 213.053, F.S.,
26 contained in the sections repealed by this act;
27 providing legislative intent; amending s.
28 197.252, F.S.; providing that homestead tax
29 deferral shall not be granted if there are any
30 delinquent ad valorem or non-ad valorem taxes
31 outstanding against the property; amending s.

1 197.253, F.S.; conforming provisions relating
2 to an appeal to the value adjustment board of
3 denial of homestead tax deferral to the time
4 limitations specified in s. 194.011, F.S.;
5 amending s. 199.052, F.S.; requiring banks and
6 financial organizations filing annual
7 intangible personal property tax returns for
8 their customers to file information using
9 machine-sensible media; amending s. 199.103,
10 F.S.; including middle tier stock holding
11 companies in provisions which provide for
12 valuation of stocks or shares of certain
13 savings associations for intangible personal
14 property tax purposes; correcting a reference;
15 creating s. 199.105, F.S.; providing for
16 taxation of certain intangible personal
17 property transferred to a person or entity
18 outside the state and then repurchased to avoid
19 taxation; providing that a grantor shall be
20 treated as owning property that constitutes
21 trust principal under certain conditions;
22 providing that such transfer or trust is prima
23 facie evidence of intent to avoid taxation, and
24 providing burden of proof; amending s. 203.01,
25 F.S.; providing clarification with respect to
26 the separate statement of the tax on gross
27 receipts for utility services on bills or
28 invoices; amending s. 203.63, F.S.; providing
29 clarification with respect to the separate
30 statement of the tax on gross receipts for
31 interstate and international telecommunication

1 services on bills or invoices; amending s.
2 212.05, F.S.; providing clarification with
3 respect to imposition of the tax on sales, use,
4 and other transactions on telecommunication
5 service; providing legislative intent;
6 specifying that certain sums charged as taxes
7 under ss. 203.01 and 203.63, F.S., and under
8 ch. 212, F.S., shall not be subject to refund,
9 notwithstanding requirements relating to
10 separate statement of such taxes on bills or
11 invoices; providing legislative intent;
12 amending s. 212.0515, F.S.; removing a
13 requirement that operators of vending machines
14 which dispense food or beverages make a
15 quarterly report to the department regarding
16 the number of machines operated, the gross
17 receipts therefrom, and the tax remitted;
18 amending s. 212.055, F.S.; authorizing charter
19 counties and counties as defined in s. 125.011,
20 F.S., to use the proceeds of local government
21 infrastructure surtax revenues and interest
22 thereon to retire or service indebtedness
23 incurred for certain bonds and to refund bonds
24 issued after a specified date; ratifying any
25 use of such proceeds or interest for purposes
26 of retiring or servicing indebtedness incurred
27 before July 1, 1997, for refunding certain
28 bonds; amending s. 212.10, F.S.; providing that
29 a corporation with an officer, director, or
30 majority shareholder who was previously
31 associated with a corporation that quit

1 business and failed to file a final sales tax
2 return or pay sales tax liability may be denied
3 the right to engage in business for a specified
4 period or until payment is made; providing for
5 delivery by registered mail of notice to a bank
6 that has in its possession or under its control
7 assets of a sales tax dealer who is delinquent
8 in payment of tax; providing that financial
9 institutions receiving notice of such
10 delinquency shall maintain a right of setoff
11 for certain debit card transactions; amending
12 s. 212.11, F.S.; providing requirements
13 relating to sales tax returns filed through
14 electronic data interchange; providing that a
15 business that purchases software required for
16 the electronic filing of tax information under
17 ch. 212, F.S., may deduct the cost thereof from
18 tax proceeds owed to the state up to a
19 specified amount; amending s. 212.12, F.S.;
20 revising provisions relating to the dealer's
21 credit for collecting sales tax; specifying
22 that the credit is also for the filing of
23 timely returns; authorizing the department to
24 deny, rather than reduce, the credit if an
25 incomplete return is filed; revising the
26 definition of "incomplete return"; amending s.
27 212.17, F.S.; providing that the department
28 shall prescribe the format for filing returns
29 through electronic data interchange and
30 specifying that failure to use the format does
31 not relieve a dealer from the payment of tax;

1 amending s. 213.755, F.S.; defining "return"
2 and "payment" for purposes of revenue laws
3 administered by the department; amending s.
4 213.053, F.S.; authorizing the department to
5 provide certain information to the Department
6 of Labor and Employment Security; amending s.
7 213.21, F.S.; revising provisions which
8 authorize the department to delegate to the
9 executive director authority to approve a
10 settlement or compromise of tax liability, to
11 increase the limit on the amount of tax
12 reduction with respect to which such delegation
13 may be made; specifying a time period for which
14 the department may settle and compromise tax
15 and interest due when a taxpayer voluntarily
16 self-discloses a tax liability and authorizing
17 further settlement and compromise under certain
18 circumstances; creating s. 213.285, F.S.;
19 authorizing the department to initiate a
20 certified audits project under which taxpayers
21 may hire qualified practitioners to review and
22 report on their tax compliance; providing
23 definitions; providing requirements for
24 participation by such practitioners and
25 taxpayers; providing requirements for the
26 conduct of certified audits; providing status
27 of the audit report; amending s. 213.053, F.S.;
28 authorizing the department to provide certain
29 information to the Board of Accountancy or to a
30 court with respect to a certified public
31 accountant participating in the project;

1 amending s. 213.21, F.S.; authorizing
2 settlement or compromise of penalties and
3 abatement of interest for taxpayers who
4 participate in the project; providing for
5 repeal of the certified audit program; amending
6 s. 213.67, F.S.; prohibiting disposition of
7 assets of a delinquent taxpayer that come into
8 the possession of another person after that
9 person receives garnishment notice from the
10 department for a specified period; requiring
11 the garnishee to notify the department of such
12 assets; providing that the garnishment notice
13 remains in effect while a taxpayer's contest of
14 an intended levy is pending; providing that a
15 financial institution shall maintain a right of
16 setoff for certain debit card transactions;
17 amending s. 215.26, F.S.; limiting the amount
18 of tax or fee that may be refunded when the law
19 under which a tax or fee was imposed is held
20 invalid; providing that claims for less than
21 \$20 shall not be the basis for membership in a
22 class action seeking refund; specifying the
23 statutes under which an action to contest the
24 denial of a tax or fee refund may be brought
25 and requiring denial of a refund application
26 before such action may be initiated; requiring
27 denial of a refund claim if a taxpayer has not
28 contested or has unsuccessfully contested an
29 administrative garnishment; providing for
30 issuance of a notice of intent to deny a claim
31 for refund based on unconstitutionality or

1 invalidity of a tax or fee if the statute
2 imposing the tax or fee has not been so
3 adjudicated; amending s. 220.03, F.S.; updating
4 references to the Internal Revenue Code for
5 corporate income tax purposes; providing for
6 retroactive effect; creating s. 582.205, F.S.;
7 providing that a soil and water conservation
8 district which does not receive funds from
9 state or local government is exempt from the
10 special district fee imposed by the Department
11 of Community Affairs to administer the Uniform
12 Special District Accountability Act of 1989;
13 providing effective dates.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. (1) Sections 15, 16, 17, 18, 19, 20, 21,
18 22, 23, 24, 25, 26, and 27 of chapter 95-272, Laws of Florida,
19 section 12 of chapter 96-324, Laws of Florida, section 3 of
20 chapter 96-403, Laws of Florida, and sections 54 and 63 of
21 chapter 96-406, Laws of Florida, are hereby repealed.

22 (2) This section shall take effect July 1, 1997, or
23 upon this act becoming a law, whichever occurs earlier.

24 Section 2. It is the intent of the Legislature that
25 the amendments contained in the sections of chapter 95-272,
26 Laws of Florida, that are repealed by this act not be given
27 effect. If, at the legislative session at which this act is
28 enacted, other laws are enacted which include any of those
29 amendments, this act shall control.

30 Section 3. Subsection (3) of section 197.252, Florida
31 Statutes, is amended to read:

1 197.252 Homestead tax deferral.--
2 (3) No tax deferral shall be granted:
3 (a) If the total amount of deferred taxes, non-ad
4 valorem assessments, and interest plus the total amount of all
5 other unsatisfied liens on the homestead exceeds 85 percent of
6 the assessed value of the homestead; ~~or~~
7 (b) If the primary mortgage financing on the homestead
8 is for an amount which exceeds 70 percent of the assessed
9 value of the homestead; or;
10 (c) If there are any delinquent ad valorem or non-ad
11 valorem taxes outstanding against the property.

12 Section 4. Paragraph (b) of subsection (2) of section
13 197.253, Florida Statutes, is amended to read:

14 197.253 Homestead tax deferral; application.--
15 (2)
16 (b) Appeals of the decision of the tax collector to
17 the value adjustment board shall be in writing on a form
18 prescribed by the department and furnished by the tax
19 collector. Such appeal shall be filed with the value
20 adjustment board as provided in s. 194.011(3)~~within 20 days~~
21 ~~after the applicant's receipt of the notice of disapproval.~~
22 The value adjustment board shall review the application and
23 the evidence presented to the tax collector upon which the
24 applicant based his or her claim for tax deferral and, at the
25 election of the applicant, shall hear the applicant in person,
26 or by agent on the applicant's behalf, on his or her right to
27 homestead tax deferral. The value adjustment board shall
28 reverse the decision of the tax collector and grant homestead
29 tax deferral to the applicant, if in its judgment the
30 applicant is entitled thereto, or affirm the decision of the
31 tax collector. Such action of the value adjustment board shall

1 be final unless the applicant or tax collector or other
2 lienholder, within 15 days from the date of disapproval of the
3 application by the board, files in the circuit court of the
4 county in which the property is located, a proceeding for a
5 declaratory judgment or other appropriate proceeding.

6 Section 5. Subsection (3) of section 194.011, Florida
7 Statutes, 1996 Supplement, reads:

8 194.011 Assessment notice; objections to
9 assessments.--

10 (3) A petition to the value adjustment board shall
11 describe the property by parcel number and shall be filed as
12 follows:

13 (a) The property appraiser shall have available and
14 shall distribute forms prescribed by the Department of Revenue
15 on which the petition shall be made. Such petition shall be
16 sworn to by the petitioner.

17 (b) The completed petition shall be filed with the
18 clerk of the value adjustment board of the county, who shall
19 acknowledge receipt thereof and promptly furnish a copy
20 thereof to the property appraiser.

21 (c) The petition shall state the approximate time
22 anticipated by the taxpayer to present and argue his or her
23 petition before the board.

24 (d) The petition may be filed, as to valuation issues,
25 at any time during the taxable year on or before the 25th day
26 following the mailing of notice by the property appraiser as
27 provided in subsection (1). With respect to an issue
28 involving the denial of an exemption, an agricultural or
29 high-water recharge classification application, or a deferral,
30 the petition must be filed at any time during the taxable year
31 on or before the 30th day following the mailing of the notice

1 by the property appraiser under s. 193.461, s. 193.625, or s.
2 196.193 or notice by the tax collector under s. 197.253.

3 (e) A condominium association, cooperative
4 association, or any homeowners' association as defined in s.
5 723.075, with approval of its board of administration or
6 directors, may file with the value adjustment board a single
7 joint petition on behalf of any association members who own
8 parcels of property which the property appraiser determines
9 are substantially similar with respect to location, proximity
10 to amenities, number of rooms, living area, and condition.
11 The condominium association, cooperative association, or
12 homeowners' association as defined in s. 723.075 shall provide
13 the unit owners with notice of its intent to petition the
14 value adjustment board and shall provide at least 20 days for
15 a unit owner to elect, in writing, that his or her unit not be
16 included in the petition.

17 (f) An owner of contiguous, undeveloped parcels may
18 file with the value adjustment board a single joint petition
19 if the property appraiser determines such parcels are
20 substantially similar in nature.

21 (g) The individual, agent, or legal entity that signs
22 the petition becomes an agent of the taxpayer for the purpose
23 of serving process to obtain personal jurisdiction over the
24 taxpayer for the entire value adjustment board proceedings,
25 including any appeals of a board decision by the property
26 appraiser pursuant to s. 194.036.

27 Section 6. Subsection (15) is added to section
28 199.052, Florida Statutes, 1996 Supplement, to read:

29 199.052 Annual tax returns; payment of annual tax.--

30 (15) A bank or financial organization filing annual
31 intangible tax returns for its customers is required to file

1 return information using magnetic media, electronic data
2 interchange, or other machine-sensible media. The information
3 required by this subsection shall be reported by a bank or
4 financial organization using specifications and instructions
5 of the department, unless the bank or financial organization
6 demonstrates to the satisfaction of the department that a
7 hardship exists. The department shall prescribe rules
8 necessary to administer the requirements of this subsection.

9 Section 7. Subsection (8) of section 199.103, Florida
10 Statutes, is amended to read:

11 199.103 Basis of assessment; valuation.--All
12 intangible personal property shall be subject to the annual
13 tax at its just valuation as of January 1 of each year. Such
14 property shall be valued in the following manner:

15 (8) Stocks or shares of a savings association or
16 middle tier stock holding company, held by a parent mutual
17 holding company, whose depositors are members of the mutual
18 holding company, which converted from a mutual savings
19 association to a mutual holding company pursuant to 12 U.S.C.
20 s. 1467a.(o)~~1567(a)(o)~~, shall be valued as of January 1 each
21 year on the same basis as ownership in the mutual savings
22 association was valued for intangible tax purposes prior to
23 the conversion. Stocks or shares of such a converted
24 association which are held by individuals or entities other
25 than the parent mutual holding company shall be valued
26 pursuant to subsection (1) or subsection (4).

27 Section 8. Section 199.105, Florida Statutes, is
28 created to read:

29 199.105 Anti-avoidance provision.--

30 (1) Any taxpayer who within 30 days prior to December
31 31 of any year sells, transfers, or conveys any taxable

1 intangible personal property to any person or entity outside
2 the state, and within 30 days after the following January 1
3 repurchases or receives the same or identical property, shall
4 be taxed with regard to such property as if the transaction
5 had not taken place. Such a transfer shall be prima facie
6 evidence of intent to avoid taxation, and the burden of
7 proving the existence of a bona fide investment or business
8 purpose, other than the avoidance of taxes, for such
9 transaction shall be upon the taxpayer.

10 (2) If, by the terms or the operation of any trust,
11 any property that constitutes trust principal may revert to
12 the grantor of the trust or the grantor's estate during the
13 existence or upon termination of the trust, the grantor shall
14 be treated as owning the property. Such a trust shall be prima
15 facie evidence of intent to avoid taxation, and the burden of
16 proving the existence of a bona fide investment or business
17 purpose, other than the avoidance of taxes, for such a trust
18 shall be on the taxpayer.

19 (3) The department is authorized to adopt necessary
20 rules to carry out the intent of this section.

21 Section 9. Subsection (5) of section 203.01, Florida
22 Statutes, 1996 Supplement, is amended, and subsection (10) is
23 added to said section, to read:

24 203.01 Tax on gross receipts for utility services.--

25 (5) The tax imposed pursuant to this part relating to
26 the provision of any utility services at the option of the
27 person supplying the taxable services may be separately stated
28 as Florida gross receipts tax on the total amount of any bill,
29 invoice, or other tangible evidence of the provision of such
30 taxable services and, when separately stated, the tax becomes
31 part of the total charge for the utility service ~~may be added~~

1 ~~as a component part of the total charge.~~ Whenever a provider
2 of taxable services elects to separately state such tax as a
3 component of the charge for the provision of such taxable
4 services, every person, including all governmental units,
5 shall remit the tax to the person who provides such taxable
6 services as a part of the total bill, and the tax is a
7 component part of the debt of the purchaser to the person who
8 provides such taxable services until paid and, if unpaid, is
9 recoverable at law in the same manner as any other part of the
10 charge for such taxable services. For a utility, the decision
11 to separately state any increase in the rate of tax imposed by
12 this part which is effective after December 31, 1989, and the
13 ability to recover the increased charge from the customer
14 shall not be subject to regulatory approval.

15 (10) Notwithstanding the provisions of subsection (5)
16 and s. 212.07(2), sums that were charged or billed as taxes
17 under this section and chapter 212 and that were remitted to
18 the state in full as taxes shall not be subject to refund by
19 the state or by the utility which remitted the sums, when the
20 amount remitted was not in excess of the amount of tax imposed
21 by chapter 212 and this section.

22 Section 10. Subsection (1) of section 203.63, Florida
23 Statutes, is amended, and subsection (4) is added to said
24 section, to read:

25 203.63 Tax on interstate and international
26 telecommunication services.--

27 (1) The tax imposed pursuant to this part relating to
28 the provision of any telecommunication services, at the option
29 of the person supplying the taxable services may be separately
30 stated as Florida gross receipts tax on the total amount of
31 any bill, invoice, or other tangible evidence of the provision

1 of such taxable services and, when separately stated, the tax
2 becomes part of the total charge for the telecommunications
3 services ~~may be added as a component part of such charge.~~
4 Whenever a provider of taxable services elects to separately
5 state such tax as a component of the charge for the provision
6 of such taxable services, every person, including all
7 governmental units, shall remit the tax to the person who
8 provides such taxable services as a part of the total bill,
9 and the tax is a debt of the purchaser to the person who
10 provides such taxable services until paid and, if unpaid, is
11 recoverable at law in the same manner as the original charge
12 for such taxable services.

13 (4) Notwithstanding the provisions of subsection (1)
14 and s. 212.07(2), sums that were charged or billed as taxes
15 under this section and chapter 212 and that were remitted to
16 the state in full as taxes shall not be subject to refund by
17 the state or by the utility which remitted the sums, when the
18 amount remitted was not in excess of the amount of tax imposed
19 by chapter 212 and this section.

20 Section 11. It is the intent of the Legislature that
21 the creation of s. 203.01(10), Florida Statutes, 1996
22 Supplement, and s. 203.63(4), Florida Statutes, by this act
23 are a remedial clarification of existing law.

24 Section 12. Paragraph (e) of subsection (1) of section
25 212.05, Florida Statutes, 1996 Supplement, is amended to read:

26 212.05 Sales, storage, use tax.--It is hereby declared
27 to be the legislative intent that every person is exercising a
28 taxable privilege who engages in the business of selling
29 tangible personal property at retail in this state, including
30 the business of making mail order sales, or who rents or
31 furnishes any of the things or services taxable under this

1 chapter, or who stores for use or consumption in this state
2 any item or article of tangible personal property as defined
3 herein and who leases or rents such property within the state.

4 (1) For the exercise of such privilege, a tax is
5 levied on each taxable transaction or incident, which tax is
6 due and payable as follows:

7 (e)1. At the rate of 7 ~~6~~ percent on the total charge
8 ~~charges~~ for:

9 a. ~~All telegraph messages and long-distance telephone~~
10 ~~calls beginning and terminating in this state,~~
11 Telecommunication service as defined in s. 203.012, and those
12 services described in s. 203.012(2)(a). The tax shall be
13 applied to the total charge for each individual message, call,
14 or other segment or component of telecommunication service for
15 which a customer is charged, ~~except that the tax rate for~~
16 ~~charges for telecommunication service is 7 percent.~~

17 b. Electrical power or energy.

18 2. At the rate of 6 percent on charges for:

19 a.b. Any television system program service.

20 b.c. The installation of telecommunication and
21 telegraphic equipment.

22 ~~d. Electrical power or energy, except that the tax~~
23 ~~rate for charges for electrical power or energy is 7 percent.~~

24 3.2. For purposes of this part, "television system
25 program service" means the transmitting, by any means, of any
26 audio or video signal to a subscriber for other than
27 retransmission, or the installing, connecting, reconnecting,
28 disconnecting, moving, or changing of any equipment related to
29 such service. For purposes of this part, the term
30 "telecommunication service" does not include local service
31 provided through a pay telephone. The provisions of s.

1 212.17(3), regarding credit for tax paid on charges
2 subsequently found to be worthless, shall be equally
3 applicable to any tax paid under the provisions of this
4 section on charges for telecommunication or telegraph services
5 or electric power subsequently found to be uncollectible. The
6 word "charges" in this paragraph does not include any excise
7 or similar tax levied by the Federal Government, any political
8 subdivision of the state, or any municipality upon the
9 purchase or sale of telecommunication, television system
10 program, or telegraph service or electric power, which tax is
11 collected by the seller from the purchaser.

12 4.3. Telegraph messages and telecommunication services
13 which originate or terminate in this state, other than
14 interstate private communication services, and are billed to a
15 customer, telephone number, or device located within this
16 state are taxable under this paragraph. Interstate private
17 communication services are taxable under this paragraph as
18 follows:

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

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

24 c. The portion of the interstate interoffice channel
25 mileage charge as determined by multiplying said charge times
26 a fraction, the numerator of which is the air miles between
27 the last channel termination point in this state and the
28 vertical and horizontal coordinates, 7856 and 1756,
29 respectively, and the denominator of which is the air miles
30 between the last channel termination point in this state and
31 the first channel termination point outside this state. The

1 denominator of this fraction shall be adjusted, if necessary,
2 by adding the numerator of said fraction to similarly
3 determined air miles in the state in which the other channel
4 termination point is located, so that the summation of the
5 apportionment factor for this state and the apportionment
6 factor for the other state is not greater than one, to ensure
7 that no more than 100 percent of the interstate interoffice
8 channel mileage charge can be taxed by this state and another
9 state.

10 5.4. The tax imposed pursuant to this paragraph shall
11 not exceed \$50,000 per calendar year on charges to any person
12 for interstate telecommunications services defined in s.
13 203.012(4) and (7)(b), if the majority of such services used
14 by such person are for communications originating outside of
15 this state and terminating in this state. This exemption
16 shall only be granted to holders of a direct pay permit issued
17 pursuant to this subparagraph. No refunds shall be given for
18 taxes paid prior to receiving a direct pay permit. Upon
19 application, the department may issue a direct pay permit to
20 the purchaser of telecommunications services authorizing such
21 purchaser to pay tax on such services directly to the
22 department. Any vendor furnishing telecommunications services
23 to the holder of a valid direct pay permit shall be relieved
24 of the obligation to collect and remit the tax on such
25 service. Tax payments and returns pursuant to a direct pay
26 permit shall be monthly. For purposes of this subparagraph,
27 the term "person" shall be limited to a single legal entity
28 and shall not be construed as meaning a group or combination
29 of affiliated entities or entities controlled by one person or
30 group of persons.

31

1 ~~6.5.~~ If the sale of a television system program
2 service, as defined in this paragraph, also involves the sale
3 of an item exempt under s. 212.08(7)(j), the tax shall be
4 applied to the value of the taxable service when it is sold
5 separately. If the company does not offer this service
6 separately, the consideration paid shall be separately
7 identified and stated with respect to the taxable and exempt
8 portions of the transaction as a condition of the exemption,
9 except that the amount identified as taxable shall not be less
10 than the cost of the service.

11 Section 13. It is the intent of the Legislature that
12 the amendments by this act to ss. 203.01(5) and 212.05(1)(e),
13 Florida Statutes, 1996 Supplement, and s. 203.63(1), Florida
14 Statutes, are remedial and are intended to clarify existing
15 law.

16 Section 14. Subsection (4) of section 212.0515,
17 Florida Statutes, 1996 Supplement, is amended to read:

18 212.0515 Sales from vending machines; sales to vending
19 machine operators; special provisions; registration; quarterly
20 reports; penalties.--

21 ~~(4)(a) Each operator shall submit to the department on~~
22 ~~or before the 20th day of the month following the close of~~
23 ~~each calendar quarter a report in a format prescribed by the~~
24 ~~department which provides: the number of vending machines~~
25 ~~being operated by that operator in this state, which number is~~
26 ~~coded to indicate whether the machines are food or beverage~~
27 ~~machines; separate statements for food machines and for~~
28 ~~beverage machines which indicate the gross receipts from the~~
29 ~~operation of the machines during the quarterly period; and the~~
30 ~~amount of tax remitted pursuant to this part with respect to~~
31

1 ~~such receipts. All information shall be broken down by~~
2 ~~county.~~

3 ~~(b)~~ A penalty of \$250 per machine is imposed on an
4 operator who fails to properly obtain and display the required
5 notice on any machine. ~~A penalty of \$250 is imposed on an~~
6 ~~operator who fails to timely file a quarterly report or who~~
7 ~~files false information.~~ Penalties accrue interest as
8 provided for delinquent taxes under this part and apply in
9 addition to all other applicable taxes, interest, and
10 penalties.

11 ~~(c) The department is authorized to adopt rules~~
12 ~~regarding the form in which the quarterly report required by~~
13 ~~this subsection is to be submitted, which form may include~~
14 ~~magnetic tape or other means of electronic transmission.~~

15 Section 15. Effective July 1, 1997, paragraph (d) of
16 subsection (2) of section 212.055, Florida Statutes, 1996
17 Supplement, is amended to read:

18 212.055 Discretionary sales surtaxes; legislative
19 intent; authorization and use of proceeds.--It is the
20 legislative intent that any authorization for imposition of a
21 discretionary sales surtax shall be published in the Florida
22 Statutes as a subsection of this section, irrespective of the
23 duration of the levy. Each enactment shall specify the types
24 of counties authorized to levy; the rate or rates which may be
25 imposed; the maximum length of time the surtax may be imposed,
26 if any; the procedure which must be followed to secure voter
27 approval, if required; the purpose for which the proceeds may
28 be expended; and such other requirements as the Legislature
29 may provide. Taxable transactions and administrative
30 procedures shall be as provided in s. 212.054.

31 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

1 (d)1. The proceeds of the surtax authorized by this
2 subsection and any interest accrued thereto shall be expended
3 by the school district or within the county and municipalities
4 within the county, or, in the case of a negotiated joint
5 county agreement, within another county, to finance, plan, and
6 construct infrastructure and to acquire land for public
7 recreation or conservation or protection of natural resources
8 and to finance the closure of county-owned or municipally
9 owned solid waste landfills that are already closed or are
10 required to close by order of the Department of Environmental
11 Protection. Any use of such proceeds or interest for purposes
12 of landfill closure prior to July 1, 1993, is ratified.
13 Neither the proceeds nor any interest accrued thereto shall be
14 used for operational expenses of any infrastructure, except
15 that any county with a population of less than 50,000 that is
16 required to close a landfill by order of the Department of
17 Environmental Protection may use the proceeds or any interest
18 accrued thereto for long-term maintenance costs associated
19 with landfill closure. Charter counties and counties~~as~~
20 ~~defined in s. 125.011(1)~~~~may~~, in addition, use the proceeds
21 and any interest accrued thereon to retire or service
22 indebtedness incurred for bonds issued prior to July 1, 1987,
23 for infrastructure purposes and, for bonds subsequently
24 issued, to refund such bonds.

25 2. For the purposes of this paragraph,
26 "infrastructure" means:

27 a. Any fixed capital expenditure or fixed capital
28 outlay associated with the construction, reconstruction, or
29 improvement of public facilities which have a life expectancy
30 of 5 or more years and any land acquisition, land improvement,
31 design, and engineering costs related thereto.

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

6 Section 16. Any use of the proceeds of the surtax
7 authorized by s. 212.055(2), Florida Statutes, or of any
8 interest accrued on such proceeds, for purposes of retiring or
9 servicing indebtedness incurred before July 1, 1997, for
10 refunding bonds issued after July 1, 1987, is ratified.

11 Section 17. Subsections (2) and (3) of section 212.10,
12 Florida Statutes, are amended to read:

13 212.10 Sale of business; liability for tax, procedure,
14 penalty for violation.--

15 (2) If any dealer liable for any tax, interest, or
16 penalty shall quit the business without the benefit of a
17 purchaser and there is no successor, successors, or assigns,
18 he or she shall make a final return and payment within 15
19 days. Any person failing to file such final return or ~~and~~
20 make payment shall be denied the right to engage in any
21 business in the state until the person has filed such final
22 return and paid any moneys due. A corporation with an
23 officer, director, or majority shareholder that was previously
24 an officer, director, or majority shareholder of another
25 corporation subject to penalty under s. 213.29 that quit
26 business and failed to file a final return or pay any
27 liability imposed by this chapter may be denied the right to
28 engage in any business in the state for 5 years from the date
29 of the last delinquency or until such final return is filed
30 and payment is made. ~~and~~ The Department of Legal Affairs is
31 hereby authorized to proceed by injunction, when requested by

1 the department to do so, to prevent by injunction any activity
2 in the performance of further business activity until such tax
3 is paid; and a temporary injunction enjoining further business
4 activity shall be granted without notice by any judge or
5 chancellor authorized by law to grant injunctions.

6 (3) In the event any dealer is delinquent in the
7 payment of the tax herein provided for, the department may
8 give notice of the amount of such delinquency by registered
9 mail to all persons having in their possession or under their
10 control any credits or other personal property belonging to
11 such dealer or owing any debts to such dealer at the time of
12 receipt by them of such notice. All persons so notified shall
13 within 5 days after receipt of the notice advise the
14 department of all such credits, other personal property, or
15 debts in their possession, under their control, or owing by
16 them. After receiving the notice, the persons so notified
17 shall neither transfer nor make any other disposition of the
18 credits, other personal property, or debts in their possession
19 or under their control at the time they receive the notice
20 until the department consents to a transfer or disposition or
21 until 60 days elapse after the receipt of the notice,
22 whichever period expires the earlier, except that the credits,
23 other personal property, or debts which exceed the delinquent
24 amount stipulated in the notice shall not be subject to the
25 provisions of this section, wherever held, in any case in
26 which such dealer does not have a prior history of sales tax
27 delinquencies. All persons notified shall likewise within 5
28 days advise the department of any subsequent credits or other
29 personal property belonging to such dealer or any debts
30 incurred and owing to such dealer which may come within their
31 possession or under their control during the time prescribed

1 by the notice or until the department consents to a transfer
2 or disposition, whichever expires the earlier. If such notice
3 seeks to prevent the transfer or other disposition of a
4 deposit in a bank or other credits or personal property in the
5 possession or under the control of a bank, the notice to be
6 effective shall be delivered by registered mail ~~or mailed~~ to
7 the office of such bank at which such deposit is carried or at
8 which such credits or personal property is held. If, during
9 the effective period of the notice to withhold, any person so
10 notified makes any transfer or disposition of the property or
11 debts required to be withheld hereunder, he or she shall be
12 liable to the state for any indebtedness due under this
13 chapter from the person with respect to whose obligation the
14 notice was given to the extent of the value of the property or
15 the amount of the debts thus transferred or paid if, solely by
16 reason of such transfer or disposition, the state is unable to
17 recover the indebtedness of the person with respect to whose
18 obligation the notice was given. All such credits or other
19 personal property or debts are subject to garnishment by the
20 department for satisfaction of the delinquent tax due. Any
21 financial institution receiving such notice shall maintain a
22 right of setoff for any transaction involving a debit card
23 occurring on or before the date of receipt of such notice.

24 Section 18. Subsection (1) of section 212.11, Florida
25 Statutes, 1996 Supplement, is amended to read:

26 212.11 Tax returns and regulations.--

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

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

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

5 3. Sixty-six percent of the average tax liability
6 pursuant to this part for those months during the preceding
7 calendar year in which the dealer reported taxable
8 transactions.

9 (b) For the purpose of ascertaining the amount of tax
10 payable under this chapter, it shall be the duty of all
11 dealers to file ~~make~~ a return, and remit the tax, on or before
12 the 20th day of the month, to the department, upon forms
13 prepared and furnished by it or in a format prescribed by it.
14 Such return shall show, ~~showing~~ the rentals, admissions, gross
15 sales, or purchases, as the case may be, arising from all
16 leases, rentals, admissions, sales, or purchases taxable under
17 this chapter during the preceding calendar month.

18 (c) However, the department may require:

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

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

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

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

31

1 (d) The department may authorize dealers who are newly
2 required to file returns and pay tax quarterly to file returns
3 and remit the tax for the 3-month periods ending in February,
4 May, August, and November, and may authorize dealers who are
5 newly required to file returns and pay tax semiannually to
6 file returns and remit the tax for the 6-month periods ending
7 in May and November.

8 (e) The department shall accept returns, except those
9 required to be initiated through an electronic data
10 interchange, as timely if postmarked on or before the 20th day
11 of the month; if the 20th day falls on a Saturday, Sunday, or
12 federal or state legal holiday, returns shall be accepted as
13 timely if postmarked on the next succeeding workday. Any
14 dealer who operates two or more places of business for which
15 returns are required to be filed with the department and
16 maintains records for such places of business in a central
17 office or place shall have the privilege on each reporting
18 date of filing a consolidated return for all such places of
19 business in lieu of separate returns for each such place of
20 business; however, such consolidated returns must clearly
21 indicate the amounts collected within each county of the
22 state. Any dealer who files a consolidated return shall
23 calculate his or her estimated tax liability for each county
24 by the same method the dealer uses to calculate his or her
25 estimated tax liability on the consolidated return as a whole.
26 Each dealer shall file a return for each tax period even
27 though no tax is due for such period.

28 (f)1. A taxpayer who is required to remit taxes by
29 electronic funds transfer shall make a return in a manner ~~form~~
30 that is initiated through an electronic data interchange. The
31 acceptable method of transfer, the method, form, and content

1 of the electronic data interchange, giving due regard to
2 developing uniform standards for formats as adopted by the
3 American National Standards Institute, the circumstances under
4 which an electronic data interchange shall serve as a
5 substitute for the filing of another form of return, and the
6 means, if any, by which taxpayers will be provided with
7 acknowledgments, shall be as prescribed by the department. The
8 department shall accept such returns as timely if initiated
9 and accepted on or before the 20th day of the month; if the
10 20th day falls on a Saturday, Sunday, or federal or state
11 legal holiday, returns shall be accepted as timely if
12 initiated and accepted on the next succeeding workday.

13 2. The department may waive the requirement to make a
14 return through an electronic data interchange due to problems
15 arising from the taxpayer's computer capabilities, data
16 systems changes, and taxpayer operating procedures. To obtain
17 a waiver, the taxpayer shall demonstrate in writing to the
18 department that such circumstances exist.

19 3. A business that purchases software required by the
20 department for the electronic filing of state tax information
21 under this chapter may deduct the cost of that software from
22 the tax proceeds under this chapter which the business owes to
23 the state, except that the amount deducted for each required
24 purchase may not exceed \$130.

25 Section 19. Subsection (1) of section 212.12, Florida
26 Statutes, 1996 Supplement, is amended to read:

27 212.12 Dealer's credit for collecting tax; penalties
28 for noncompliance; powers of Department of Revenue in dealing
29 with delinquents; brackets applicable to taxable transactions;
30 records required.--
31

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

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

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

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

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

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

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

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

15 Section 20. Subsection (4) of section 212.17, Florida
16 Statutes, is amended to read:

17 212.17 Credits for returned goods, rentals, or
18 admissions; additional powers of department.--

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

28 (b) The department shall prescribe the format and
29 instructions necessary for filing returns in a manner that is
30 initiated through an electronic data interchange to ensure a
31 full collection from dealers and an accounting for the taxes

1 due, but failure of any dealer to utilize such format shall
2 not relieve the dealer from the payment of said tax at the
3 time and in the manner herein provided.

4 Section 21. Section 213.755, Florida Statutes, as
5 amended by chapter 95-417, Laws of Florida, is amended to
6 read:

7 213.755 Payment of taxes by electronic funds
8 transfer.--

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

15 (2) As used in any revenue law administered by the
16 department:

17 (a) "Return" means any report, claim, statement,
18 notice, application, affidavit, or other document required to
19 be filed within a prescribed period or on or before a
20 prescribed date under the authority of any provision of a
21 revenue law which the department has the responsibility for
22 regulating, controlling, and administering.

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

30 (3) Solely for the purposes of administering this
31 section:

1 (a)~~(1)~~ Taxes levied under parts I and II of chapter
2 206 shall be considered a single tax.

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

6 Section 22. Paragraphs (o) and (p) are added to
7 subsection (7) of section 213.053, Florida Statutes, 1996
8 Supplement, to read:

9 213.053 Confidentiality and information sharing.--

10 (7) Notwithstanding any other provision of this
11 section, the department may provide:

12 (o) Information relative to chapters 212 and 220 to
13 the Department of Labor and Employment Security in the conduct
14 of its official duties.

15 (p) Information contained in returns, reports,
16 accounts, or declarations to the Board of Accountancy in
17 connection with a disciplinary proceeding conducted pursuant
18 to chapter 473 when related to a certified public accountant
19 participating in the certified audit project, or to the court
20 in connection with a civil proceeding brought by the
21 department relating to a claim for recovery of taxes due to
22 negligence on the part of a certified public accountant
23 participating in the certified audit project. In any judicial
24 proceeding brought by the department, upon motion for
25 protective order, the court shall limit disclosure of tax
26 information when necessary to effectuate the purposes of this
27 section. This paragraph is repealed on July 1, 1999.

28
29 Disclosure of information under this subsection shall be
30 pursuant to a written agreement between the executive director
31 and the agency. Such agencies, governmental or

1 nongovernmental, shall be bound by the same requirements of
2 confidentiality as the Department of Revenue. Breach of
3 confidentiality is a misdemeanor of the first degree,
4 punishable as provided by s. 775.082 or s. 775.083.

5 Section 23. Paragraph (a) of subsection (2) of section
6 213.21, Florida Statutes, 1996 Supplement, is amended, and
7 subsections (7) and (8) are added to said section, to read:

8 213.21 Informal conferences; compromises.--

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

29 (7)(a) When a taxpayer voluntarily self-discloses a
30 liability for tax to the department, the department may settle
31 and compromise the tax and interest due under the voluntary

1 self-disclosure to those amounts due for the 7 years
2 immediately preceding the date that the taxpayer initially
3 contacted the department concerning the voluntary
4 self-disclosure. For purposes of this paragraph, "years"
5 means tax years or calendar years, whichever is applicable to
6 the tax that is voluntarily self-disclosed. A voluntary
7 self-disclosure shall not be deemed to exist if the department
8 has contacted or informed the taxpayer that the department is
9 inquiring into the taxpayer's liability for tax or whether the
10 taxpayer is subject to tax in Florida.

11 (b) The department may further settle and compromise
12 the tax and interest due under a voluntary self-disclosure
13 when the department is able to determine that such further
14 settlement and compromise is in the best interest of this
15 state. When making this determination the department shall
16 consider, but is not limited to considering, the following:

17 1. The amount of tax and interest that will be
18 collected and compromised under the voluntary self-disclosure.

19 2. The financial ability of the taxpayer and the
20 future outlook of the taxpayer's business and the industry
21 involved.

22 3. Whether the taxpayer has paid or will be paying
23 other taxes to the state.

24 4. The future voluntary compliance of the taxpayer.

25 5. Any other factor the department determines to be
26 relevant to making this determination.

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

31

1 (d) This subsection shall not be applicable to a
2 voluntary self-disclosure when the taxpayer collected but
3 failed to remit the tax to the state.

4 (8) In order to determine whether certified audits are
5 an effective tool in the overall state tax collection effort,
6 the executive director of the department or the executive
7 director's designee shall settle or compromise penalty
8 liabilities of taxpayers who participate in the certified
9 audits project. As further incentive for participating in the
10 program, the department shall abate the first \$25,000 of any
11 interest liability and 25 percent of any interest due in
12 excess of the first \$25,000. A settlement or compromise of
13 penalties or interest pursuant to this subsection shall not be
14 subject to the provisions of paragraph (3)(a), except for the
15 requirement relating to maintenance of records of compromises
16 and the confidentiality of those records. The department may
17 consider an additional compromise of tax or interest pursuant
18 to the provisions of paragraph (3)(a). This subsection does
19 not apply to any liability related to taxes collected but not
20 remitted to the department. This subsection is repealed July
21 1, 1999.

22 Section 24. Section 213.285, Florida Statutes, is
23 created to read:

24 213.285 Certified audits.--

25 (1) As used in this section:

26 (a) "Certification program" means an instructional
27 curriculum and examination for professional development of
28 certified public accountants which is administered by an
29 independent provider and which is officially approved by the
30 department to ensure that a certified public accountant
31 possesses the necessary skills and abilities to successfully

1 perform an attestation engagement for tax compliance review in
2 a certified audits project.

3 (b) "Department" means the Department of Revenue.

4 (c) "Participating taxpayer" means any person subject
5 to the revenue laws administered by the department who enters
6 into an engagement with a qualified practitioner for tax
7 compliance review and who is approved by the department under
8 the certified audits project.

9 (d) "Qualified practitioner" means a certified public
10 accountant who is licensed to practice in Florida, who is in
11 good standing with the Board of Accountancy, and who has
12 completed the certification program.

13 (2)(a) The department is authorized to initiate a
14 certified audits project to further enhance tax compliance
15 reviews performed by qualified practitioners and to encourage
16 taxpayers to hire qualified practitioners at their own expense
17 to review and report on their tax compliance. The nature of
18 certified audit work performed by qualified practitioners
19 shall be agreed-upon procedures in which the department is the
20 specified user of the resulting report.

21 (b) The department is authorized to adopt rules
22 necessary to implement a certified audits project.

23 (c) As an incentive for taxpayers to incur the costs
24 of a certified audit, the department shall compromise
25 penalties and abate interest due on any tax liabilities
26 revealed by a certified audit as provided in s. 213.21. This
27 authority to compromise penalties or abate interest shall not
28 apply to any liability for taxes that were collected by the
29 participating taxpayer but that were not remitted to the
30 department.

31

1 (d) The certified audits project is repealed on July
2 1, 1999, or upon completion of the project as determined by
3 the department, whichever occurs first.

4 (3) Any practitioner responsible for planning,
5 directing, or conducting a certified audit or reporting on a
6 participating taxpayer's tax compliance in a certified audit
7 must be a qualified practitioner. For the purposes of this
8 subsection, a practitioner is considered responsible for:

9 1. "Planning" in a certified audit when performing
10 work that involves determining the objectives, scope, and
11 methodology of the certified audit, when establishing criteria
12 to evaluate matters subject to the review as part of the
13 certified audit, when gathering information used in planning
14 the certified audit, or when coordinating the certified audit
15 with the department.

16 2. "Directing" in a certified audit when the work
17 involves supervising the efforts of others who are involved or
18 when reviewing the work to determine whether it is properly
19 accomplished and complete.

20 3. "Conducting" a certified audit when performing
21 tests and procedures or field audit work necessary to
22 accomplish the audit objectives in accordance with applicable
23 standards.

24 4. "Reporting" on a participating taxpayer's tax
25 compliance in a certified audit when determining report
26 contents and substance or reviewing reports for technical
27 content and substance prior to issuance.

28 (4)(a) The qualified practitioner shall notify the
29 department of an engagement to perform a certified audit and
30 shall provide the department with the information the
31 department deems necessary to identify the taxpayer, to

1 confirm that the taxpayer is not already under audit by the
2 department, and to establish the basic nature of the
3 taxpayer's business and the taxpayer's potential exposure to
4 Florida revenue laws. The information provided in the
5 notification shall include the taxpayer's name, federal
6 employer identification or social security number, state tax
7 account number, mailing address, business location, and the
8 specific taxes and period proposed to be covered by the
9 engagement for the certified audit. In addition, the notice
10 shall include the name, address, identification number,
11 contact person, and telephone number of the engaged firm.

12 (b) If the taxpayer has not been issued a written
13 notice of intent to conduct an audit, the taxpayer shall be a
14 participating taxpayer and the department shall so advise the
15 qualified practitioner in writing within 10 days after receipt
16 of the engagement notice. However, the department may exclude
17 a taxpayer from a certified audit or may limit the taxes or
18 periods subject to the certified audit on the basis that the
19 department has previously conducted an audit, that it is in
20 the process of conducting an investigation or other
21 examination of the taxpayer's records, or for just cause
22 determined solely by the department.

23 (c) Notice of the qualification of a taxpayer for a
24 certified audit shall toll the statute of limitations provided
25 in s. 95.091 with respect to the taxpayer for the tax and
26 periods covered by the engagement.

27 (d) Within 30 days of receipt of the notice of
28 qualification from the department, the qualified practitioner
29 shall contact the department and submit a proposed audit plan
30 and procedures for review and agreement by the department.
31 The department may extend the time for submission of the plan

1 and procedures for reasonable cause. The qualified
2 practitioner shall initiate action to advise the department
3 that amendment or modification of the plan and procedures is
4 necessary in the event the qualified practitioner's inspection
5 reveals the taxpayer's circumstances or exposure to the
6 revenue laws is substantially different than as described in
7 the engagement notice.

8 (5) Upon the department's designation of the
9 agreed-upon procedures to be followed by the practitioner in
10 the certified audit, the qualified practitioner shall proceed
11 to perform the engagement and shall timely submit a completed
12 report to the department. The report shall attest to the
13 taxpayer's compliance with the specific laws during the
14 periods specified in the notification. The report shall
15 affirm completion of the agreed-upon procedures and shall
16 provide any required disclosures.

17 (6) The department shall review the report of the
18 certified audit and shall accept it when it is determined to
19 be complete. Once the report is accepted by the department,
20 the department shall issue a notice of proposed assessment
21 reflecting the determination of any additional liability
22 reflected in the report and shall provide the taxpayer with
23 all the normal payment, protest, and appeal rights with
24 respect to the liability. In cases where the report indicates
25 an overpayment has been made, the taxpayer shall submit a
26 properly executed application for refund to the department.
27 Otherwise, the certified audit report is a final and
28 conclusive determination with respect to the tax and period
29 covered. No additional assessment may be made by the
30 department for the specific taxes and period referenced in the
31 report, except upon a showing of fraud or misrepresentation of

1 material facts and except for adjustments made under s. 220.23
2 or s. 198.16. This determination shall not prevent the
3 department from collecting liabilities not covered by the
4 report or from conducting an audit or investigation and making
5 an assessment for additional tax, penalty, or interest for any
6 tax or period not covered by the report.

7 Section 25. Subsections (1) and (2) of section 213.67,
8 Florida Statutes, are amended to read:

9 213.67 Garnishment.--

10 (1) If a person is delinquent in the payment of any
11 taxes, penalties, and interest owed to the department, the
12 executive director or his or her designee may give notice of
13 the amount of such delinquency by registered mail to all
14 persons having in their possession or under their control any
15 credits or personal property, exclusive of wages, belonging to
16 the delinquent taxpayer, or owing any debts to such delinquent
17 taxpayer at the time of receipt by them of such notice.
18 Thereafter, any person who has been notified may not transfer
19 or make any other disposition of such credits, other personal
20 property, or debts, or of any such credits, other personal
21 property, or debts which may come within such person's
22 possession or under his or her control during the time
23 prescribed by the notice, until the executive director or his
24 or her designee consents to a transfer or disposition or until
25 60 days after the receipt of such notice. Any person who has
26 been notified may transfer or make any other disposition of
27 such credits, other personal property, or debts which are in
28 or may come under such person's possession or control and
29 which are in excess of the amount provided for in the notice.
30 ~~If The notice provided for in this section may be renewed when~~
31 the delinquent taxpayer contests the intended levy in circuit

1 court or under chapter 120, the notice required by this
2 subsection shall remain in effect until ~~pending the~~ final
3 resolution of that action. Any financial institution receiving
4 such notice shall maintain a right of setoff for any
5 transaction involving a debit card occurring on or before the
6 date of receipt of such notice.

7 (2) All persons who have been notified must, within 5
8 days after receipt of the notice, advise the executive
9 director or his or her designee of the credits, other personal
10 property, or debts in their possession, under their control,
11 or owing them. In addition, such persons must advise the
12 executive director or his or her designee of any subsequent
13 credits or other personal property belonging to the delinquent
14 taxpayer or debts owing to the delinquent taxpayer which may
15 come within their possession or under their control during the
16 time prescribed by the notice or until the executive director
17 or his or her designee consents to a transfer or disposition,
18 whichever expires earlier. Notification of such subsequent
19 credits, property, or debts must be made within 5 days after
20 the credit, property, or debt is received or comes under such
21 person's control.

22 (3) During the last 30 days of the 60-day period set
23 forth in subsection (1), the executive director or his or her
24 designee may levy upon such credits, other personal property,
25 or debts. The levy must be accomplished by delivery of a
26 notice of levy, upon receipt of which the person possessing
27 the credits, other personal property, or debts shall transfer
28 them to the department or pay to the department the amount
29 owed to the delinquent taxpayer.

30 (4) A notice that is delivered under this section is
31 effective at the time of delivery against all credits, other

1 personal property, or debts of the delinquent taxpayer which
2 are not at the time of such notice subject to an attachment,
3 garnishment, or execution issued through a judicial process.

4 (5) Any person acting in accordance with the terms of
5 the notice or levy issued by the executive director or his or
6 her designee is expressly discharged from any obligation or
7 liability to the delinquent taxpayer with respect to such
8 credits, other personal property, or debts of the delinquent
9 taxpayer affected by compliance with the notice of freeze or
10 levy.

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

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

20 (c) The notice required in paragraph (a) must include
21 a brief statement that sets forth in simple and nontechnical
22 terms:

23 1. The provisions of this section relating to levy and
24 sale of property;

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

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

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

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

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

16 (9) The department shall provide notice to the
17 Comptroller, in electronic or other form specified by the
18 Comptroller, listing the taxpayers for which tax warrants are
19 outstanding. Pursuant to subsection (1), the Comptroller
20 shall, upon notice from the department, withhold all payments
21 to any person or business, as defined in s. 212.02, which
22 provides commodities or services to the state, leases real
23 property to the state, or constructs a public building or
24 public work for the state. The department may levy upon the
25 withheld payments in accordance with subsection (3). The
26 provisions of s. 215.422 do not apply from the date the notice
27 is filed with the Comptroller until the date the department
28 notifies the Comptroller of its consent to make payment to the
29 person or 60 days after receipt of the department's notice in
30 accordance with subsection (1), whichever occurs earlier.

31

1 Section 26. Section 215.26, Florida Statutes, 1996
2 Supplement, is amended to read:

3 215.26 Repayment of funds paid into State Treasury
4 through error.--

5 (1) The Comptroller of the state may refund to the
6 person who paid same, or his or her heirs, personal
7 representatives, or assigns, any moneys paid into the State
8 Treasury which constitute:

9 (a) An overpayment of any tax, license, or account
10 due;

11 (b) A payment where no tax, license, or account is
12 due; and

13 (c) Any payment made into the State Treasury in error;

14
15 and if any such payment has been credited to an appropriation,
16 such appropriation shall at the time of making any such
17 refund, be charged therewith. There are appropriated from the
18 proper respective funds from time to time such sums as may be
19 necessary for such refunds.

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

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

14 (b) In any proceeding involving the validity of any
15 law under which taxes, fees, license fees, permit fees, or
16 surcharges assessed or imposed have been collected and
17 remitted to the Comptroller or the Comptroller's designee,
18 when an order adjudicating the law invalid has been entered by
19 the Supreme Court of Florida and the time limit for any
20 further proceeding to sustain the validity of the law has
21 expired, the provisions of paragraph (a) notwithstanding, only
22 taxes, fees, license fees, permit fees, or surcharges paid
23 under the invalidated law within 1 year prior to the date the
24 action was filed in a circuit court challenging the validity
25 of the law or thereafter shall be refunded and repaid in the
26 manner provided in this section.

27 (3) No refund of moneys referred to in this section
28 shall be made of an amount which is less than \$1, except upon
29 application. Claims for less than \$20 may be sought
30 individually pursuant to this section but shall not be the
31 basis for membership in a class action seeking a refund.

1 (4)(a) This section is the exclusive procedure and
2 remedy for refund claims between individual funds and accounts
3 in the State Treasury.

4 (b) No action to contest the denial of any refund
5 application for a refund of any tax, fee, license fee, permit
6 fee, surcharge, or account due under this section may be
7 brought under the provisions of any section of the Florida
8 Statutes other than s. 72.011 or s. 120.80(14)(b). No such
9 action shall be initiated until an application for refund has
10 been filed pursuant to this section and the refund claim has
11 been denied. This paragraph applies equally to every member
12 of a class of plaintiffs seeking such refund.

13 (5) When a taxpayer has pursued administrative
14 remedies before the Department of Revenue pursuant to s.
15 213.21 and has failed to comply with the time limitations and
16 conditions provided in ss. 72.011 and 120.80(14)(b), a claim
17 of refund under subsection (1) shall be denied by the
18 Comptroller. However, the Comptroller may entertain a claim
19 for refund under this subsection when the taxpayer
20 demonstrates that his or her failure to pursue remedies under
21 chapter 72 was not due to neglect or for the purpose of
22 delaying payment of lawfully imposed taxes and can demonstrate
23 reasonable cause for such failure. When a taxpayer has not
24 contested or has unsuccessfully contested an administrative
25 garnishment under s. 213.67, either in circuit court or under
26 chapter 120, a claim for refund under subsection (1) shall be
27 denied.

28 (6) A taxpayer may contest a denial of refund of tax,
29 fee, license fee, permit fee, surcharge, or account due,
30 including interest, or penalty, solely under ~~paid under a~~
31 ~~section or chapter specified in s. 72.011(1) pursuant to the~~

1 provisions of ~~ss. s-~~72.011 and 120.80(14)(b) and no other
2 provision of Florida Statutes.
3 (7) When a taxpayer files an application for refund
4 claiming as the basis for the refund that the statute
5 providing for the imposition of such tax, fee, license fee,
6 permit fee, or surcharge is unconstitutional or invalid, and
7 the statute has not previously been adjudicated
8 unconstitutional or invalid by a court of competent
9 jurisdiction, the department shall issue its notice of intent
10 to deny such claim within 90 days of the date an application
11 has been filed in accordance with this section.

12 Section 27. (1) Paragraph (n) of subsection (1) and
13 paragraph (c) of subsection (2) of section 220.03, Florida
14 Statutes, 1996 Supplement, are amended to read:

15 220.03 Definitions.--

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

20 (n) "Internal Revenue Code" means the United States
21 Internal Revenue Code of 1986, as amended and in effect on
22 January 1, 1997 ~~1996~~, except as provided in subsection (3).

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

26 (c) Any term used in this code shall have the same
27 meaning as when used in a comparable context in the Internal
28 Revenue Code and other statutes of the United States relating
29 to federal income taxes, as such code and statutes are in
30 effect on January 1, 1997 ~~1996~~. However, if subsection (3) is
31

1 implemented, the meaning of any term shall be taken at the
2 time the term is applied under this code.

3 (2) This section shall take effect upon this act
4 becoming a law and shall operate retroactively to January 1,
5 1997.

6 Section 28. Effective July 1, 1997, section 582.205,
7 Florida Statutes, is created to read:

8 582.205 Exemption from special district fee.--A soil
9 and water conservation district created pursuant to this
10 chapter which in any fiscal year does not receive any funds
11 for its operation from state or local government is exempt
12 from the special district fee imposed by the Department of
13 Community Affairs under s. 189.427 for that fiscal year.

14 Section 29. Except as otherwise provided herein, this
15 act shall take effect upon becoming a law.

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HOUSE SUMMARY

Revises various provisions relating to taxation and administration of revenue laws by the Department of Revenue as follows:

1. Department reorganization: Provides that the reorganization of the structure of the Department of Revenue enacted by ch. 95-272, Laws of Florida, shall remain in effect and not be eliminated on July 1, 1997, as currently scheduled.

2. Ad valorem taxes: Provides that homestead tax deferral shall not be granted if there are delinquent taxes outstanding against the property. Conforms conflicting time requirements relating to an appeal to the value adjustment board of denial of homestead tax deferral.

3. Intangible taxes: Requires banks and financial organizations filing annual intangible tax returns for their customers to file information using machine-sensible media. Includes middle tier stock holding companies in certain valuation provisions. Provides for taxation of certain intangible personal property transferred to a person or entity outside the state and then repurchased to avoid taxation, and provides that a grantor shall be treated as owning property that constitutes trust principal under certain conditions.

4. Gross receipts taxes: Clarifies provisions relating to the separate statement of the tax on bills, and to amounts charged as gross receipts taxes and as sales taxes on telecommunication services.

5. Sales tax: Removes a quarterly report requirement for food and beverage vending machine operators. Authorizes certain counties to use the proceeds of local government infrastructure surtax revenues and interest to retire or service indebtedness incurred for certain bonds and to refund bonds issued after a specified date. Provides that a corporation with an officer, director, or majority shareholder who was previously associated with a corporation that quit business and failed to file a final sales tax return or pay sales tax liability may be denied the right to engage in business for a specified period. Provides for delivery by registered mail of notice to a bank that has in its possession or under its control assets of a sales tax dealer who is delinquent in payment of tax and provides certain right of setoff for financial institutions. Provides requirements relating to sales tax returns filed through electronic data interchange. Allows deduction of certain required software costs from tax proceeds. Authorizes the department to deny, rather than reduce, the dealer's credit if an incomplete return is filed.

6. General administration: Authorizes the department to provide certain information to the Department of Labor and Employment Security. Increases the limit on settlements or compromises which the executive director may delegate authority to approve. Specifies a time period for which the department may settle and compromise tax and interest due when a

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1 taxpayer voluntarily self-discloses a tax liability and
2 authorizes further settlement and compromise under
3 certain circumstances.
4 7. Certified audits project: Authorizes the
5 department to initiate a certified audits project under
6 which taxpayers may hire qualified practitioners to
7 review and report on their tax compliance. Authorizes
8 the department to provide certain information to the
9 Board of Accountancy or to a court with respect to a
10 certified public accountant participating in the project.
11 Authorizes settlement or compromise of penalties and
12 abatement of interest for the taxpayers who participate
13 in the project. Provides for repeal of the project.
14 8. Enforcement and refunds: Revises provisions
15 relating to effectiveness of a garnishment notice and the
16 garnishee's rights and obligations. Limits the amount of
17 tax that may be refunded when the law under which a tax
18 was imposed is held invalid. Provides that claims for
19 less than \$20 shall not be the basis for membership in a
20 class action seeking refund. Requires denial of a refund
21 application before an action to contest denial of a
22 refund may be brought. Requires denial of a refund claim
23 if a taxpayer has not contested or has unsuccessfully
24 contested an administrative garnishment, and provides for
25 issuance of a notice of intent to deny a refund claim
26 based on unconstitutionality or invalidity if the statute
27 imposing the tax has not been so adjudicated.
28 9. Corporate income tax: Updates references to the
29 Internal Revenue Code for corporate income tax purposes.
30 10. Special district fee: Provides that a soil and
31 water conservation district which does not receive funds
from state or local government is exempt from the special
district fee imposed by the Department of Community
Affairs.