

Bill No. CS for SB 60, 1st Eng.

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Horne moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	Delete everything after the enacting clause		
15			
16	and insert:		
17	Section 1. (1) Subsection (7) of section 199.023,		
18	Florida Statutes, is amended to read:		
19	199.023 Definitions.--As used in this chapter:		
20	(7) A resident has a "beneficial interest" in a		
21	foreign trust if the resident has a vested interest, even if		
22	subject to divestment, which includes at least a current right		
23	to income and either a power to revoke the trust or a general		
24	power of appointment, as defined in 26 U.S.C. s. 2041(b)(1).		
25	(2) This section is effective for tax years beginning		
26	after December 31, 2000.		
27	Section 2. (1) Section 199.032, Florida Statutes, is		
28	amended to read:		
29	199.032 Levy of annual tax.--An annual tax of <u>1 mill</u>		
30	1.5 mills is imposed on each dollar of the just valuation of		
31	all intangible personal property that has a taxable situs in		

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1 this state, except for notes and other obligations for the
2 payment of money, other than bonds, which are secured by
3 mortgage, deed of trust, or other lien upon real property
4 situated in the state. This tax shall be assessed and
5 collected as provided in this chapter.

6 (2) This section is effective for tax years beginning
7 after December 31, 2000.

8 Section 3. (1) Subsection (1) of section 199.033,
9 Florida Statutes, is amended to read:

10 199.033 Securities in a Florida's Future Investment
11 Fund; tax rate.--

12 (1) Notwithstanding the provisions of this chapter,
13 the tax imposed under s. 199.032 on securities in a Florida's
14 Future Investment Fund shall apply at the rate of .85 mill
15 ~~1.35 mills~~ when the average daily balance in such funds
16 exceeds \$2 billion and at the rate of .70 mill ~~1.20 mills~~ when
17 the average daily balance in such funds exceeds \$5 billion.

18 (2) This section is effective for tax years beginning
19 after December 31, 2000.

20 Section 4. (1) Subsections (5), (6), (9), and (15) of
21 section 199.052, Florida Statutes, are amended to read:

22 199.052 Annual tax returns; payment of annual tax.--

23 (5) The trustee of a ~~Florida-situs~~ trust is not
24 ~~primarily~~ responsible for returning the trust's intangible
25 personal property and is not required to pay any ~~paying the~~
26 annual tax on it.

27 ~~(a) A trust has a Florida situs when:~~

28 ~~1. All trustees are residents of the state;~~

29 ~~2. There are three or more trustees sharing equally in~~
30 ~~the ownership, management, or control of the trust's~~
31 ~~intangible property, and the majority of the trustees are~~

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1 ~~residents of this state; or~~

2 ~~3. Trustees consist of both residents and nonresidents~~
3 ~~and management or control of the trust is with a resident~~
4 ~~trustee.~~

5 ~~(b) When trustees consist of both residents and~~
6 ~~nonresidents and management or control is with a nonresident~~
7 ~~trustee, the trust does not have Florida situs and no return~~
8 ~~is necessary by any resident trustee.~~

9 ~~(c) A portion of the trust has Florida situs when~~
10 ~~there are two trustees, one a resident of this state and one a~~
11 ~~nonresident, and they share equally in the ownership,~~
12 ~~management, or control of the trust's intangible property. The~~
13 ~~tax on such property shall be based on the value apportioned~~
14 ~~between them.~~

15 ~~(d) If there is more than one trustee in the state,~~
16 ~~only one tax return for the trust must be filed.~~

17 ~~(e) The trust's beneficiaries, however, may~~
18 ~~individually return their equitable shares of the trust's~~
19 ~~intangible personal property and pay the tax on such shares,~~
20 ~~in which case the trustee need not return such property or pay~~
21 ~~such tax, although the department may require the trustee to~~
22 ~~file an informational return.~~

23 (6) Each Florida resident with a beneficial interest,
24 as defined in s. 199.023(7), in a ~~foreign-situs~~ trust, ~~that~~
25 ~~is, a trust with situs outside of this state, is primarily~~
26 responsible for returning the resident's equitable share of
27 the trust's intangible personal property and paying the annual
28 tax on it. The trustee of a ~~foreign~~ trust may return and pay
29 the tax on the equitable shares of all Florida residents
30 having beneficial interests, in which case the residents need
31 not return such property or pay such tax.

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1 (9) Where an agent other than a trustee has control or
2 management of intangible personal property, the principal is
3 primarily responsible for returning such property and paying
4 the annual tax on it, but the agent shall return such property
5 on behalf of the principal and pay the annual tax on it if the
6 principal fails to do so. The department may in any case
7 require the agent to file an informational return.

8 (15) If a bank or savings association, as defined in
9 s. 220.62, acts as a fiduciary or agent of a trust other than
10 as a trustee, the bank or savings association is not
11 responsible for returning the trust's intangible personal
12 property and is not required to pay any annual tax on it, and
13 intangible personal property of the trust shall not have
14 taxable situs in this state pursuant to s. 199.175 solely by
15 virtue of the management or control of the bank or savings
16 association shall not be used as the basis for imposing any
17 annual tax on any person or any assets of the trust. If a
18 person acts as a fiduciary or agent for purposes of managing
19 intangible assets owned by another person, such intangible
20 assets shall not have a taxable situs in this state pursuant
21 to s. 199.175 solely by virtue of the management or control of
22 such assets by the person who is not the owner of the assets.

23 (2) This section is effective for tax years beginning
24 after December 31, 2000.

25 Section 5. (1) Paragraph (a) of subsection (1) of
26 section 199.175, Florida Statutes, is amended to read:

27 199.175 Taxable situs.--For purposes of the annual tax
28 imposed under this chapter:

29 (1) Intangible personal property shall have a taxable
30 situs in this state when it is owned, managed, or controlled
31 by any person domiciled in this state on January 1 of the tax

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1 year. Such intangibles shall be subject to annual taxation
2 under this chapter, unless the person who owns, manages, or
3 controls them is specifically exempt or unless the property is
4 specifically exempt. This provision shall apply regardless of
5 where the evidence of the intangible property is kept; where
6 the intangible is created, approved, or paid; or where
7 business may be conducted from which the intangible arises.
8 The fact that a Florida corporation owns the stock of an
9 out-of-state corporation and manages and controls such
10 corporation from a location in this state shall not operate to
11 give a taxable situs in this state to the intangibles owned by
12 the out-of-state corporation, which intangibles arise out of
13 business transacted outside this state.

14 (a) For the purposes of this chapter, "any person
15 domiciled in this state" means:

16 1. Any natural person who is a legal resident of this
17 state;

18 2. Any bank or financial institution, business,
19 business trust as described in chapter 609, company,
20 corporation, insurance company, partnership, or other
21 artificial entity organized or created under the law of this
22 state, except a trust; or

23 3. Any person, including a business trust, who has
24 established a commercial domicile in this state.

25 (2) This section is effective for tax years beginning
26 after December 31, 2000.

27 Section 6. (1) Subsection (4) is added to section
28 199.183, Florida Statutes, to read:

29 199.183 Taxpayers exempt from annual and nonrecurring
30 taxes.--

31 (4) Intangible personal property that is owned,

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1 managed, or controlled by a trustee of a trust is exempt from
2 annual tax under this chapter. This exemption does not exempt
3 from annual tax a resident of this state who has a taxable
4 beneficial interest, as defined in s. 199.023, in a trust.

5 (2) This section is effective for tax years beginning
6 after December 31, 2000.

7 Section 7. (1) Paragraph (1) of subsection (1) and
8 subsection (2) of section 199.185, Florida Statutes, are
9 amended to read:

10 199.185 Property exempted from annual and nonrecurring
11 taxes.--

12 (1) The following intangible personal property shall
13 be exempt from the annual and nonrecurring taxes imposed by
14 this chapter:

15 (1) ~~All Two-thirds of the accounts receivable arising~~
16 ~~or acquired in the ordinary course of a trade or business~~
17 ~~which are owned, controlled, or managed by a taxpayer on~~
18 ~~January 1, 2000, and thereafter. It is the intent of the~~
19 ~~Legislature that, pursuant to future legislative action, the~~
20 ~~portion of such accounts receivable exempt from taxation be~~
21 ~~increased to all such accounts receivable on January 1, 2001,~~
22 ~~and thereafter.~~ This exemption does not apply to accounts
23 receivable that arise outside the taxpayer's ordinary course
24 of trade or business. For the purposes of this chapter, the
25 term "accounts receivable" means a business debt that is owed
26 by another to the taxpayer or the taxpayer's assignee in the
27 ordinary course of trade or business and is not supported by
28 negotiable instruments. Accounts receivable include, but are
29 not limited to, credit card receivables, charge card
30 receivables, credit receivables, margin receivables, inventory
31 or other floor plan financing, lease payments past due,

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1 conditional sales contracts, retail installment sales
2 agreements, financing lease contracts, and a claim against a
3 debtor usually arising from sales or services rendered and
4 which is not necessarily due or past due. The examples
5 specified in this paragraph shall be deemed not to be
6 supported by negotiable instruments. The term "negotiable
7 instrument" means a written document that is legally capable
8 of being transferred by indorsement or delivery. The term
9 "indorsement" means the act of a payee or holder in writing
10 his or her name on the back of an instrument without further
11 qualifying words other than "pay to the order of" or "pay to"
12 whereby the property is assigned and transferred to another.

13 ~~(2)(a) With respect to the first mill of the annual~~
14 ~~tax,~~ Every natural person is entitled each year to an
15 exemption of the first \$20,000 of the value of property
16 otherwise subject to the annual ~~said~~ tax. A husband and wife
17 filing jointly shall have an exemption of \$40,000.

18 ~~(b) With respect to the last 0.5 mill of the annual~~
19 ~~tax, every natural person is entitled each year to an~~
20 ~~exemption of the first \$100,000 of the value of property~~
21 ~~otherwise subject to said tax. A husband and wife filing~~
22 ~~jointly shall have an exemption of \$200,000.~~

23
24 Agents and fiduciaries, other than guardians and custodians
25 under a gifts-to-minors act, filing as such may not claim this
26 exemption on behalf of their principals or beneficiaries;
27 however, if the principal or beneficiary returns the property
28 held by the agent or fiduciary and is a natural person, the
29 principal or beneficiary may claim the exemption. No taxpayer
30 shall be entitled to more than one exemption under this
31 subsection ~~paragraph (a) and one exemption under paragraph~~

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1 (b). This exemption shall not apply to that intangible
2 personal property described in s. 199.023(1)(d).

3 (2) This section is effective for tax years beginning
4 after December 31, 2000.

5 Section 8. Subsection (3) of section 199.292, Florida
6 Statutes, is amended to read:

7 199.292 Disposition of intangible personal property
8 taxes.--All intangible personal property taxes collected
9 pursuant to this chapter shall be placed in a special fund
10 designated as the "Intangible Tax Trust Fund." The fund shall
11 be disbursed as follows:

12 (3) Of the remaining intangible personal property
13 taxes collected, ~~the balance an amount equal to 35.3 percent~~
14 ~~in state fiscal year 1998-1999 and an amount equal to 37.7~~
15 ~~percent in each year thereafter, shall be transferred to the~~
16 ~~Revenue Sharing Trust Fund for Counties. Of the remaining~~
17 ~~taxes collected, an amount equal to 64.7 percent in state~~
18 ~~fiscal year 1998-1999 and an amount equal to 62.3 percent in~~
19 ~~each year thereafter, shall be transferred to the General~~
20 Revenue Fund of the state.

21 Section 9. Paragraph (f) of subsection (6) of section
22 212.20, Florida Statutes, is amended to read:

23 212.20 Funds collected, disposition; additional powers
24 of department; operational expense; refund of taxes
25 adjudicated unconstitutionally collected.--

26 (6) Distribution of all proceeds under this chapter
27 shall be as follows:

28 (f) The proceeds of all other taxes and fees imposed
29 pursuant to this chapter shall be distributed as follows:

30 1. In any fiscal year, the greater of \$500 million,
31 minus an amount equal to 4.6 percent of the proceeds of the

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1 taxes collected pursuant to chapter 201, or 5 percent of all
2 other taxes and fees imposed pursuant to this chapter shall be
3 deposited in monthly installments into the General Revenue
4 Fund.

5 2. Two-tenths of one percent shall be transferred to
6 the Solid Waste Management Trust Fund.

7 3. After the distribution under subparagraphs 1. and
8 2., 9.653 percent of the amount remitted by a sales tax dealer
9 located within a participating county pursuant to s. 218.61
10 shall be transferred into the Local Government Half-cent Sales
11 Tax Clearing Trust Fund.

12 4. After the distribution under subparagraphs 1., 2.,
13 and 3., 0.065 ~~0.054~~ percent shall be transferred to the Local
14 Government Half-cent Sales Tax Clearing Trust Fund and
15 distributed pursuant to s. 218.65.

16 5. For proceeds received after July 1, 2000, and after
17 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
18 percent of the available proceeds pursuant to this paragraph
19 shall be transferred monthly to the Revenue Sharing Trust Fund
20 for Counties pursuant to s. 218.215.

21 ~~6.5.~~ Of the remaining proceeds:

22 a. Beginning July 1, 1992, \$166,667 shall be
23 distributed monthly by the department to each applicant that
24 has been certified as a "facility for a new professional
25 sports franchise" or a "facility for a retained professional
26 sports franchise" pursuant to s. 288.1162 and \$41,667 shall be
27 distributed monthly by the department to each applicant that
28 has been certified as a "new spring training franchise
29 facility" pursuant to s. 288.1162. Distributions shall begin
30 60 days following such certification and shall continue for 30
31 years. Nothing contained herein shall be construed to allow an

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1 applicant certified pursuant to s. 288.1162 to receive more in
2 distributions than actually expended by the applicant for the
3 public purposes provided for in s. 288.1162(7). However, a
4 certified applicant shall receive distributions up to the
5 maximum amount allowable and undistributed under this section
6 for additional renovations and improvements to the facility
7 for the franchise without additional certification.

8 b. Beginning 30 days after notice by the Office of
9 Tourism, Trade, and Economic Development to the Department of
10 Revenue that an applicant has been certified as the
11 professional golf hall of fame pursuant to s. 288.1168 and is
12 open to the public, \$166,667 shall be distributed monthly, for
13 up to 300 months, to the applicant.

14 c. Beginning 30 days after notice by the Department of
15 Commerce to the Department of Revenue that the applicant has
16 been certified as the International Game Fish Association
17 World Center facility pursuant to s. 288.1169, and the
18 facility is open to the public, \$83,333 shall be distributed
19 monthly, for up to 180 months, to the applicant. This
20 distribution is subject to reduction pursuant to s. 288.1169.

21 ~~7.6.~~ All other proceeds shall remain with the General
22 Revenue Fund.

23 Section 10. Section 218.23, Florida Statutes, is
24 amended to read:

25 218.23 Revenue sharing with units of local
26 government.--

27 (1) To be eligible to participate in revenue sharing
28 beyond the minimum entitlement in any fiscal year, a unit of
29 local government is required to have:

30 (a) Reported its finances for its most recently
31 completed fiscal year to the Department of Banking and

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1 Finance, pursuant to s. 218.32.

2 (b) Made provisions for annual postaudits of its
3 financial accounts in accordance with provisions of law.

4 (c) Levied, as shown on its most recent financial
5 report pursuant to s. 218.32, ad valorem taxes, exclusive of
6 taxes levied for debt service or other special millages
7 authorized by the voters, to produce the revenue equivalent to
8 a millage rate of 3 mills on the dollar based on the 1973
9 taxable values as certified by the property appraiser pursuant
10 to s. 193.122(2) or, in order to produce revenue equivalent to
11 that which would otherwise be produced by such 3-mill ad
12 valorem tax, to have received a remittance from the county
13 pursuant to s. 125.01(6)(a), collected an occupational license
14 tax or a utility tax, levied an ad valorem tax, or received
15 revenue from any combination of these four sources. If a new
16 municipality is incorporated, the provisions of this paragraph
17 shall apply to the taxable values for the year of
18 incorporation as certified by the property appraiser. This
19 paragraph requires only a minimum amount of revenue to be
20 raised from the ad valorem tax, the occupational license tax,
21 and the utility tax. It does not require a minimum millage
22 rate.

23 (d) Certified that persons in its employ as law
24 enforcement officers, as defined in s. 943.10(1), meet the
25 qualifications for employment as established by the Criminal
26 Justice Standards and Training Commission; that its salary
27 structure and salary plans meet the provisions of chapter 943;
28 and that no law enforcement officer is compensated for his or
29 her services at an annual salary rate of less than \$6,000.
30 However, the department may waive the minimum law enforcement
31 officer salary requirement if a city or county certifies that

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1 it is levying ad valorem taxes at 10 mills.

2 (e) Certified that persons in its employ as
3 firefighters, as defined in s. 633.30(1), meet the
4 qualification for employment as established by the Division of
5 State Fire Marshal pursuant to the provisions of ss. 633.34
6 and 633.35 and that the provisions of s. 633.382 have been
7 met.

8 (f) Certified that each dependent special district
9 that is budgeted separately from the general budget of the
10 local governing authority has met the provisions for annual
11 postaudit of its financial accounts in accordance with the
12 provisions of law.

13
14 Additionally, to receive its share of revenue sharing funds, a
15 unit of local government shall certify to the Department of
16 Revenue that the requirements of s. 200.065, if applicable,
17 were met. The certification shall be made annually within 30
18 days of adoption of an ordinance or resolution establishing a
19 final property tax levy or, if no property tax is levied, not
20 later than November 1. The portion of revenue sharing funds
21 which, pursuant to this part, would otherwise be distributed
22 to a unit of local government which has not certified
23 compliance or has otherwise failed to meet the requirements of
24 s. 200.065 shall be deposited in the General Revenue Fund for
25 the 12 months following a determination of noncompliance by
26 the department.

27 (2) Any unit of local government which is consolidated
28 as provided by s. 9, Art. VIII of the State Constitution of
29 1885, as preserved by s. 6(e), Art. VIII of the 1968 revised
30 constitution, shall receive an annual distribution from the
31 Revenue Sharing Trust Fund for Counties equal to \$6.24 times

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1 its population.

2 ~~(3)(2)~~ The distribution to a unit of local government
3 under this part is determined by the following formula:

4 (a) First, the entitlement of an eligible unit of
5 local government shall be computed on the basis of the
6 apportionment factor provided in s. 218.245, which shall be
7 applied for all eligible units of local government to all
8 receipts available for distribution in the respective revenue
9 sharing trust fund.

10 (b) Second, revenue shared with eligible units of
11 local government for any fiscal year shall be adjusted so that
12 no eligible unit of local government receives less funds than
13 its guaranteed entitlement.

14 (c) Third, revenues shared with counties for any
15 fiscal year shall be adjusted so that no county receives less
16 funds than its guaranteed entitlement plus the second
17 guaranteed entitlement for counties.

18 (d) Fourth, revenue shared with units of local
19 government for any fiscal year shall be adjusted so that no
20 unit of local government receives less funds than its minimum
21 entitlement.

22 (e) Fifth, after the adjustments provided in
23 paragraphs (b), (c), and (d), and after deducting the amount
24 committed to all the units of local government, the funds
25 remaining in the respective trust funds shall be distributed
26 to those eligible units of local government which qualify to
27 receive additional moneys beyond the guaranteed entitlement,
28 on the basis of the additional money of each qualified unit of
29 local government in proportion to the total additional money
30 of all qualified units of local government.

31 ~~(4)(3)~~ Notwithstanding the provisions of paragraph

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1 (1)(c), no unit of local government which was eligible to
2 participate in revenue sharing in the 3 years prior to
3 initially participating in the local government half-cent
4 sales tax shall be ineligible to participate in revenue
5 sharing solely due to a millage or utility tax reduction
6 afforded by the local government half-cent sales tax.

7 Section 11. Subsection (3) is added to section 218.25,
8 Florida Statutes, to read:

9 218.25 Limitation of shared funds; holders of bonds
10 protected; limitation on use of second guaranteed entitlement
11 for counties.--

12 (3) As an additional assurance to holders of bonds
13 issued before April 18, 2000, which are secured by the
14 guaranteed entitlement or second guaranteed entitlement for
15 counties, or bonds issued to refund such bonds which mature no
16 later than the bonds that they refunded and which result in a
17 reduction of debt service payable in each fiscal year, it is
18 the intent of the Legislature that, to the extent the
19 elimination of tax sources dedicated to funding the guaranteed
20 entitlement or the second guaranteed entitlement for counties
21 or a reduction in the rate of assessment of such taxes results
22 in an inability of a county to pay debt service on such bonds,
23 the Legislature will provide alternative funding sources in an
24 amount sufficient to pay any deficit in the amount required
25 for such debt service. This commitment of the Legislature is
26 contingent on the county first using any funds available under
27 this part for the payment of such debt service.

28 Section 12. Subsection (6) of section 288.1169,
29 Florida Statutes, is amended to read:

30 288.1169 International Game Fish Association World
31 Center facility; department duties.--

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1 (6) The Department of Commerce must recertify every 10
2 years that the facility is open, that the International Game
3 Fish Association World Center continues to be the only
4 international administrative headquarters, fishing museum, and
5 Hall of Fame in the United States recognized by the
6 International Game Fish Association, and that the project is
7 meeting the minimum projections for attendance or sales tax
8 revenues as required at the time of original certification.
9 If the facility is not recertified during this 10-year review
10 as meeting the minimum projections, then funding will be
11 abated until certification criteria are met. If the project
12 fails to generate \$1 million of annual revenues pursuant to
13 paragraph (2)(e), the distribution of revenues pursuant to s.
14 212.20(6)(f)~~6.5~~-c. shall be reduced to an amount equal to
15 \$83,333 multiplied by a fraction, the numerator of which is
16 the actual revenues generated and the denominator of which is
17 \$1 million. Such reduction shall remain in effect until
18 revenues generated by the project in a 12-month period equal
19 or exceed \$1 million.

20 Section 13. Section 218.251, Florida Statutes, is
21 repealed.

22 Section 14. This act shall take effect July 1, 2000.

23
24

25 ===== T I T L E A M E N D M E N T =====

26 And the title is amended as follows:delete the entire title

27

28 and insert:

29

A bill to be entitled

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An act relating to taxation; amending s.

31

199.023, F.S.; revising the definition of a

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1 "beneficial interest" in a trust for intangible
2 personal property tax purposes; amending s.
3 199.032, F.S.; reducing the rate of the annual
4 intangible personal property tax; amending s.
5 199.033, F.S.; reducing the rates of the tax on
6 securities in a Florida's Future Investment
7 Fund to conform; amending s. 199.052, F.S.;
8 providing that a trustee is not responsible for
9 returns and is not required to pay annual tax
10 on trust property; providing that a Florida
11 resident with a beneficial interest in a trust
12 is responsible for returns and payment of tax
13 for his or her equitable share; revising
14 provisions relating to the responsibilities of
15 a bank or savings association acting as agent
16 of a trust other than as a trustee and
17 providing that its management or control shall
18 not be used as a basis for imposing the annual
19 tax; providing that intangible assets managed
20 by a fiduciary or agent shall not have taxable
21 situs in this state solely by virtue of such
22 management; amending s. 199.175, F.S.; revising
23 the definition of "any person domiciled in this
24 state"; amending s. 199.183, F.S.; providing
25 that intangible personal property owned,
26 managed, or controlled by a trustee of a trust
27 is exempt from the annual tax; amending s.
28 199.185, F.S.; providing that all accounts
29 receivable are exempt from intangible personal
30 property taxes; revising the exemption from the
31 annual tax granted to natural persons; amending

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1 s. 199.292, F.S.; eliminating distribution of a
2 portion of intangible personal property tax
3 revenues to the Revenue Sharing Trust Fund for
4 Counties; amending s. 212.20, F.S.; increasing
5 the distribution of sales and use tax proceeds
6 to the Local Government Half-cent Sales Tax
7 Clearing Trust Fund; providing for distribution
8 of a portion of sales and use tax proceeds to
9 the Revenue Sharing Trust Fund for Counties;
10 amending s. 218.23, F.S.; providing for an
11 annual distribution from the trust fund to
12 certain consolidated units of local government;
13 amending s. 218.25, F.S.; providing additional
14 assurance to holders of bonds secured by shared
15 funds; amending s. 288.1169, F.S.; correcting a
16 reference; repealing s. 218.251, F.S.; which
17 provides for an additional distribution to
18 certain consolidated governments, subject to
19 annual appropriations; providing an effective
20 date.

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