

1 A bill to be entitled
2 An act relating to tax administration; amending
3 s. 45.031, F.S.; providing for notice of
4 disbursement of the proceeds of a judicial sale
5 to the Department of Revenue under certain
6 conditions when it was performing unemployment
7 compensation tax collection services pursuant
8 to a contract with the Agency for Workforce
9 Innovation; amending s. 69.041, F.S.;
10 authorizing the department to participate in
11 the distribution of surplus funds remaining
12 after such disbursement when it has an interest
13 in an unemployment compensation tax lien
14 pursuant to such a contract; amending s.
15 212.08, F.S.; reducing the maximum amount of
16 the tax which is imposed upon industrial
17 machinery and equipment; amending s. 213.053,
18 F.S.; providing application of confidentiality
19 and information sharing provisions to ch. 443,
20 F.S., while the department is performing such
21 tax collection services; amending s. 11, ch.
22 2000-165, Laws of Florida; specifying that the
23 department is administering a revenue law when
24 it provides such tax collection services and
25 specifying the provisions of ch. 213, F.S.,
26 that apply thereto; amending s. 201.02, F.S.;
27 providing that the documentary stamp tax on
28 deeds and other instruments relating to real
29 property or interests in real property does not
30 apply to a contract to sell the residence of an
31 employee relocating at an employer's direction,

1 or related documents, under specified
2 circumstances; providing intent; exempting
3 deeds and other instruments whereby property is
4 conveyed from an electric utility to a regional
5 transmission organization from said tax under
6 certain circumstances; amending s. 212.02,
7 F.S.; excluding from the definition of "lease,"
8 "let," "rental," or "license" payments made by
9 such an organization to an electric utility
10 under certain conditions; amending s. 212.031,
11 F.S.; exempting property occupied or used by
12 certain regional transmission organizations
13 from the tax on the lease or rental of or
14 license in real property; amending s. 212.06,
15 F.S.; revising the definition of "fixtures" for
16 purposes of determining if a person is
17 improving real property under ch. 212, F.S.;
18 providing intent; amending s. 212.08, F.S.;
19 specifying conditions for receipt of sales tax
20 exemptions provided to an entity under ch. 212,
21 F.S., and subsection (7) of said section;
22 providing for retroactive application; deleting
23 obsolete provisions relating to registration
24 with the WAGES Program Business Registry;
25 providing for retroactive application;
26 reinstating retroactively the sales tax
27 exemption for parent-teacher organizations and
28 parent-teacher associations; eliminating the
29 specific sales tax exemption for organizations
30 providing crime prevention, drunk driving
31 prevention, and juvenile delinquency prevention

1 services; providing for determination of a
 2 mileage apportionment factor for the first year
 3 of operation in this state of vessels,
 4 railroads, or motor vehicles engaged in
 5 interstate or foreign commerce and entitled to
 6 a partial sales tax exemption; correcting
 7 references; requiring a purchaser to file an
 8 affidavit stating the exempt nature of a
 9 purchase with the vendor instead of the
 10 department for purposes of the sales tax
 11 exemption for machinery and equipment used to
 12 produce electrical or steam energy; providing
 13 for retroactive application; revising the
 14 application of the sales tax exemption for the
 15 sale of drinking water in bottles or other
 16 containers; replacing the definitions of
 17 "section 38 property" with express definitions
 18 of "industrial machinery and equipment" and
 19 "motion picture or video equipment" and "sound
 20 recording equipment" for purposes of the sales
 21 tax exemptions therefor; providing intent and
 22 purpose; providing that provisions authorizing
 23 a partial sales tax exemption for a motor
 24 vehicle sold to a resident of another state do
 25 not require payment of tax to this state for
 26 prior assessments under certain conditions;
 27 providing for retroactive application;
 28 providing that a vehicle purchased by a
 29 nonresident corporation or partnership is not
 30 eligible for the partial sales tax exemption
 31 under certain circumstances; repealing s.

1 212.084(6), F.S.; eliminating provisions for
 2 temporary sales tax exemption certificates for
 3 newly organized charitable organizations;
 4 repealing s. 4, ch. 96-395, Laws of Florida,
 5 which provides for the repeal of sales tax
 6 exemptions for certain citizen support
 7 organizations and the Florida Folk Festival;
 8 providing for retroactive application; amending
 9 s. 213.285, F.S.; delaying the future repeal of
 10 the certified audits project; amending ss.
 11 213.053 and 213.21, F.S., to conform; amending
 12 s. 213.30, F.S., relating to compensation for
 13 information relating to a violation of tax
 14 laws; specifying that said section is the only
 15 available means of obtaining compensation for
 16 information regarding another person's failure
 17 to comply with the state's tax laws; providing
 18 applicability; repealing s. 213.27(9), F.S.,
 19 which authorizes the department to contract
 20 with certain vendors to develop and implement a
 21 voluntary system for sales and use tax
 22 collection and administration; creating s.
 23 213.256, F.S., the Simplified Sales and Use Tax
 24 Administration Act; defining terms; authorizing
 25 the department's participation in the
 26 Streamlined Sales and Use Tax Agreement;
 27 providing that the agreement must require each
 28 state to abide by certain requirements in order
 29 for the department to enter into the agreement;
 30 authorizing the state to enter into multistate
 31 discussions and providing for appointment of

1 delegates; specifying relationship of the
 2 agreement to state law; specifying the effect
 3 of the agreement with respect to persons other
 4 than member states; providing that government
 5 actions or state laws cannot be challenged on
 6 the basis of inconsistency with the agreement;
 7 providing liabilities and responsibilities of
 8 sellers, certified service providers, and
 9 providers of certified automated systems;
 10 providing for maintenance of confidentiality of
 11 certain information; providing a penalty;
 12 requiring the department to make annual
 13 recommendations to the Legislature regarding
 14 compliance with the agreement; reviving and
 15 readopting s. 215.20(3), F.S., which provides
 16 for deduction of a service charge from certain
 17 trust funds; amending s. 220.22, F.S.;
 18 eliminating the initial year's corporate tax
 19 information return for subchapter S
 20 subsidiaries and directing the department to
 21 designate by rule entities that are not
 22 required to file a corporate tax return;
 23 amending s. 443.131, F.S.; reducing the
 24 Unemployment Compensation Trust Fund balance
 25 thresholds used in computing unemployment
 26 compensation contribution rate adjustment
 27 factors; creating s. 443.1315, F.S.; providing
 28 definitions; providing for treatment of Indian
 29 tribes under the Unemployment Compensation Law;
 30 providing that Indian tribes or tribal units
 31 may elect to make payments in lieu of

1 contributions and providing requirements with
2 respect thereto; providing that such Indian
3 tribe or tribal unit may be required to file a
4 bond or deposit security at the discretion of
5 the director of the Agency for Workforce
6 Innovation; providing effect of failure of such
7 tribe or unit to make required payments;
8 providing requirements for notices; providing
9 responsibility for certain extended benefits;
10 providing for rules; providing for retroactive
11 application; repealing s. 624.509(10), F.S.,
12 which provides an exemption from the insurance
13 premium tax for insurers who write monoline
14 flood insurance policies not subsidized by the
15 Federal Government; providing effective dates.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (7) of section 45.031, Florida
20 Statutes, is amended to read:

21 45.031 Judicial sales procedure.--In any sale of real
22 or personal property under an order or judgment, the following
23 procedure may be followed as an alternative to any other sale
24 procedure if so ordered by the court:

25 (7) DISBURSEMENTS OF PROCEEDS.--On filing a
26 certificate of title the clerk shall disburse the proceeds of
27 the sale in accordance with the order or final judgment, and
28 shall file a report of such disbursements and serve a copy of
29 it on each party not in default, and on the Department of
30 Revenue, if it was named as a defendant in the action or if
31 the Agency for Workforce Innovation or the Department of Labor

1 and Employment Security was named as a defendant while the
2 Department of Revenue was performing unemployment compensation
3 tax collection services pursuant to a contract with the Agency
4 for Workforce Innovation, in substantially the following form:

5
6 (Caption of Action)

7
8 CERTIFICATE OF DISBURSEMENTS

9
10 The undersigned clerk of the court certifies that he or
11 she disbursed the proceeds received from the sale of the
12 property as provided in the order or final judgment to the
13 persons and in the amounts as follows:

14	Name	Amount
15		
16		Total
17		

18 WITNESS my hand and the seal of the court on,
19 ...(year)....

20 ...(Clerk)...

21 By ...(Deputy Clerk)...

22
23 If no objections to the report are served within 10 days after
24 it is filed, the disbursements by the clerk shall stand
25 approved as reported. If timely objections to the report are
26 served, they shall be heard by the court. Service of
27 objections to the report does not affect or cloud the title of
28 the purchaser of the property in any manner.

29 Section 2. Paragraph (a) of subsection (4) of section
30 69.041, Florida Statutes, is amended to read:

1 69.041 State named party; lien foreclosure, suit to
2 quiet title.--

3 (4)(a) The Department of Revenue has the right to
4 participate in the disbursement of funds remaining in the
5 registry of the court after distribution pursuant to s.
6 45.031(7). The department shall participate in accordance with
7 applicable procedures in any mortgage foreclosure action in
8 which the department has a duly filed tax warrant, or
9 interests under a lien arising from a judgment, order, or
10 decree for child support, or interest in an unemployment
11 compensation tax lien pursuant to a contract with the Agency
12 for Workforce Innovation, against the subject property and
13 with the same priority, regardless of whether a default
14 against the department, the Agency for Workforce Innovation,
15 or the Department of Labor and Employment Security has been
16 entered for failure to file an answer or other responsive
17 pleading.

18 Section 3. Subsection (1) of section 213.053, Florida
19 Statutes, is amended to read:

20 213.053 Confidentiality and information sharing.--

21 (1) The provisions of this section apply to s.
22 125.0104, county government; s. 125.0108, tourist impact tax;
23 chapter 175, municipal firefighters' pension trust funds;
24 chapter 185, municipal police officers' retirement trust
25 funds; chapter 198, estate taxes; chapter 199, intangible
26 personal property taxes; chapter 201, excise tax on documents;
27 chapter 203, gross receipts taxes; chapter 211, tax on
28 severance and production of minerals; chapter 212, tax on
29 sales, use, and other transactions; chapter 220, income tax
30 code; chapter 221, emergency excise tax; s. 252.372, emergency
31 management, preparedness, and assistance surcharge; s.

1 370.07(3), Apalachicola Bay oyster surcharge; chapter 376,
2 pollutant spill prevention and control; s. 403.718, waste tire
3 fees; s. 403.7185, lead-acid battery fees; s. 538.09,
4 registration of secondhand dealers; s. 538.25, registration of
5 secondary metals recyclers; ss. 624.501 and 624.509-624.515,
6 insurance code; s. 681.117, motor vehicle warranty
7 enforcement; and s. 896.102, reports of financial transactions
8 in trade or business. The provisions of this section, except
9 paragraph (7)(f), also apply to chapter 443 while the
10 department is performing tax collection services for the
11 Agency for Workforce Innovation pursuant to chapter 2000-165,
12 Laws of Florida; however, the exceptions to confidentiality
13 contained in ss. 443.171(7) and 443.1715 remain in full force
14 and effect.

15 Section 4. Paragraph (f) of subsection (4) of section
16 11 of chapter 2000-165, Laws of Florida, is amended to read:

17 Section 11.

18 (4) Effective October 1, 2000, the following programs
19 and functions are transferred to the Agency for Workforce
20 Innovation:

21 (f) The Division of Unemployment Compensation is
22 transferred by a type two transfer, as defined in section
23 20.06(2), Florida Statutes, from the Department of Labor and
24 Employment Security to the Agency for Workforce Innovation.
25 The resources, data, records, property, and unexpended
26 balances of appropriations, allocations, and other funds
27 within the Office of the Secretary or any other division,
28 office, bureau, or unit within the Department of Labor and
29 Employment Security that support the Division of Unemployment
30 Compensation are transferred by a type two transfer, as
31 defined in section 20.06(2), Florida Statutes, from the

1 Department of Labor and Employment Security. By January 1,
 2 2001, the Agency for Workforce Innovation shall enter into a
 3 contract with the Department of Revenue which shall provide
 4 for the Department of Revenue to provide unemployment tax
 5 collection services. The Department of Revenue, in
 6 consultation with the Department of Labor and Employment
 7 Security, shall determine the number of positions needed to
 8 provide unemployment tax collection services within the
 9 Department of Revenue. The number of unemployment tax
 10 collection service positions the Department of Revenue
 11 determines are needed shall not exceed the number of positions
 12 that, prior to the contract, were authorized to the Department
 13 of Labor and Employment Security for this purpose. Upon
 14 entering into the contract with the Agency for Workforce
 15 Innovation to provide unemployment tax collection services,
 16 the number of required positions, as determined by the
 17 Department of Revenue, shall be authorized within the
 18 Department of Revenue. Beginning January 1, 2002, the Office
 19 of Program Policy Analysis and Government Accountability shall
 20 conduct a feasibility study regarding privatization of
 21 unemployment tax collection services. A report on the
 22 conclusions of this study shall be submitted to the Governor,
 23 the President of the Senate, and the Speaker of the House of
 24 Representatives. The Department of Revenue is considered to be
 25 administering a revenue law of this state when it provides
 26 unemployment compensation tax collection services pursuant to
 27 its contract with the Agency for Workforce Innovation. The
 28 following provisions of chapter 213, Florida Statutes, apply
 29 to the collection of unemployment contributions by the
 30 Department of Revenue unless prohibited by federal law: ss.
 31 213.018, 213.025, 213.051, 213.053, 213.055, 213.071, 213.10,

1 213.21(2), (3), (4), (5), (6), (7), and (8), 213.2201, 213.23,
2 213.24, 213.25, 213.26, 213.27, 213.28, 213.285, 213.30,
3 213.34, 213.37, 213.50, 213.67, 213.69, 213.73, 213.731,
4 213.732, 213.733, 213.74, 213.755, and 213.757.

5 Section 5. Subsections (8) and (9) are added to
6 section 201.02, Florida Statutes, to read:

7 201.02 Tax on deeds and other instruments relating to
8 real property or interests in real property.--

9 (8) Taxes imposed by this section do not apply to a
10 contract to sell the residence of an employee relocating at
11 his or her employer's direction or documents related to the
12 contract, which contract is between the employee and the
13 employer or between the employee and a person in the business
14 of providing employee relocation services. Taxes on such
15 transactions apply only to the transfer of the real property
16 comprising the residence by deed that names the grantee.

17 (9) Taxes imposed by this section shall not apply to
18 deeds, instruments, or writings whereby any lands, tenements,
19 or other real property, or any interest therein, is granted,
20 assigned, transferred, or otherwise conveyed from an electric
21 utility to a regional transmission organization under the
22 jurisdiction of the Federal Energy Regulatory Commission.

23 Section 6. It is the intent of the Legislature that s.
24 201.02(8), Florida Statutes, as created by this act, confirms
25 and clarifies existing law.

26 Section 7. Paragraph (g) of subsection (10) of section
27 212.02, Florida Statutes, is amended to read:

28 212.02 Definitions.--The following terms and phrases
29 when used in this chapter have the meanings ascribed to them
30 in this section, except where the context clearly indicates a
31 different meaning:

1 (10) "Lease," "let," or "rental" means leasing or
2 renting of living quarters or sleeping or housekeeping
3 accommodations in hotels, apartment houses, roominghouses,
4 tourist or trailer camps and real property, the same being
5 defined as follows:

6 (g) "Lease," "let," or "rental" also means the leasing
7 or rental of tangible personal property and the possession or
8 use thereof by the lessee or rentee for a consideration,
9 without transfer of the title of such property, except as
10 expressly provided to the contrary herein. The term "lease,"
11 "let," or "rental" does not mean hourly, daily, or mileage
12 charges, to the extent that such charges are subject to the
13 jurisdiction of the Surface Transportation Board ~~United States~~
14 ~~Interstate Commerce Commission~~, when such charges are paid by
15 reason of the presence of railroad cars owned by another on
16 the tracks of the taxpayer, or charges made pursuant to car
17 service agreements. "Lease," "let," "rental," or "license"
18 does not include payments by a regional transmission
19 organization operating under the jurisdiction of the Federal
20 Energy Regulatory Commission made to an electric utility in
21 connection with the regional transmission organization's use
22 or control of the utility's high-voltage bulk transmission
23 facilities. However, where two taxpayers, in connection with
24 the interchange of facilities, rent or lease property, each to
25 the other, for use in providing or furnishing any of the
26 services mentioned in s. 166.231, the term "lease or rental"
27 means only the net amount of rental involved.

28 Section 8. Paragraph (b) of subsection (5) of section
29 212.08, Florida Statutes, is amended to read:

30 212.08 Sales, rental, use, consumption, distribution,
31 and storage tax; specified exemptions.--The sale at retail,

1 the rental, the use, the consumption, the distribution, and
2 the storage to be used or consumed in this state of the
3 following are hereby specifically exempt from the tax imposed
4 by this chapter.

5 (5) EXEMPTIONS; ACCOUNT OF USE.--

6 (b) Machinery and equipment used to increase
7 productive output.--

8 1. Industrial machinery and equipment purchased for
9 exclusive use by a new business in spaceport activities as
10 defined by s. 212.02 or for use in new businesses which
11 manufacture, process, compound, or produce for sale items of
12 tangible personal property at fixed locations are exempt from
13 the tax imposed by this chapter upon an affirmative showing by
14 the taxpayer to the satisfaction of the department that such
15 items are used in a new business in this state. Such purchases
16 must be made prior to the date the business first begins its
17 productive operations, and delivery of the purchased item must
18 be made within 12 months of that date.

19 2.a. Industrial machinery and equipment purchased for
20 exclusive use by an expanding facility which is engaged in
21 spaceport activities as defined by s. 212.02 or for use in
22 expanding manufacturing facilities or plant units which
23 manufacture, process, compound, or produce for sale items of
24 tangible personal property at fixed locations in this state
25 are exempt from any amount of tax imposed by this chapter in
26 excess of \$40,000~~\$50,000~~ per calendar year upon an
27 affirmative showing by the taxpayer to the satisfaction of the
28 department that such items are used to increase the productive
29 output of such expanded facility or business by not less than
30 10 percent.

31

1 b. Notwithstanding any other provision of this
2 section, industrial machinery and equipment purchased for use
3 in expanding printing manufacturing facilities or plant units
4 that manufacture, process, compound, or produce for sale items
5 of tangible personal property at fixed locations in this state
6 are exempt from any amount of tax imposed by this chapter upon
7 an affirmative showing by the taxpayer to the satisfaction of
8 the department that such items are used to increase the
9 productive output of such an expanded business by not less
10 than 10 percent.

11 3.a. To receive an exemption provided by subparagraph
12 1. or subparagraph 2., a qualifying business entity shall
13 apply to the department for a temporary tax exemption permit.
14 The application shall state that a new business exemption or
15 expanded business exemption is being sought. Upon a tentative
16 affirmative determination by the department pursuant to
17 subparagraph 1. or subparagraph 2., the department shall issue
18 such permit.

19 b. The applicant shall be required to maintain all
20 necessary books and records to support the exemption. Upon
21 completion of purchases of qualified machinery and equipment
22 pursuant to subparagraph 1. or subparagraph 2., the temporary
23 tax permit shall be delivered to the department or returned to
24 the department by certified or registered mail.

25 c. If, in a subsequent audit conducted by the
26 department, it is determined that the machinery and equipment
27 purchased as exempt under subparagraph 1. or subparagraph 2.
28 did not meet the criteria mandated by this paragraph or if
29 commencement of production did not occur, the amount of taxes
30 exempted at the time of purchase shall immediately be due and
31 payable to the department by the business entity, together

1 with the appropriate interest and penalty, computed from the
2 date of purchase, in the manner prescribed by this chapter.

3 d. In the event a qualifying business entity fails to
4 apply for a temporary exemption permit or if the tentative
5 determination by the department required to obtain a temporary
6 exemption permit is negative, a qualifying business entity
7 shall receive the exemption provided in subparagraph 1. or
8 subparagraph 2. through a refund of previously paid taxes. No
9 refund may be made for such taxes unless the criteria mandated
10 by subparagraph 1. or subparagraph 2. have been met and
11 commencement of production has occurred.

12 4. The department shall promulgate rules governing
13 applications for, issuance of, and the form of temporary tax
14 exemption permits; provisions for recapture of taxes; and the
15 manner and form of refund applications and may establish
16 guidelines as to the requisites for an affirmative showing of
17 increased productive output, commencement of production, and
18 qualification for exemption.

19 5. The exemptions provided in subparagraphs 1. and 2.
20 do not apply to machinery or equipment purchased or used by
21 electric utility companies, communications companies, oil or
22 gas exploration or production operations, publishing firms
23 that do not export at least 50 percent of their finished
24 product out of the state, any firm subject to regulation by
25 the Division of Hotels and Restaurants of the Department of
26 Business and Professional Regulation, or any firm which does
27 not manufacture, process, compound, or produce for sale items
28 of tangible personal property or which does not use such
29 machinery and equipment in spaceport activities as required by
30 this paragraph. The exemptions provided in subparagraphs 1.
31 and 2. shall apply to machinery and equipment purchased for

1 use in phosphate or other solid minerals severance, mining, or
2 processing operations only by way of a prospective credit
3 against taxes due under chapter 211 for taxes paid under this
4 chapter on such machinery and equipment.

5 6. For the purposes of the exemptions provided in
6 subparagraphs 1. and 2., these terms have the following
7 meanings:

8 a. "Industrial machinery and equipment" means "section
9 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
10 Internal Revenue Code, provided "industrial machinery and
11 equipment" shall be construed by regulations adopted by the
12 Department of Revenue to mean tangible property used as an
13 integral part of spaceport activities or of the manufacturing,
14 processing, compounding, or producing for sale of items of
15 tangible personal property. Such term includes parts and
16 accessories only to the extent that the exemption thereof is
17 consistent with the provisions of this paragraph.

18 b. "Productive output" means the number of units
19 actually produced by a single plant or operation in a single
20 continuous 12-month period, irrespective of sales. Increases
21 in productive output shall be measured by the output for 12
22 continuous months immediately following the completion of
23 installation of such machinery or equipment over the output
24 for the 12 continuous months immediately preceding such
25 installation. However, if a different 12-month continuous
26 period of time would more accurately reflect the increase in
27 productive output of machinery and equipment purchased to
28 facilitate an expansion, the increase in productive output may
29 be measured during that 12-month continuous period of time if
30 such time period is mutually agreed upon by the Department of
31 Revenue and the expanding business prior to the commencement

1 of production; provided, however, in no case may such time
2 period begin later than 2 years following the completion of
3 installation of the new machinery and equipment. The units
4 used to measure productive output shall be physically
5 comparable between the two periods, irrespective of sales.

6 Section 9. Paragraph (a) of subsection (1) of section
7 212.031, Florida Statutes, is amended to read:

8 212.031 Lease or rental of or license in real
9 property.--

10 (1)(a) It is declared to be the legislative intent
11 that every person is exercising a taxable privilege who
12 engages in the business of renting, leasing, letting, or
13 granting a license for the use of any real property unless
14 such property is:

15 1. Assessed as agricultural property under s. 193.461.

16 2. Used exclusively as dwelling units.

17 3. Property subject to tax on parking, docking, or
18 storage spaces under s. 212.03(6).

19 4. Recreational property or the common elements of a
20 condominium when subject to a lease between the developer or
21 owner thereof and the condominium association in its own right
22 or as agent for the owners of individual condominium units or
23 the owners of individual condominium units. However, only the
24 lease payments on such property shall be exempt from the tax
25 imposed by this chapter, and any other use made by the owner
26 or the condominium association shall be fully taxable under
27 this chapter.

28 5. A public or private street or right-of-way and
29 poles, conduits, fixtures, and similar improvements located on
30 such streets or rights-of-way, occupied or used by a utility
31 or franchised cable television company for utility or

1 communications or television purposes. For purposes of this
2 subparagraph, the term "utility" means any person providing
3 utility services as defined in s. 203.012 and includes a
4 regional transmission organization operating under the
5 jurisdiction of the Federal Energy Regulatory Commission. This
6 exception also applies to property, wherever located, on which
7 the following are placed: towers, antennas, cables, accessory
8 structures, or equipment, not including switching equipment,
9 used in the provision of mobile communications services as
10 defined in s. 202.11. For purposes of this chapter, towers
11 used in the provision of mobile communications services, as
12 defined in s. 202.11, are considered to be fixtures.

13 6. A public street or road which is used for
14 transportation purposes.

15 7. Property used at an airport exclusively for the
16 purpose of aircraft landing or aircraft taxiing or property
17 used by an airline for the purpose of loading or unloading
18 passengers or property onto or from aircraft or for fueling
19 aircraft.

20 8.a. Property used at a port authority, as defined in
21 s. 315.02(2), exclusively for the purpose of oceangoing
22 vessels or tugs docking, or such vessels mooring on property
23 used by a port authority for the purpose of loading or
24 unloading passengers or cargo onto or from such a vessel, or
25 property used at a port authority for fueling such vessels, or
26 to the extent that the amount paid for the use of any property
27 at the port is based on the charge for the amount of tonnage
28 actually imported or exported through the port by a tenant.

29 b. The amount charged for the use of any property at
30 the port in excess of the amount charged for tonnage actually
31

1 imported or exported shall remain subject to tax except as
2 provided in sub-subparagraph a.

3 9. Property used as an integral part of the
4 performance of qualified production services. As used in this
5 subparagraph, the term "qualified production services" means
6 any activity or service performed directly in connection with
7 the production of a qualified motion picture, as defined in s.
8 212.06(1)(b), and includes:

9 a. Photography, sound and recording, casting, location
10 managing and scouting, shooting, creation of special and
11 optical effects, animation, adaptation (language, media,
12 electronic, or otherwise), technological modifications,
13 computer graphics, set and stage support (such as
14 electricians, lighting designers and operators, greensmen,
15 prop managers and assistants, and grips), wardrobe (design,
16 preparation, and management), hair and makeup (design,
17 production, and application), performing (such as acting,
18 dancing, and playing), designing and executing stunts,
19 coaching, consulting, writing, scoring, composing,
20 choreographing, script supervising, directing, producing,
21 transmitting dailies, dubbing, mixing, editing, cutting,
22 looping, printing, processing, duplicating, storing, and
23 distributing;

24 b. The design, planning, engineering, construction,
25 alteration, repair, and maintenance of real or personal
26 property including stages, sets, props, models, paintings, and
27 facilities principally required for the performance of those
28 services listed in sub-subparagraph a.; and

29 c. Property management services directly related to
30 property used in connection with the services described in
31 sub-subparagraphs a. and b.

1
2 This exemption will inure to the taxpayer upon presentation of
3 the certificate of exemption issued to the taxpayer under the
4 provisions of s. 288.1258.

5 10. Leased, subleased, licensed, or rented to a person
6 providing food and drink concessionaire services within the
7 premises of a convention hall, exhibition hall, auditorium,
8 stadium, theater, arena, civic center, performing arts center,
9 publicly owned recreational facility, or any business operated
10 under a permit issued pursuant to chapter 550. A person
11 providing retail concessionaire services involving the sale of
12 food and drink or other tangible personal property within the
13 premises of an airport shall be subject to tax on the rental
14 of real property used for that purpose, but shall not be
15 subject to the tax on any license to use the property. For
16 purposes of this subparagraph, the term "sale" shall not
17 include the leasing of tangible personal property.

18 11. Property occupied pursuant to an instrument
19 calling for payments which the department has declared, in a
20 Technical Assistance Advisement issued on or before March 15,
21 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
22 Florida Administrative Code; provided that this subparagraph
23 shall only apply to property occupied by the same person
24 before and after the execution of the subject instrument and
25 only to those payments made pursuant to such instrument,
26 exclusive of renewals and extensions thereof occurring after
27 March 15, 1993.

28 12. Rented, leased, subleased, or licensed to a
29 concessionaire by a convention hall, exhibition hall,
30 auditorium, stadium, theater, arena, civic center, performing
31 arts center, or publicly owned recreational facility, during

1 an event at the facility, to be used by the concessionaire to
2 sell souvenirs, novelties, or other event-related products.
3 This subparagraph applies only to that portion of the rental,
4 lease, or license payment which is based on a percentage of
5 sales and not based on a fixed price.

6 13. Property used or occupied predominantly for space
7 flight business purposes. As used in this subparagraph, "space
8 flight business" means the manufacturing, processing, or
9 assembly of a space facility, space propulsion system, space
10 vehicle, satellite, or station of any kind possessing the
11 capacity for space flight, as defined by s. 212.02(23), or
12 components thereof, and also means the following activities
13 supporting space flight: vehicle launch activities, flight
14 operations, ground control or ground support, and all
15 administrative activities directly related thereto. Property
16 shall be deemed to be used or occupied predominantly for space
17 flight business purposes if more than 50 percent of the
18 property, or improvements thereon, is used for one or more
19 space flight business purposes. Possession by a landlord,
20 lessor, or licensor of a signed written statement from the
21 tenant, lessee, or licensee claiming the exemption shall
22 relieve the landlord, lessor, or licensor from the
23 responsibility of collecting the tax, and the department shall
24 look solely to the tenant, lessee, or licensee for recovery of
25 such tax if it determines that the exemption was not
26 applicable.

27 Section 10. Effective July 1, 2003, paragraph (a) of
28 subsection (1) of section 212.031, Florida Statutes, as
29 amended by chapter 2000-345, Laws of Florida, is amended to
30 read:

1 212.031 Lease or rental of or license in real
2 property.--

3 (1)(a) It is declared to be the legislative intent
4 that every person is exercising a taxable privilege who
5 engages in the business of renting, leasing, letting, or
6 granting a license for the use of any real property unless
7 such property is:

8 1. Assessed as agricultural property under s. 193.461.

9 2. Used exclusively as dwelling units.

10 3. Property subject to tax on parking, docking, or
11 storage spaces under s. 212.03(6).

12 4. Recreational property or the common elements of a
13 condominium when subject to a lease between the developer or
14 owner thereof and the condominium association in its own right
15 or as agent for the owners of individual condominium units or
16 the owners of individual condominium units. However, only the
17 lease payments on such property shall be exempt from the tax
18 imposed by this chapter, and any other use made by the owner
19 or the condominium association shall be fully taxable under
20 this chapter.

21 5. A public or private street or right-of-way and
22 poles, conduits, fixtures, and similar improvements located on
23 such streets or rights-of-way, occupied or used by a utility
24 or franchised cable television company for utility or
25 communications or television purposes. For purposes of this
26 subparagraph, the term "utility" means any person providing
27 utility services as defined in s. 203.012 and includes a
28 regional transmission organization operating under the
29 jurisdiction of the Federal Energy Regulatory Commission. This
30 exception also applies to property, wherever located, on which
31 the following are placed: towers, antennas, cables, accessory

1 structures, or equipment, not including switching equipment,
2 used in the provision of mobile communications services as
3 defined in s. 202.11. For purposes of this chapter, towers
4 used in the provision of mobile communications services, as
5 defined in s. 202.11, are considered to be fixtures.

6 6. A public street or road which is used for
7 transportation purposes.

8 7. Property used at an airport exclusively for the
9 purpose of aircraft landing or aircraft taxiing or property
10 used by an airline for the purpose of loading or unloading
11 passengers or property onto or from aircraft or for fueling
12 aircraft.

13 8.a. Property used at a port authority, as defined in
14 s. 315.02(2), exclusively for the purpose of oceangoing
15 vessels or tugs docking, or such vessels mooring on property
16 used by a port authority for the purpose of loading or
17 unloading passengers or cargo onto or from such a vessel, or
18 property used at a port authority for fueling such vessels, or
19 to the extent that the amount paid for the use of any property
20 at the port is based on the charge for the amount of tonnage
21 actually imported or exported through the port by a tenant.

22 b. The amount charged for the use of any property at
23 the port in excess of the amount charged for tonnage actually
24 imported or exported shall remain subject to tax except as
25 provided in sub-subparagraph a.

26 9. Property used as an integral part of the
27 performance of qualified production services. As used in this
28 subparagraph, the term "qualified production services" means
29 any activity or service performed directly in connection with
30 the production of a qualified motion picture, as defined in s.
31 212.06(1)(b), and includes:

1 a. Photography, sound and recording, casting, location
2 managing and scouting, shooting, creation of special and
3 optical effects, animation, adaptation (language, media,
4 electronic, or otherwise), technological modifications,
5 computer graphics, set and stage support (such as
6 electricians, lighting designers and operators, greensmen,
7 prop managers and assistants, and grips), wardrobe (design,
8 preparation, and management), hair and makeup (design,
9 production, and application), performing (such as acting,
10 dancing, and playing), designing and executing stunts,
11 coaching, consulting, writing, scoring, composing,
12 choreographing, script supervising, directing, producing,
13 transmitting dailies, dubbing, mixing, editing, cutting,
14 looping, printing, processing, duplicating, storing, and
15 distributing;

16 b. The design, planning, engineering, construction,
17 alteration, repair, and maintenance of real or personal
18 property including stages, sets, props, models, paintings, and
19 facilities principally required for the performance of those
20 services listed in sub-subparagraph a.; and

21 c. Property management services directly related to
22 property used in connection with the services described in
23 sub-subparagraphs a. and b.

24

25 This exemption will inure to the taxpayer upon presentation of
26 the certificate of exemption issued to the taxpayer under the
27 provisions of s. 288.1258.

28 10. Leased, subleased, licensed, or rented to a person
29 providing food and drink concessionaire services within the
30 premises of a convention hall, exhibition hall, auditorium,
31 stadium, theater, arena, civic center, performing arts center,

1 publicly owned recreational facility, or any business operated
 2 under a permit issued pursuant to chapter 550. A person
 3 providing retail concessionaire services involving the sale of
 4 food and drink or other tangible personal property within the
 5 premises of an airport shall be subject to tax on the rental
 6 of real property used for that purpose, but shall not be
 7 subject to the tax on any license to use the property. For
 8 purposes of this subparagraph, the term "sale" shall not
 9 include the leasing of tangible personal property.

10 11. Property occupied pursuant to an instrument
 11 calling for payments which the department has declared, in a
 12 Technical Assistance Advisement issued on or before March 15,
 13 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c),
 14 Florida Administrative Code; provided that this subparagraph
 15 shall only apply to property occupied by the same person
 16 before and after the execution of the subject instrument and
 17 only to those payments made pursuant to such instrument,
 18 exclusive of renewals and extensions thereof occurring after
 19 March 15, 1993.

20 12. Property used or occupied predominantly for space
 21 flight business purposes. As used in this subparagraph, "space
 22 flight business" means the manufacturing, processing, or
 23 assembly of a space facility, space propulsion system, space
 24 vehicle, satellite, or station of any kind possessing the
 25 capacity for space flight, as defined by s. 212.02(23), or
 26 components thereof, and also means the following activities
 27 supporting space flight: vehicle launch activities, flight
 28 operations, ground control or ground support, and all
 29 administrative activities directly related thereto. Property
 30 shall be deemed to be used or occupied predominantly for space
 31 flight business purposes if more than 50 percent of the

1 property, or improvements thereon, is used for one or more
2 space flight business purposes. Possession by a landlord,
3 lessor, or licensor of a signed written statement from the
4 tenant, lessee, or licensee claiming the exemption shall
5 relieve the landlord, lessor, or licensor from the
6 responsibility of collecting the tax, and the department shall
7 look solely to the tenant, lessee, or licensee for recovery of
8 such tax if it determines that the exemption was not
9 applicable.

10 Section 11. (1) Effective July 1, 2001, paragraph (b)
11 of subsection (14) of section 212.06, Florida Statutes, is
12 amended to read:

13 212.06 Sales, storage, use tax; collectible from
14 dealers; "dealer" defined; dealers to collect from purchasers;
15 legislative intent as to scope of tax.--

16 (14) For the purpose of determining whether a person
17 is improving real property, the term:

18 (b) "Fixtures" means items that are an accessory to a
19 building, other structure, or land and that do not lose their
20 identity as accessories when installed but that do become
21 permanently attached to realty. However, the term does not
22 include the following items, whether or not such items are
23 attached to real property in a permanent manner: ~~trade~~
24 ~~fixtures;~~ property of a type that is required to be
25 registered, licensed, titled, or documented by this state or
26 by the United States Government, including, but not limited
27 to, mobile homes, except mobile homes assessed as real
28 property; or industrial machinery or equipment. For purposes
29 of this paragraph, industrial machinery or equipment is not
30 limited to machinery and equipment used to manufacture,
31 process, compound, or produce tangible personal property.For

1 an item to be considered a fixture, it is not necessary that
2 the owner of the item also own the real property to which it
3 is attached.

4 (2) It is the intent of the Legislature that the
5 amendment to s. 212.06(14)(b), Florida Statutes, relating to
6 industrial machinery or equipment, by this section is remedial
7 in nature and merely clarifies existing law.

8 Section 12. (1) Subsection (7), paragraph (a) of
9 subsection (8), and subsection (9) of section 212.08, Florida
10 Statutes, are amended to read:

11 212.08 Sales, rental, use, consumption, distribution,
12 and storage tax; specified exemptions.--The sale at retail,
13 the rental, the use, the consumption, the distribution, and
14 the storage to be used or consumed in this state of the
15 following are hereby specifically exempt from the tax imposed
16 by this chapter.

17 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
18 any entity by this chapter do not inure to any transaction
19 that is otherwise taxable under this chapter when payment is
20 made by a representative or employee of the entity by any
21 means, including, but not limited to, cash, check, or credit
22 card, even when that representative or employee is
23 subsequently reimbursed by the entity. In addition, exemptions
24 provided to any entity by this subsection do not inure to any
25 transaction that is otherwise taxable under this chapter
26 unless the entity has obtained a sales tax exemption
27 certificate from the department or the entity obtains or
28 provides other documentation as required by the department.
29 Eligible purchases or leases made with such a certificate must
30 be in strict compliance with this subsection and departmental
31 rules, and any person who makes an exempt purchase with a

1 certificate that is not in strict compliance with this
2 subsection and the rules is liable for and must pay the tax.
3 The department may adopt rules to administer this subsection.

4 (a) Artificial commemorative flowers.--Exempt from the
5 tax imposed by this chapter is the sale of artificial
6 commemorative flowers by bona fide nationally chartered
7 veterans' organizations.

8 (b) Boiler fuels.--When purchased for use as a
9 combustible fuel, purchases of natural gas, residual oil,
10 recycled oil, waste oil, solid waste material, coal, sulfur,
11 wood, wood residues or wood bark used in an industrial
12 manufacturing, processing, compounding, or production process
13 at a fixed location in this state are exempt from the taxes
14 imposed by this chapter; however, such exemption shall not be
15 allowed unless the purchaser signs a certificate stating that
16 the fuel to be exempted is for the exclusive use designated
17 herein. This exemption does not apply to the use of boiler
18 fuels that are not used in manufacturing, processing,
19 compounding, or producing items of tangible personal property
20 for sale, or to the use of boiler fuels used by any firm
21 subject to regulation by the Division of Hotels and
22 Restaurants of the Department of Business and Professional
23 Regulation.

24 (c) Crustacea bait.--Also exempt from the tax imposed
25 by this chapter is the purchase by commercial fishers of bait
26 intended solely for use in the entrapment of *Callinectes*
27 *sapidus* and *Menippe mercenaria*.

28 (d) Feeds.--Feeds for poultry, ostriches, and
29 livestock, including racehorses and dairy cows, are exempt.

30 (e) Film rentals.--Film rentals are exempt when an
31 admission is charged for viewing such film, and license fees

1 and direct charges for films, videotapes, and transcriptions
2 used by television or radio stations or networks are exempt.

3 (f) Flags.--Also exempt are sales of the flag of the
4 United States and the official state flag of Florida.

5 (g) Florida Retired Educators Association and its
6 local chapters.--Also exempt from payment of the tax imposed
7 by this chapter are purchases of office supplies, equipment,
8 and publications made by the Florida Retired Educators
9 Association and its local chapters.

10 (h) Guide dogs for the blind.--Also exempt are the
11 sale or rental of guide dogs for the blind, commonly referred
12 to as "seeing-eye dogs," and the sale of food or other items
13 for such guide dogs.

14 1. The department shall issue a consumer's certificate
15 of exemption to any blind person who holds an identification
16 card as provided for in s. 413.091 and who either owns or
17 rents, or contemplates the ownership or rental of, a guide dog
18 for the blind. The consumer's certificate of exemption shall
19 be issued without charge and shall be of such size as to be
20 capable of being carried in a wallet or billfold.

21 2. The department shall make such rules concerning
22 items exempt from tax under the provisions of this paragraph
23 as may be necessary to provide that any person authorized to
24 have a consumer's certificate of exemption need only present
25 such a certificate at the time of paying for exempt goods and
26 shall not be required to pay any tax thereon.

27 (i) Hospital meals and rooms.--Also exempt from
28 payment of the tax imposed by this chapter on rentals and
29 meals are patients and inmates of any hospital or other
30 physical plant or facility designed and operated primarily for
31 the care of persons who are ill, aged, infirm, mentally or

1 physically incapacitated, or otherwise dependent on special
 2 care or attention. Residents of a home for the aged are exempt
 3 from payment of taxes on meals provided through the facility.
 4 A home for the aged is defined as a facility that is licensed
 5 or certified in part or in whole under chapter 400 or chapter
 6 651, or that is financed by a mortgage loan made or insured by
 7 the United States Department of Housing and Urban Development
 8 under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4),
 9 s. 232, or s. 236 of the National Housing Act, or other such
 10 similar facility designed and operated primarily for the care
 11 of the aged.

12 (j) Household fuels.--Also exempt from payment of the
 13 tax imposed by this chapter are sales of utilities to
 14 residential households or owners of residential models in this
 15 state by utility companies who pay the gross receipts tax
 16 imposed under s. 203.01, and sales of fuel to residential
 17 households or owners of residential models, including oil,
 18 kerosene, liquefied petroleum gas, coal, wood, and other fuel
 19 products used in the household or residential model for the
 20 purposes of heating, cooking, lighting, and refrigeration,
 21 regardless of whether such sales of utilities and fuels are
 22 separately metered and billed direct to the residents or are
 23 metered and billed to the landlord. If any part of the utility
 24 or fuel is used for a nonexempt purpose, the entire sale is
 25 taxable. The landlord shall provide a separate meter for
 26 nonexempt utility or fuel consumption. For the purposes of
 27 this paragraph, licensed family day care homes shall also be
 28 exempt.

29 (k) Meals provided by certain nonprofit
 30 organizations.--There is exempt from the tax imposed by this
 31 chapter the sale of prepared meals by a nonprofit volunteer

1 organization to handicapped, elderly, or indigent persons when
2 such meals are delivered as a charitable function by the
3 organization to such persons at their places of residence.

4 (l) Organizations providing special educational,
5 cultural, recreational, and social benefits to minors.--Also
6 exempt from the tax imposed by this chapter are sales or
7 leases to and sales of donated property by nonprofit
8 organizations which are incorporated pursuant to chapter 617
9 the primary purpose of which is providing activities that
10 contribute to the development of good character or good
11 sportsmanship, or to the educational or cultural development,
12 of minors. This exemption is extended only to that level of
13 the organization that has a salaried executive officer or an
14 elected nonsalaried executive officer. For the purpose of this
15 paragraph, the term "donated property" means any property
16 transferred to such nonprofit organization for less than 50
17 percent of its fair market value.

18 (m) Religious institutions.--

19 1. There are exempt from the tax imposed by this
20 chapter transactions involving sales or leases directly to
21 religious institutions when used in carrying on their
22 customary nonprofit religious activities or sales or leases of
23 tangible personal property by religious institutions having an
24 established physical place for worship at which nonprofit
25 religious services and activities are regularly conducted and
26 carried on.

27 2. As used in this paragraph, the term "religious
28 institutions" means churches, synagogues, and established
29 physical places for worship at which nonprofit religious
30 services and activities are regularly conducted and carried
31 on. The term "religious institutions" includes nonprofit

1 corporations the sole purpose of which is to provide free
 2 transportation services to church members, their families, and
 3 other church attendees. The term "religious institutions" also
 4 includes nonprofit state, nonprofit district, or other
 5 nonprofit governing or administrative offices the function of
 6 which is to assist or regulate the customary activities of
 7 religious institutions. The term "religious institutions" also
 8 includes any nonprofit corporation that is qualified as
 9 nonprofit under s. 501(c)(3) of the Internal Revenue Code of
 10 1986, as amended, and that owns and operates a Florida
 11 television station, at least 90 percent of the programming of
 12 which station consists of programs of a religious nature and
 13 the financial support for which, exclusive of receipts for
 14 broadcasting from other nonprofit organizations, is
 15 predominantly from contributions from the general public. The
 16 term "religious institutions" also includes any nonprofit
 17 corporation that is qualified as nonprofit under s. 501(c)(3)
 18 of the Internal Revenue Code of 1986, as amended, the primary
 19 activity of which is making and distributing audio recordings
 20 of religious scriptures and teachings to blind or visually
 21 impaired persons at no charge. The term "religious
 22 institutions" also includes any nonprofit corporation that is
 23 qualified as nonprofit under s. 501(c)(3) of the Internal
 24 Revenue Code of 1986, as amended, the sole or primary function
 25 of which is to provide, upon invitation, nonprofit religious
 26 services, evangelistic services, religious education,
 27 administrative assistance, or missionary assistance for a
 28 church, synagogue, or established physical place of worship at
 29 which nonprofit religious services and activities are
 30 regularly conducted.

31 (n) Veterans' organizations.--

1 1. There are exempt from the tax imposed by this
2 chapter transactions involving sales or leases to qualified
3 veterans' organizations and their auxiliaries when used in
4 carrying on their customary veterans' organization activities.

5 2. As used in this paragraph, the term "veterans'
6 organizations" means nationally chartered or recognized
7 veterans' organizations, including, but not limited to,
8 Florida chapters of the Paralyzed Veterans of America,
9 Catholic War Veterans of the U.S.A., Jewish War Veterans of
10 the U.S.A., and the Disabled American Veterans, Department of
11 Florida, Inc., which hold current exemptions from federal
12 income tax under s. 501(c)(4) or (19) of the Internal Revenue
13 Code of 1986, as amended.

14 (o) Schools, colleges, and universities.--Also exempt
15 from the tax imposed by this chapter are sales or leases to
16 state tax-supported schools, colleges, or universities.

17 (p) Section 501(c)(3) organizations.--Also exempt from
18 the tax imposed by this chapter are sales or leases to
19 organizations determined by the Internal Revenue Service to be
20 currently exempt from federal income tax pursuant to s.
21 501(c)(3) of the Internal Revenue Code of 1986, as amended,
22 when such leases or purchases are used in carrying on their
23 customary nonprofit activities.

24 (q) Resource recovery equipment.--Also exempt is
25 resource recovery equipment which is owned and operated by or
26 on behalf of any county or municipality, certified by the
27 Department of Environmental Protection under the provisions of
28 s. 403.715.

29 (r) School books and school lunches.--This exemption
30 applies to school books used in regularly prescribed courses
31 of study, and to school lunches served in public, parochial,

1 or nonprofit schools operated for and attended by pupils of
2 grades K through 12. Yearbooks, magazines, newspapers,
3 directories, bulletins, and similar publications distributed
4 by such educational institutions to their students are also
5 exempt. School books and food sold or served at community
6 colleges and other institutions of higher learning are
7 taxable.

8 (s) Tasting beverages.--Vinous and alcoholic beverages
9 provided by distributors or vendors for the purpose of "wine
10 tasting" and "spirituous beverage tasting" as contemplated
11 under the provisions of ss. 564.06 and 565.12, respectively,
12 are exempt from the tax imposed by this chapter.

13 (t) Boats temporarily docked in state.--

14 1. Notwithstanding the provisions of chapter 328,
15 pertaining to the registration of vessels, a boat upon which
16 the state sales or use tax has not been paid is exempt from
17 the use tax under this chapter if it enters and remains in
18 this state for a period not to exceed a total of 20 days in
19 any calendar year calculated from the date of first dockage or
20 slippage at a facility, registered with the department, that
21 rents dockage or slippage space in this state. If a boat
22 brought into this state for use under this paragraph is placed
23 in a facility, registered with the department, for repairs,
24 alterations, refitting, or modifications and such repairs,
25 alterations, refitting, or modifications are supported by
26 written documentation, the 20-day period shall be tolled
27 during the time the boat is physically in the care, custody,
28 and control of the repair facility, including the time spent
29 on sea trials conducted by the facility. The 20-day time
30 period may be tolled only once within a calendar year when a
31 boat is placed for the first time that year in the physical

1 care, custody, and control of a registered repair facility;
2 however, the owner may request and the department may grant an
3 additional tolling of the 20-day period for purposes of
4 repairs that arise from a written guarantee given by the
5 registered repair facility, which guarantee covers only those
6 repairs or modifications made during the first tolled period.
7 Within 72 hours after the date upon which the registered
8 repair facility took possession of the boat, the facility must
9 have in its possession, on forms prescribed by the department,
10 an affidavit which states that the boat is under its care,
11 custody, and control and that the owner does not use the boat
12 while in the facility. Upon completion of the repairs,
13 alterations, refitting, or modifications, the registered
14 repair facility must, within 72 hours after the date of
15 release, have in its possession a copy of the release form
16 which shows the date of release and any other information the
17 department requires. The repair facility shall maintain a log
18 that documents all alterations, additions, repairs, and sea
19 trials during the time the boat is under the care, custody,
20 and control of the facility. The affidavit shall be
21 maintained by the registered repair facility as part of its
22 records for as long as required by s. 213.35. When, within 6
23 months after the date of its purchase, a boat is brought into
24 this state under this paragraph, the 6-month period provided
25 in s. 212.05(1)(a)2. or s. 212.06(8) shall be tolled.

26 2. During the period of repairs, alterations,
27 refitting, or modifications and during the 20-day period
28 referred to in subparagraph 1., the boat may be listed for
29 sale, contracted for sale, or sold exclusively by a broker or
30 dealer registered with the department without incurring a use
31

1 tax under this chapter; however, the sales tax levied under
2 this chapter applies to such sale.

3 3. The mere storage of a boat at a registered repair
4 facility does not qualify as a tax-exempt use in this state.

5 4. As used in this paragraph, "registered repair
6 facility" means:

7 a. A full-service facility that:

8 (I) Is located on a navigable body of water;

9 (II) Has haulout capability such as a dry dock, travel
10 lift, railway, or similar equipment to service craft under the
11 care, custody, and control of the facility;

12 (III) Has adequate piers and storage facilities to
13 provide safe berthing of vessels in its care, custody, and
14 control; and

15 (IV) Has necessary shops and equipment to provide
16 repair or warranty work on vessels under the care, custody,
17 and control of the facility;

18 b. A marina that:

19 (I) Is located on a navigable body of water;

20 (II) Has adequate piers and storage facilities to
21 provide safe berthing of vessels in its care, custody, and
22 control; and

23 (III) Has necessary shops and equipment to provide
24 repairs or warranty work on vessels; or

25 c. A shoreside facility that:

26 (I) Is located on a navigable body of water;

27 (II) Has adequate piers and storage facilities to
28 provide safe berthing of vessels in its care, custody, and
29 control; and

30 (III) Has necessary shops and equipment to provide
31 repairs or warranty work.

1 (u) Volunteer fire departments.--Also exempt are
2 firefighting and rescue service equipment and supplies
3 purchased by volunteer fire departments, duly chartered under
4 the Florida Statutes as corporations not for profit.

5 (v) Professional services.--

6 1. Also exempted are professional, insurance, or
7 personal service transactions that involve sales as
8 inconsequential elements for which no separate charges are
9 made.

10 2. The personal service transactions exempted pursuant
11 to subparagraph 1. do not exempt the sale of information
12 services involving the furnishing of printed, mimeographed, or
13 multigraphed matter, or matter duplicating written or printed
14 matter in any other manner, other than professional services
15 and services of employees, agents, or other persons acting in
16 a representative or fiduciary capacity or information services
17 furnished to newspapers and radio and television stations. As
18 used in this subparagraph, the term "information services"
19 includes the services of collecting, compiling, or analyzing
20 information of any kind or nature and furnishing reports
21 thereof to other persons.

22 3. This exemption does not apply to any service
23 warranty transaction taxable under s. 212.0506.

24 4. This exemption does not apply to any service
25 transaction taxable under s. 212.05(1)(j).

26 (w) Certain newspaper, magazine, and newsletter
27 subscriptions, shoppers, and community newspapers.--Likewise
28 exempt are newspaper, magazine, and newsletter subscriptions
29 in which the product is delivered to the customer by mail.
30 Also exempt are free, circulated publications that are
31 published on a regular basis, the content of which is

1 primarily advertising, and that are distributed through the
2 mail, home delivery, or newsstands. The exemption for
3 newspaper, magazine, and newsletter subscriptions which is
4 provided in this paragraph applies only to subscriptions
5 entered into after March 1, 1997.

6 (x) Sporting equipment brought into the
7 state.--Sporting equipment brought into Florida, for a period
8 of not more than 4 months in any calendar year, used by an
9 athletic team or an individual athlete in a sporting event is
10 exempt from the use tax if such equipment is removed from the
11 state within 7 days after the completion of the event.

12 (y) Charter fishing vessels.--The charge for
13 chartering any boat or vessel, with the crew furnished, solely
14 for the purpose of fishing is exempt from the tax imposed
15 under s. 212.04 or s. 212.05. This exemption does not apply
16 to any charge to enter or stay upon any "head-boat," party
17 boat, or other boat or vessel. Nothing in this paragraph
18 shall be construed to exempt any boat from sales or use tax
19 upon the purchase thereof except as provided in paragraph (t)
20 and s. 212.05.

21 (z) Vending machines sponsored by nonprofit or
22 charitable organizations.--Also exempt are food or drinks for
23 human consumption sold for 25 cents or less through a
24 coin-operated vending machine sponsored by a nonprofit
25 corporation qualified as nonprofit pursuant to s. 501(c)(3) or
26 (4) of the Internal Revenue Code of 1986, as amended.

27 (aa) Certain commercial vehicles.--Also exempt is the
28 sale, lease, or rental of a commercial motor vehicle as
29 defined in s. 207.002(2), when the following conditions are
30 met:

31

1 1. The sale, lease, or rental occurs between two
2 commonly owned and controlled corporations;

3 2. Such vehicle was titled and registered in this
4 state at the time of the sale, lease, or rental; and

5 3. Florida sales tax was paid on the acquisition of
6 such vehicle by the seller, lessor, or renter.

7 (bb) Community cemeteries.--Also exempt are purchases
8 by any nonprofit corporation that has qualified under s.
9 501(c)(13) of the Internal Revenue Code of 1986, as amended,
10 and is operated for the purpose of maintaining a cemetery that
11 was donated to the community by deed.

12 (cc) Works of art.--

13 1. Also exempt are works of art sold to or used by an
14 educational institution.

15 2. This exemption also applies to the sale to or use
16 in this state of any work of art by any person if it was
17 purchased or imported exclusively for the purpose of being
18 donated to any educational institution, or loaned to and made
19 available for display by any educational institution, provided
20 that the term of the loan agreement is for at least 10 years.

21 3. The exemption provided by this paragraph for
22 donations is allowed only if the person who purchased the work
23 of art transfers title to the donated work of art to an
24 educational institution. Such transfer of title shall be
25 evidenced by an affidavit meeting requirements established by
26 rule to document entitlement to the exemption. Nothing in this
27 paragraph shall preclude a work of art donated to an
28 educational institution from remaining in the possession of
29 the donor or purchaser, as long as title to the work of art
30 lies with the educational institution.

31

1 4. A work of art is presumed to have been purchased in
2 or imported into this state exclusively for loan as provided
3 in subparagraph 2., if it is so loaned or placed in storage in
4 preparation for such a loan within 90 days after purchase or
5 importation, whichever is later; but a work of art is not
6 deemed to be placed in storage in preparation for loan for
7 purposes of this exemption if it is displayed at any place
8 other than an educational institution.

9 5. The exemptions provided by this paragraph are
10 allowed only if the person who purchased the work of art gives
11 to the vendor an affidavit meeting the requirements,
12 established by rule, to document entitlement to the exemption.
13 The person who purchased the work of art shall forward a copy
14 of such affidavit to the Department of Revenue at the time it
15 is issued to the vendor.

16 6. The exemption for loans provided by subparagraph 2.
17 applies only for the period during which a work of art is in
18 the possession of the educational institution or is in storage
19 before transfer of possession to that institution; and when it
20 ceases to be so possessed or held, tax based upon the sales
21 price paid by the owner is payable, and the statute of
22 limitations provided in s. 95.091 shall begin to run at that
23 time. However, tax shall not become due if the work of art is
24 donated to an educational institution after the loan ceases.

25 7. Any educational institution to which a work of art
26 has been donated pursuant to this paragraph shall make
27 available to the department the title to the work of art and
28 any other relevant information. Any educational institution
29 which has received a work of art on loan pursuant to this
30 paragraph shall make available to the department information
31 relating to the work of art. Any educational institution that

1 transfers from its possession a work of art as defined by this
2 paragraph which has been loaned to it must notify the
3 Department of Revenue within 60 days after the transfer.

4 8. For purposes of the exemptions provided by this
5 paragraph, the term:

6 a. "Educational institutions" includes state
7 tax-supported, parochial, church, and nonprofit private
8 schools, colleges, or universities that conduct regular
9 classes and courses of study required for accreditation by or
10 membership in the Southern Association of Colleges and
11 Schools, the Florida Council of Independent Schools, or the
12 Florida Association of Christian Colleges and Schools, Inc.;
13 nonprofit private schools that conduct regular classes and
14 courses of study accepted for continuing education credit by a
15 board of the Division of Medical Quality Assurance of the
16 Department of Health; or nonprofit libraries, art galleries,
17 performing arts centers that provide educational programs to
18 school children, which programs involve performances or other
19 educational activities at the performing arts center and serve
20 a minimum of 50,000 school children a year, and museums open
21 to the public.

22 b. "Work of art" includes pictorial representations,
23 sculpture, jewelry, antiques, stamp collections and coin
24 collections, and other tangible personal property, the value
25 of which is attributable predominantly to its artistic,
26 historical, political, cultural, or social importance.

27 (dd) Taxicab leases.--The lease of or license to use a
28 taxicab or taxicab-related equipment and services provided by
29 a taxicab company to an independent taxicab operator are
30 exempt, provided, however, the exemptions provided under this
31

1 paragraph only apply if sales or use tax has been paid on the
2 acquisition of the taxicab and its related equipment.

3 (ee) Aircraft repair and maintenance labor
4 charges.--There shall be exempt from the tax imposed by this
5 chapter all labor charges for the repair and maintenance of
6 aircraft of more than 15,000 pounds maximum certified takeoff
7 weight and rotary wing aircraft of more than 10,000 pounds
8 maximum certified takeoff weight. Except as otherwise provided
9 in this chapter, charges for parts and equipment furnished in
10 connection with such labor charges are taxable.

11 (ff) Certain electricity or steam uses.--

12 1. Subject to the provisions of subparagraph 4.,
13 charges for electricity or steam used to operate machinery and
14 equipment at a fixed location in this state when such
15 machinery and equipment is used to manufacture, process,
16 compound, produce, or prepare for shipment items of tangible
17 personal property for sale, or to operate pollution control
18 equipment, recycling equipment, maintenance equipment, or
19 monitoring or control equipment used in such operations are
20 exempt to the extent provided in this paragraph. If 75 percent
21 or more of the electricity or steam used at the fixed location
22 is used to operate qualifying machinery or equipment, 100
23 percent of the charges for electricity or steam used at the
24 fixed location are exempt. If less than 75 percent but 50
25 percent or more of the electricity or steam used at the fixed
26 location is used to operate qualifying machinery or equipment,
27 50 percent of the charges for electricity or steam used at the
28 fixed location are exempt. If less than 50 percent of the
29 electricity or steam used at the fixed location is used to
30 operate qualifying machinery or equipment, none of the charges

31

1 for electricity or steam used at the fixed location are
2 exempt.

3 2. This exemption applies only to industries
4 classified under SIC Industry Major Group Numbers 10, 12, 13,
5 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
6 35, 36, 37, 38, and 39 and Industry Group Number 212. As used
7 in this paragraph, "SIC" means those classifications contained
8 in the Standard Industrial Classification Manual, 1987, as
9 published by the Office of Management and Budget, Executive
10 Office of the President.

11 3. Possession by a seller of a written certification
12 by the purchaser, certifying the purchaser's entitlement to an
13 exemption permitted by this subsection, relieves the seller
14 from the responsibility of collecting the tax on the
15 nontaxable amounts, and the department shall look solely to
16 the purchaser for recovery of such tax if it determines that
17 the purchaser was not entitled to the exemption.

18 4. Such exemption shall be applied as follows:

19 a. Beginning July 1, 1996, 20 percent of the charges
20 for such electricity shall be exempt.

21 b. Beginning July 1, 1997, 40 percent of the charges
22 for such electricity shall be exempt.

23 c. Beginning July 1, 1998, 60 percent of the charges
24 for such electricity or steam shall be exempt.

25 d. Beginning July 1, 1999, 80 percent of the charges
26 for such electricity or steam shall be exempt.

27 e. Beginning July 1, 2000, 100 percent of the charges
28 for such electricity or steam shall be exempt.

29 ~~5. Notwithstanding any other provision in this~~
30 ~~paragraph to the contrary, in order to receive the exemption~~
31 ~~provided in this paragraph a taxpayer must first register with~~

1 ~~the WAGES Program Business Registry established by the local~~
2 ~~WAGES coalition for the area in which the taxpayer is located.~~
3 ~~Such registration establishes a commitment on the part of the~~
4 ~~taxpayer to hire WAGES program participants to the maximum~~
5 ~~extent possible consistent with the nature of their business.~~

6 5.6.a. In order to determine whether the exemption
7 provided in this paragraph from the tax on charges for
8 electricity or steam has an effect on retaining or attracting
9 companies to this state, the Office of Program Policy Analysis
10 and Government Accountability shall monitor and report on the
11 industries receiving the exemption.

12 b. The report shall be submitted no later than January
13 1, 2001, and must be comprehensive in scope, but, at a
14 minimum, must be conducted in such a manner as to specifically
15 determine the number of companies within each SIC Industry
16 Major Group receiving the exemption as of September 1, 2000,
17 the number of individuals employed by companies within each
18 SIC Industry Major Group receiving the exemption as of
19 September 1, 2000, whether the change, if any, in such number
20 of companies or employees is attributable to the exemption
21 provided in this paragraph, whether it would be sound public
22 policy to continue or discontinue the exemption, and the
23 consequences of doing so.

24 c. The report shall be submitted to the President of
25 the Senate, the Speaker of the House of Representatives, the
26 Senate Minority Leader, and the House Minority Leader.

27 (gg) Fair associations.--Also exempt from the tax
28 imposed by this chapter is the sale, use, lease, rental, or
29 grant of a license to use, made directly to or by a fair
30 association, of real or tangible personal property; any charge
31 made by a fair association, or its agents, for parking,

1 admissions, or for temporary parking of vehicles used for
 2 sleeping quarters; rentals, subleases, and sublicenses of real
 3 or tangible personal property between the owner of the central
 4 amusement attraction and any owner of an amusement ride, as
 5 those terms are used in ss. 616.15(1)(b) and 616.242(3)(a),
 6 for the furnishing of amusement rides at a public fair or
 7 exposition; and other transactions of a fair association which
 8 are incurred directly by the fair association in the
 9 financing, construction, and operation of a fair, exposition,
 10 or other event or facility that is authorized by s. 616.08. As
 11 used in this paragraph, the terms "fair association" and
 12 "public fair or exposition" have the same meaning as those
 13 terms are defined in s. 616.001. This exemption does not apply
 14 to the sale of tangible personal property made by a fair
 15 association through an agent or independent contractor; sales
 16 of admissions and tangible personal property by a
 17 concessionaire, vendor, exhibitor, or licensee; or rentals and
 18 subleases of tangible personal property or real property
 19 between the owner of the central amusement attraction and a
 20 concessionaire, vendor, exhibitor, or licensee, except for the
 21 furnishing of amusement rides, which transactions are exempt.

22 (hh) Citizen support organizations.--Also exempt from
 23 the tax imposed by this chapter are sales or leases to
 24 nonprofit organizations that are incorporated under chapter
 25 617 and that have been designated citizen support
 26 organizations in support of state-funded environmental
 27 programs or the management of state-owned lands in accordance
 28 with s. 20.2551, or to support one or more state parks in
 29 accordance with s. 258.015.

30 (ii) Florida Folk Festival.--There shall be exempt
 31 from the tax imposed by this chapter income of a revenue

1 nature received from admissions to the Florida Folk Festival
2 held pursuant to s. 267.16 at the Stephen Foster State Folk
3 Culture Center, a unit of the state park system.

4 (jj) Solar energy systems.--Also exempt are solar
5 energy systems or any component thereof. The Florida Solar
6 Energy Center shall from time to time certify to the
7 department a list of equipment and requisite hardware
8 considered to be a solar energy system or a component thereof.
9 This exemption is repealed July 1, 2005.

10 (kk) Nonprofit cooperative hospital laundries.--Also
11 exempt from the tax imposed by this chapter are sales or
12 leases to nonprofit organizations that are incorporated under
13 chapter 617 and which are treated, for federal income tax
14 purposes, as cooperatives under subchapter T of the Internal
15 Revenue Code, whose sole purpose is to offer laundry supplies
16 and services to their members, which members must all be
17 exempt from federal income tax pursuant to s. 501(c)(3) of the
18 Internal Revenue Code.

19 (ll) Complimentary meals.--Also exempt from the tax
20 imposed by this chapter are food or drinks that are furnished
21 as part of a packaged room rate by any person offering for
22 rent or lease any transient living accommodations as described
23 in s. 509.013(4)(a) which are licensed under part I of chapter
24 509 and which are subject to the tax under s. 212.03, if a
25 separate charge or specific amount for the food or drinks is
26 not shown. Such food or drinks are considered to be sold at
27 retail as part of the total charge for the transient living
28 accommodations. Moreover, the person offering the
29 accommodations is not considered to be the consumer of items
30 purchased in furnishing such food or drinks and may purchase
31 those items under conditions of a sale for resale.

1 (mm) Nonprofit corporation conducting the correctional
2 work programs.--Products sold pursuant to s. 946.515 by the
3 corporation organized pursuant to part II of chapter 946 are
4 exempt from the tax imposed by this chapter. This exemption
5 applies retroactively to July 1, 1983.

6 (nn) Parent-teacher organizations, parent-teacher
7 associations, and schools having grades K through
8 12.--Parent-teacher organizations and associations the purpose
9 of which is to raise funds for schools teaching grades K
10 through 12 and which are qualified as educational institutions
11 as defined by sub-subparagraph (cc)8.a.associated with
12 schools having grades K through 12, and schools having grades
13 K through 12, may pay tax to their suppliers on the cost price
14 of school materials and supplies purchased, rented, or leased
15 for resale or rental to students in grades K through 12, of
16 items sold for fundraising purposes, and of items sold through
17 vending machines located on the school premises, in lieu of
18 collecting the tax imposed by this chapter from the purchaser.
19 This paragraph also applies to food or beverages sold through
20 vending machines located in the student lunchroom or dining
21 room of a school having kindergarten through grade 12.

22 (oo) Mobile home lot improvements.--Items purchased by
23 developers for use in making improvements to a mobile home lot
24 owned by the developer may be purchased tax-exempt as a sale
25 for resale if made pursuant to a contract that requires the
26 developer to sell a mobile home to a purchaser, place the
27 mobile home on the lot, and make the improvements to the lot
28 for a single lump-sum price. The developer must collect and
29 remit sales tax on the entire lump-sum price.

30 (pp) Veterans Administration.--When a veteran of the
31 armed forces purchases an aircraft, boat, mobile home, motor

1 vehicle, or other vehicle from a dealer pursuant to the
2 provisions of 38 U.S.C. s. 3902(a), or any successor provision
3 of the United States Code, the amount that is paid directly to
4 the dealer by the Veterans Administration is not taxable.
5 However, any portion of the purchase price which is paid
6 directly to the dealer by the veteran is taxable.

7 (qq) Complimentary items.--There is exempt from the
8 tax imposed by this chapter:

9 1. Any food or drink, whether or not cooked or
10 prepared on the premises, provided without charge as a sample
11 or for the convenience of customers by a dealer that primarily
12 sells food product items at retail.

13 2. Any item given to a customer as part of a price
14 guarantee plan related to point-of-sale errors by a dealer
15 that primarily sells food products at retail.

16
17 The exemptions in this paragraph do not apply to businesses
18 with the primary activity of serving prepared meals or
19 alcoholic beverages for immediate consumption.

20 (rr) Donated foods or beverages.--Any food or beverage
21 donated by a dealer that sells food products at retail to a
22 food bank or an organization that holds a current exemption
23 from federal corporate income tax pursuant to s. 501(c) of the
24 Internal Revenue Code of 1986, as amended, is exempt from the
25 tax imposed by this chapter.

26 (ss) Racing dogs.--The sale of a racing dog by its
27 owner is exempt if the owner is also the breeder of the
28 animal.

29 (tt) Equipment used in aircraft repair and
30 maintenance.--There shall be exempt from the tax imposed by
31 this chapter replacement engines, parts, and equipment used in

1 the repair or maintenance of aircraft of more than 15,000
2 pounds maximum certified takeoff weight and rotary wing
3 aircraft of more than 10,300 pounds maximum certified takeoff
4 weight, when such parts or equipment are installed on such
5 aircraft that is being repaired or maintained in this state.

6 (uu) Aircraft sales or leases.--The sale or lease of
7 an aircraft of more than 15,000 pounds maximum certified
8 takeoff weight for use by a common carrier is exempt from the
9 tax imposed by this chapter. As used in this paragraph,
10 "common carrier" means an airline operating under Federal
11 Aviation Administration regulations contained in Title 14,
12 chapter I, part 121 or part 129 of the Code of Federal
13 Regulations.

14 (vv) Nonprofit water systems.--Sales or leases to a
15 not-for-profit corporation which holds a current exemption
16 from federal income tax under s. 501(c)(4) or (12) of the
17 Internal Revenue Code, as amended, are exempt from the tax
18 imposed by this chapter if the sole or primary function of the
19 corporation is to construct, maintain, or operate a water
20 system in this state.

21 (ww) Library cooperatives.--Sales or leases to library
22 cooperatives certified under s. 257.41(2) are exempt from the
23 tax imposed by this chapter.

24 (xx) Advertising agencies.--

25 1. As used in this paragraph, the term "advertising
26 agency" means any firm that is primarily engaged in the
27 business of providing advertising materials and services to
28 its clients.

29 2. The sale of advertising services by an advertising
30 agency to a client is exempt from the tax imposed by this
31 chapter. Also exempt from the tax imposed by this chapter are

1 items of tangible personal property such as photographic
2 negatives and positives, videos, films, galleys, mechanicals,
3 veloxes, illustrations, digital audiotapes, analog tapes,
4 printed advertisement copies, compact discs for the purpose of
5 recording, digital equipment, and artwork and the services
6 used to produce those items if the items are:

7 a. Sold to an advertising agency that is acting as an
8 agent for its clients pursuant to contract, and are created
9 for the performance of advertising services for the clients;

10 b. Produced, fabricated, manufactured, or otherwise
11 created by an advertising agency for its clients, and are used
12 in the performance of advertising services for the clients; or

13 c. Sold by an advertising agency to its clients in the
14 performance of advertising services for the clients, whether
15 or not the charges for these items are marked up or separately
16 stated.

17
18 The exemption provided by this subparagraph does not apply
19 when tangible personal property such as film, paper, and
20 videotapes is purchased to create items such as photographic
21 negatives and positives, videos, films, galleys, mechanicals,
22 veloxes, illustrations, and artwork that are sold to an
23 advertising agency or produced in-house by an advertising
24 agency on behalf of its clients.

25 3. The items ~~exempted~~ from tax under subparagraph 2.
26 and the creative services used by an advertising agency to
27 design the advertising for promotional goods such as displays,
28 display containers, exhibits, newspaper inserts, brochures,
29 catalogues, direct mail letters or flats, shirts, hats, pens,
30 pencils, key chains, or other printed goods or materials are
31 not subject to tax. However, when such promotional goods are

1 produced or reproduced for distribution, tax applies to the
2 sales price charged to the client for such promotional goods.

3 4. For items purchased by an advertising agency and
4 exempt from tax under this paragraph, possession of an
5 exemption certificate from the advertising agency certifying
6 the agency's entitlement to exemption relieves the vendor of
7 the responsibility of collecting the tax on the sale of such
8 items to the advertising agency, and the department shall look
9 solely to the advertising agency for recovery of tax if it
10 determines that the advertising agency was not entitled to the
11 exemption.

12 5. The exemptions provided by this paragraph apply
13 retroactively, except that all taxes that have been collected
14 must be remitted, and taxes that have been remitted before
15 July 1, 1999, on transactions that are subject to exemption
16 under this paragraph are not subject to refund.

17 6. The department may adopt rules that interpret or
18 define the provisions of these exemptions and provide examples
19 regarding the application of these exemptions.

20 (yy) Bullion.--The sale of gold, silver, or platinum
21 bullion, or any combination thereof, in a single transaction
22 is exempt if the sales price exceeds \$500. The dealer must
23 maintain proper documentation, as prescribed by rule of the
24 department, to identify that portion of a transaction which
25 involves the sale of gold, silver, or platinum bullion and is
26 exempt under this paragraph.

27 (zz) Certain repair and labor charges.--

28 1. Subject to the provisions of subparagraphs 2. and
29 3., there is exempt from the tax imposed by this chapter all
30 labor charges for the repair of, and parts and materials used
31 in the repair of and incorporated into, industrial machinery

1 and equipment which is used for the manufacture, processing,
2 compounding, production, or preparation for shipping of items
3 of tangible personal property at a fixed location within this
4 state.

5 2. This exemption applies only to industries
6 classified under SIC Industry Major Group Numbers 10, 12, 13,
7 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,
8 35, 36, 37, 38, and 39 and Industry Group Number 212. As used
9 in this subparagraph, "SIC" means those classifications
10 contained in the Standard Industrial Classification Manual,
11 1987, as published by the Office of Management and Budget,
12 Executive Office of the President.

13 3. This exemption shall be applied as follows:

14 a. Beginning July 1, 1999, 25 percent of such charges
15 for repair parts and labor shall be exempt.

16 b. Beginning July 1, 2000, 50 percent of such charges
17 for repair parts and labor shall be exempt.

18 c. Beginning July 1, 2001, 75 percent of such charges
19 for repair parts and labor shall be exempt.

20 d. Beginning July 1, 2002, 100 percent of such charges
21 for repair parts and labor shall be exempt.

22 (aaa) Film and other printing supplies.--Also exempt
23 are the following materials purchased, produced, or created by
24 businesses classified under SIC Industry Numbers 275, 276,
25 277, 278, or 279 for use in producing graphic matter for sale:
26 film, photographic paper, dyes used for embossing and
27 engraving, artwork, typography, lithographic plates, and
28 negatives. As used in this paragraph, "SIC" means those
29 classifications contained in the Standard Industrial
30 Classification Manual, 1987, as published by the Office of
31 Management and Budget, Executive Office of the President.

1 (bbb) People-mover systems.--People-mover systems, and
2 parts thereof, which are purchased or manufactured by
3 contractors employed either directly by or as agents for the
4 United States Government, the state, a county, a municipality,
5 a political subdivision of the state, or the public operator
6 of a public-use airport as defined by s. 332.004(14) are
7 exempt from the tax imposed by this chapter when the systems
8 or parts go into or become part of publicly owned facilities.
9 In the case of contractors who manufacture and install such
10 systems and parts, this exemption extends to the purchase of
11 component parts and all other manufacturing and fabrication
12 costs. The department may provide a form to be used by
13 contractors to provide to suppliers of people-mover systems or
14 parts to certify the contractors' eligibility for the
15 exemption provided under this paragraph. As used in this
16 paragraph, "people-mover systems" includes wheeled passenger
17 vehicles and related control and power distribution systems
18 that are part of a transportation system for use by the
19 general public, regardless of whether such vehicles are
20 operator-controlled or driverless, self-propelled or propelled
21 by external power and control systems, or conducted on roads,
22 rails, guidebeams, or other permanent structures that are an
23 integral part of such transportation system. "Related control
24 and power distribution systems" includes any electrical or
25 electronic control or signaling equipment, but does not
26 include the embedded wiring, conduits, or cabling used to
27 transmit electrical or electronic signals among such control
28 equipment, power distribution equipment, signaling equipment,
29 and wheeled vehicles.

30 ~~(ccc) Organizations providing crime prevention, drunk~~
31 ~~driving prevention, or juvenile delinquency prevention~~

1 ~~services.--Sales or leases to any nonprofit organization that~~
2 ~~provides crime prevention services, drunk driving prevention~~
3 ~~services, or juvenile delinquency prevention services that~~
4 ~~benefit society as a whole are exempt from the tax imposed by~~
5 ~~this chapter, if the organization holds a current exemption~~
6 ~~from federal income tax under s. 501(c)(3) of the Internal~~
7 ~~Revenue Code and the organization has as its sole or primary~~
8 ~~purpose the provision of services that contribute to the~~
9 ~~prevention of hardships caused by crime, drunk driving, or~~
10 ~~juvenile delinquency.~~

11 (ccc)~~(ddd)~~ Florida Fire and Emergency Services
12 Foundation.--Sales or leases to the Florida Fire and Emergency
13 Services Foundation are exempt from the tax imposed by this
14 chapter.

15 (ddd)~~(eee)~~ Railroad roadway materials.--Also exempt
16 from the tax imposed by this chapter are railroad roadway
17 materials used in the construction, repair, or maintenance of
18 railways. Railroad roadway materials shall include rails,
19 ties, ballasts, communication equipment, signal equipment,
20 power transmission equipment, and any other track materials.

21
22 ~~Exemptions provided to any entity by this subsection shall not~~
23 ~~inure to any transaction otherwise taxable under this chapter~~
24 ~~when payment is made by a representative or employee of such~~
25 ~~entity by any means, including, but not limited to, cash,~~
26 ~~check, or credit card even when that representative or~~
27 ~~employee is subsequently reimbursed by such entity.~~

28 (8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE
29 OR FOREIGN COMMERCE.--

30 (a) The sale or use of vessels and parts thereof used
31 to transport persons or property in interstate or foreign

1 commerce, including commercial fishing vessels, is subject to
2 the taxes imposed in this chapter only to the extent provided
3 herein. The basis of the tax shall be the ratio of intrastate
4 mileage to interstate or foreign mileage traveled by the
5 carrier's vessels which were used in interstate or foreign
6 commerce and which had at least some Florida mileage during
7 the previous fiscal year. The ratio would be determined at the
8 close of the carrier's fiscal year. However, during the fiscal
9 year in which the vessel begins its initial operations in this
10 state, the vessel's mileage apportionment factor may be
11 determined on the basis of an estimated ratio of anticipated
12 miles in this state to anticipated total miles for that year,
13 and, subsequently, additional tax must be paid on the vessel,
14 or a refund may be applied for, on the basis of the actual
15 ratio of the vessel's miles in this state to its total miles
16 for that year.This ratio shall be applied each month to the
17 total Florida purchases of such vessels and parts thereof
18 which are used in Florida to establish that portion of the
19 total used and consumed in intrastate movement and subject to
20 the tax at the applicable rate. The basis for imposition of
21 any discretionary surtax shall be as set forth in s. 212.054.
22 Items, appropriate to carry out the purposes for which a
23 vessel is designed or equipped and used, purchased by the
24 owner, operator, or agent of a vessel for use on board such
25 vessel shall be deemed to be parts of the vessel upon which
26 the same are used or consumed. Vessels and parts thereof used
27 to transport persons or property in interstate and foreign
28 commerce are hereby determined to be susceptible to a distinct
29 and separate classification for taxation under the provisions
30 of this chapter. Vessels and parts thereof used exclusively in
31 intrastate commerce do not qualify for the proration of tax.

1 (9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES
2 ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.--

3 (a) Railroads which are licensed as common carriers by
4 the Surface Transportation Board ~~Interstate Commerce~~
5 ~~Commission~~ and parts thereof used to transport persons or
6 property in interstate or foreign commerce are subject to tax
7 imposed in this chapter only to the extent provided herein.
8 The basis of the tax shall be the ratio of intrastate mileage
9 to interstate or foreign mileage traveled by the carrier
10 during the previous fiscal year of the carrier. Such ratio is
11 to be determined at the close of the carrier's fiscal year.
12 However, during the fiscal year in which the railroad begins
13 its initial operations in this state, the railroad's mileage
14 apportionment factor may be determined on the basis of an
15 estimated ratio of anticipated miles in this state to
16 anticipated total miles for that year, and, subsequently,
17 additional tax must be paid on the railroad, or a refund may
18 be applied for, on the basis of the actual ratio of the
19 railroad's miles in this state to its total miles for that
20 year. This ratio shall be applied each month to the Florida
21 ~~total~~ purchases of the railroad which are used in this state
22 to establish that portion of the total used and consumed in
23 intrastate movement and subject to tax under this chapter. The
24 basis for imposition of any discretionary surtax is set forth
25 in s. 212.054. Railroads which are licensed as common carriers
26 by the Surface Transportation Board ~~Interstate Commerce~~
27 ~~Commission~~ and parts thereof used to transport persons or
28 property in interstate and foreign commerce are hereby
29 determined to be susceptible to a distinct and separate
30 classification for taxation under the provisions of this
31 chapter.

1 (b) Motor vehicles which are engaged in interstate
 2 commerce as common carriers, and parts thereof, used to
 3 transport persons or property in interstate or foreign
 4 commerce are subject to tax imposed in this chapter only to
 5 the extent provided herein. The basis of the tax shall be the
 6 ratio of intrastate mileage to interstate or foreign mileage
 7 traveled by the carrier's motor vehicles which were used in
 8 interstate or foreign commerce and which had at least some
 9 Florida mileage during the previous fiscal year of the
 10 carrier. Such ratio is to be determined at the close of the
 11 carrier's fiscal year. However, during the fiscal year in
 12 which the carrier begins its initial operations in this state,
 13 the carrier's mileage apportionment factor may be determined
 14 on the basis of an estimated ratio of anticipated miles in
 15 this state to anticipated total miles for that year, and,
 16 subsequently, additional tax must be paid on the carrier, or a
 17 refund may be applied for, on the basis of the actual ratio of
 18 the carrier's miles in this state to its total miles for that
 19 year. This ratio shall be applied each month to the Florida
 20 ~~total~~ purchases of such motor vehicles and parts thereof which
 21 are used in this state to establish that portion of the total
 22 used and consumed in intrastate movement and subject to tax
 23 under this chapter. The basis for imposition of any
 24 discretionary surtax is set forth in s. 212.054. Motor
 25 vehicles which are engaged in interstate commerce, and parts
 26 thereof, used to transport persons or property in interstate
 27 and foreign commerce are hereby determined to be susceptible
 28 to a distinct and separate classification for taxation under
 29 the provisions of this chapter. Motor vehicles and parts
 30 thereof used exclusively in intrastate commerce do not qualify
 31 for the proration of tax. For purposes of this paragraph,

1 parts of a motor vehicle engaged in interstate commerce
2 include a separate tank not connected to the fuel supply
3 system of the motor vehicle into which diesel fuel is placed
4 to operate a refrigeration unit or other equipment.

5 (2)(a) The amendments to paragraphs (ff) and (nn) of
6 subsection (7) of s. 212.08, Florida Statutes, by this section
7 apply retroactively to July 1, 2000.

8 (b) The amendments to the introductory paragraph and
9 to the final, flush-left passage of subsection (7) of s.
10 212.08, Florida Statutes, by this section are made to clarify
11 rather than change existing law, and these amendments apply
12 retroactively to January 1, 2001.

13 Section 13. Effective upon this act becoming a law and
14 applying retroactively to July 1, 1996, paragraph (c) of
15 subsection (5) of section 212.08, Florida Statutes, is amended
16 to read:

17 212.08 Sales, rental, use, consumption, distribution,
18 and storage tax; specified exemptions.--The sale at retail,
19 the rental, the use, the consumption, the distribution, and
20 the storage to be used or consumed in this state of the
21 following are hereby specifically exempt from the tax imposed
22 by this chapter.

23 (5) EXEMPTIONS; ACCOUNT OF USE.--

24 (c) Machinery and equipment used in production of
25 electrical or steam energy.--

26 1. The purchase of machinery and equipment for use at
27 a fixed location which machinery and equipment are necessary
28 in the production of electrical or steam energy resulting from
29 the burning of boiler fuels other than residual oil is exempt
30 from the tax imposed by this chapter. Such electrical or
31 steam energy must be primarily for use in manufacturing,

1 processing, compounding, or producing for sale items of
2 tangible personal property in this state. Use of a de minimis
3 amount of residual fuel to facilitate the burning of
4 nonresidual fuel shall not reduce the exemption otherwise
5 available under this paragraph.

6 2. In facilities where machinery and equipment are
7 necessary to burn both residual and nonresidual fuels, the
8 exemption shall be prorated. Such proration shall be based
9 upon the production of electrical or steam energy from
10 nonresidual fuels as a percentage of electrical or steam
11 energy from all fuels. If it is determined that 15 percent or
12 less of all electrical or steam energy generated was produced
13 by burning residual fuel, the full exemption shall apply.
14 Purchasers claiming a partial exemption shall obtain such
15 exemption by refund of taxes paid, or as otherwise provided in
16 the department's rules.

17 3. The department may adopt rules that provide for
18 implementation of this exemption. Purchasers of machinery and
19 equipment qualifying for the exemption provided in this
20 paragraph shall furnish the vendor ~~department~~ with an
21 affidavit stating that the item or items to be exempted are
22 for the use designated herein. Any person furnishing a false
23 affidavit to the vendor for the purpose of evading payment of
24 any tax imposed under this chapter shall be subject to the
25 penalty set forth in s. 212.085 and as otherwise provided by
26 law. Purchasers with self-accrual authority shall maintain all
27 documentation necessary to prove the exempt status of
28 purchases.

29 Section 14. Effective July 1, 2001, paragraph (a) of
30 subsection (4), paragraphs (b), (d), and (f) of subsection
31

1 (5), and subsection (10) of section 212.08, Florida Statutes,
2 are amended to read:

3 212.08 Sales, rental, use, consumption, distribution,
4 and storage tax; specified exemptions.--The sale at retail,
5 the rental, the use, the consumption, the distribution, and
6 the storage to be used or consumed in this state of the
7 following are hereby specifically exempt from the tax imposed
8 by this chapter.

9 (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES,
10 ETC.--

11 (a) Also exempt are:

12 1. Water delivered to the purchaser through pipes or
13 conduits or delivered for irrigation purposes. The sale of
14 drinking water in bottles, cans, or other containers,
15 including water that contains minerals or carbonation in its
16 natural state or water to which minerals have been added at a
17 water treatment facility regulated by the Department of
18 Environmental Protection or the Department of Health, is
19 exempt. This exemption does not apply to the sale of drinking
20 water in bottles, cans, or other containers if carbonation,
21 ~~minerals~~, or flavorings, except those added at a water
22 treatment facility, have been added. Water that has been
23 enhanced by the addition of minerals, and that does not
24 contain any added carbonation or flavorings, is also exempt.

25 2. All fuels used by a public or private utility,
26 including any municipal corporation or rural electric
27 cooperative association, in the generation of electric power
28 or energy for sale. Fuel other than motor fuel and diesel
29 fuel is taxable as provided in this chapter with the exception
30 of fuel expressly exempt herein. Motor fuels and diesel fuels
31 are taxable as provided in chapter 206, with the exception of

1 those motor fuels and diesel fuels used by railroad
2 locomotives or vessels to transport persons or property in
3 interstate or foreign commerce, which are taxable under this
4 chapter only to the extent provided herein. The basis of the
5 tax shall be the ratio of intrastate mileage to interstate or
6 foreign mileage traveled by the carrier's railroad locomotives
7 or vessels that were used in interstate or foreign commerce
8 and that had at least some Florida mileage during the previous
9 fiscal year of the carrier, such ratio to be determined at the
10 close of the fiscal year of the carrier. This ratio shall be
11 applied each month to the total Florida purchases made in this
12 state of motor and diesel fuels to establish that portion of
13 the total used and consumed in intrastate movement and subject
14 to tax under this chapter. The basis for imposition of any
15 discretionary surtax shall be set forth in s. 212.054. Fuels
16 used exclusively in intrastate commerce do not qualify for the
17 proration of tax.

18 3. The transmission or wheeling of electricity.

19 (5) EXEMPTIONS; ACCOUNT OF USE.--

20 (b) Machinery and equipment used to increase
21 productive output.--

22 1. Industrial machinery and equipment purchased for
23 exclusive use by a new business in spaceport activities as
24 defined by s. 212.02 or for use in new businesses which
25 manufacture, process, compound, or produce for sale items of
26 tangible personal property at fixed locations are exempt from
27 the tax imposed by this chapter upon an affirmative showing by
28 the taxpayer to the satisfaction of the department that such
29 items are used in a new business in this state. Such purchases
30 must be made prior to the date the business first begins its
31

1 productive operations, and delivery of the purchased item must
2 be made within 12 months of that date.

3 2.a. Industrial machinery and equipment purchased for
4 exclusive use by an expanding facility which is engaged in
5 spaceport activities as defined by s. 212.02 or for use in
6 expanding manufacturing facilities or plant units which
7 manufacture, process, compound, or produce for sale items of
8 tangible personal property at fixed locations in this state
9 are exempt from any amount of tax imposed by this chapter in
10 excess of \$50,000 per calendar year upon an affirmative
11 showing by the taxpayer to the satisfaction of the department
12 that such items are used to increase the productive output of
13 such expanded facility or business by not less than 10
14 percent.

15 b. Notwithstanding any other provision of this
16 section, industrial machinery and equipment purchased for use
17 in expanding printing manufacturing facilities or plant units
18 that manufacture, process, compound, or produce for sale items
19 of tangible personal property at fixed locations in this state
20 are exempt from any amount of tax imposed by this chapter upon
21 an affirmative showing by the taxpayer to the satisfaction of
22 the department that such items are used to increase the
23 productive output of such an expanded business by not less
24 than 10 percent.

25 3.a. To receive an exemption provided by subparagraph
26 1. or subparagraph 2., a qualifying business entity shall
27 apply to the department for a temporary tax exemption permit.
28 The application shall state that a new business exemption or
29 expanded business exemption is being sought. Upon a tentative
30 affirmative determination by the department pursuant to
31

1 subparagraph 1. or subparagraph 2., the department shall issue
2 such permit.

3 b. The applicant shall be required to maintain all
4 necessary books and records to support the exemption. Upon
5 completion of purchases of qualified machinery and equipment
6 pursuant to subparagraph 1. or subparagraph 2., the temporary
7 tax permit shall be delivered to the department or returned to
8 the department by certified or registered mail.

9 c. If, in a subsequent audit conducted by the
10 department, it is determined that the machinery and equipment
11 purchased as exempt under subparagraph 1. or subparagraph 2.
12 did not meet the criteria mandated by this paragraph or if
13 commencement of production did not occur, the amount of taxes
14 exempted at the time of purchase shall immediately be due and
15 payable to the department by the business entity, together
16 with the appropriate interest and penalty, computed from the
17 date of purchase, in the manner prescribed by this chapter.

18 d. In the event a qualifying business entity fails to
19 apply for a temporary exemption permit or if the tentative
20 determination by the department required to obtain a temporary
21 exemption permit is negative, a qualifying business entity
22 shall receive the exemption provided in subparagraph 1. or
23 subparagraph 2. through a refund of previously paid taxes. No
24 refund may be made for such taxes unless the criteria mandated
25 by subparagraph 1. or subparagraph 2. have been met and
26 commencement of production has occurred.

27 4. The department shall promulgate rules governing
28 applications for, issuance of, and the form of temporary tax
29 exemption permits; provisions for recapture of taxes; and the
30 manner and form of refund applications and may establish
31 guidelines as to the requisites for an affirmative showing of

1 increased productive output, commencement of production, and
2 qualification for exemption.

3 5. The exemptions provided in subparagraphs 1. and 2.
4 do not apply to machinery or equipment purchased or used by
5 electric utility companies, communications companies, oil or
6 gas exploration or production operations, publishing firms
7 that do not export at least 50 percent of their finished
8 product out of the state, any firm subject to regulation by
9 the Division of Hotels and Restaurants of the Department of
10 Business and Professional Regulation, or any firm which does
11 not manufacture, process, compound, or produce for sale items
12 of tangible personal property or which does not use such
13 machinery and equipment in spaceport activities as required by
14 this paragraph. The exemptions provided in subparagraphs 1.
15 and 2. shall apply to machinery and equipment purchased for
16 use in phosphate or other solid minerals severance, mining, or
17 processing operations only by way of a prospective credit
18 against taxes due under chapter 211 for taxes paid under this
19 chapter on such machinery and equipment.

20 6. For the purposes of the exemptions provided in
21 subparagraphs 1. and 2., these terms have the following
22 meanings:

23 a. "Industrial machinery and equipment" means tangible
24 personal property or other property that has a depreciable
25 life of 3 years or more and that is used as an integral part
26 in the manufacturing, processing, compounding, or production
27 of tangible personal property for sale or is exclusively used
28 in spaceport activities. A building and its structural
29 components are not industrial machinery and equipment unless
30 the building or structural component is so closely related to
31 the industrial machinery and equipment that it houses or

1 supports that the building or structural component can be
2 expected to be replaced when the machinery and equipment
3 itself is replaced. Heating and air conditioning systems are
4 not industrial machinery and equipment, unless the sole
5 justification for their installation is to meet the
6 requirements of the production process, even though the system
7 may provide incidental comfort to employees or serves, to an
8 insubstantial degree, nonproduction activities.~~section 38~~
9 ~~property" as defined in s. 48(a)(1)(A) and (B)(i) of the~~
10 ~~Internal Revenue Code, provided "industrial machinery and~~
11 ~~equipment" shall be construed by regulations adopted by the~~
12 ~~Department of Revenue to mean tangible property used as an~~
13 ~~integral part of spaceport activities or of the manufacturing,~~
14 ~~processing, compounding, or producing for sale of items of~~
15 ~~tangible personal property. Such term includes parts and~~
16 ~~accessories only to the extent that the exemption thereof is~~
17 ~~consistent with the provisions of this paragraph.~~

18 b. "Productive output" means the number of units
19 actually produced by a single plant or operation in a single
20 continuous 12-month period, irrespective of sales. Increases
21 in productive output shall be measured by the output for 12
22 continuous months immediately following the completion of
23 installation of such machinery or equipment over the output
24 for the 12 continuous months immediately preceding such
25 installation. However, if a different 12-month continuous
26 period of time would more accurately reflect the increase in
27 productive output of machinery and equipment purchased to
28 facilitate an expansion, the increase in productive output may
29 be measured during that 12-month continuous period of time if
30 such time period is mutually agreed upon by the Department of
31 Revenue and the expanding business prior to the commencement

1 of production; provided, however, in no case may such time
2 period begin later than 2 years following the completion of
3 installation of the new machinery and equipment. The units
4 used to measure productive output shall be physically
5 comparable between the two periods, irrespective of sales.

6 (d) Machinery and equipment used under federal
7 procurement contract.--

8 1. Industrial machinery and equipment purchased by an
9 expanding business which manufactures tangible personal
10 property pursuant to federal procurement regulations at fixed
11 locations in this state are partially exempt from the tax
12 imposed in this chapter on that portion of the tax which is in
13 excess of \$100,000 per calendar year upon an affirmative
14 showing by the taxpayer to the satisfaction of the department
15 that such items are used to increase the implicit productive
16 output of the expanded business by not less than 10 percent.
17 The percentage of increase is measured as deflated implicit
18 productive output for the calendar year during which the
19 installation of the machinery or equipment is completed or
20 during which commencement of production utilizing such items
21 is begun divided by the implicit productive output for the
22 preceding calendar year. In no case may the commencement of
23 production begin later than 2 years following completion of
24 installation of the machinery or equipment.

25 2. The amount of the exemption allowed shall equal the
26 taxes otherwise imposed by this chapter in excess of \$100,000
27 per calendar year on qualifying industrial machinery or
28 equipment reduced by the percentage of gross receipts from
29 cost-reimbursement type contracts attributable to the plant or
30 operation to total gross receipts so attributable, accrued for
31 the year of completion or commencement.

1 3. The exemption provided by this paragraph shall
2 inure to the taxpayer only through refund of previously paid
3 taxes. Such refund shall be made within 30 days of formal
4 approval by the department of the taxpayer's application,
5 which application may be made on an annual basis following
6 installation of the machinery or equipment.

7 4. For the purposes of this paragraph, the term:

8 a. "Cost-reimbursement type contracts" has the same
9 meaning as in 32 C.F.R. s. 3-405.

10 b. "Deflated implicit productive output" means the
11 product of implicit productive output times the quotient of
12 the national defense implicit price deflator for the preceding
13 calendar year divided by the deflator for the year of
14 completion or commencement.

15 c. "Eligible costs" means the total direct and
16 indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203,
17 excluding general and administrative costs, selling expenses,
18 and profit, defined by the uniform cost-accounting standards
19 adopted by the Cost-Accounting Standards Board created
20 pursuant to 50 U.S.C. s. 2168.

21 d. "Implicit productive output" means the annual
22 eligible costs attributable to all contracts or subcontracts
23 subject to federal procurement regulations of the single plant
24 or operation at which the machinery or equipment is used.

25 e. "Industrial machinery and equipment" means tangible
26 personal property, or other property, that has a depreciable
27 life of 3 years or more, that qualifies as an eligible cost
28 under federal procurement regulations, and that is used as an
29 integral part of the process of production of tangible
30 personal property. A building and its structural components
31 are not industrial machinery and equipment unless the building

1 or structural component is so closely related to the
 2 industrial machinery and equipment that it houses or supports
 3 that the building or structural component can be expected to
 4 be replaced when the machinery and equipment itself is
 5 replaced. Heating and air conditioning systems are not
 6 industrial machinery and equipment, unless the sole
 7 justification for their installation is to meet the
 8 requirements of the production process, even though the system
 9 may provide incidental comfort to employees or serves, to an
 10 insubstantial degree, nonproduction activities.~~section 38~~
 11 ~~property" as defined in s. 48(a)(1)(A) and (B)(i) of the~~
 12 ~~Internal Revenue Code, provided such industrial machinery and~~
 13 ~~equipment qualified as an eligible cost under federal~~
 14 ~~procurement regulations and are used as an integral part of~~
 15 ~~the tangible personal property production process. Such term~~
 16 ~~includes parts and accessories only to the extent that the~~
 17 ~~exemption of such parts and accessories is consistent with the~~
 18 ~~provisions of this paragraph.~~

19 f. "National defense implicit price deflator" means
 20 the national defense implicit price deflator for the gross
 21 national product as determined by the Bureau of Economic
 22 Analysis of the United States Department of Commerce.

23 5. The exclusions provided in subparagraph (b)5. apply
 24 to this exemption. This exemption applies only to machinery
 25 or equipment purchased pursuant to production contracts with
 26 the United States Department of Defense and Armed Forces, the
 27 National Aeronautics and Space Administration, and other
 28 federal agencies for which the contracts are classified for
 29 national security reasons. In no event shall the provisions
 30 of this paragraph apply to any expanding business the increase
 31 in productive output of which could be measured under the

1 provisions of sub-subparagraph (b)6.b. as physically
2 comparable between the two periods.

3 (f) Motion picture or video equipment used in motion
4 picture or television production activities and sound
5 recording equipment used in the production of master tapes and
6 master records.--

7 1. Motion picture or video equipment and sound
8 recording equipment purchased or leased for use in this state
9 in production activities is exempt from the tax imposed by
10 this chapter. The exemption provided by this paragraph shall
11 inure to the taxpayer upon presentation of the certificate of
12 exemption issued to the taxpayer under the provisions of s.
13 288.1258.

14 2. For the purpose of the exemption provided in
15 subparagraph 1.:

16 a. "Motion picture or video equipment" and "sound
17 recording equipment" includes only tangible personal property,
18 or other property, that has a depreciable life of 3 years or
19 more and equipment meeting the definition of "section 38
20 property" as defined in s. 48(a)(1)(A) and (B)(i) of the
21 Internal Revenue Code that is used by the lessee or purchaser
22 exclusively as an integral part of production activities;
23 however, motion picture or video equipment and sound recording
24 equipment does not include supplies, tape, records, film, or
25 video tape used in productions or other similar items;
26 vehicles or vessels; or general office equipment not
27 specifically suited to production activities. In addition,
28 the term does not include equipment purchased or leased by
29 television or radio broadcasting or cable companies licensed
30 by the Federal Communications Commission. Furthermore, a
31 building and its structural components are not motion picture

1 or video equipment and sound recording equipment unless the
2 building or structural component is so closely related to the
3 motion picture or video equipment and sound recording
4 equipment that it houses or supports that the building or
5 structural component can be expected to be replaced when the
6 motion picture or video equipment and sound recording
7 equipment itself is replaced. Heating and air conditioning
8 systems are not motion picture or video equipment and sound
9 recording equipment, unless the sole justification for their
10 installation is to meet the requirements of the production
11 activities, even though the system may provide incidental
12 comfort to employees or serves, to an insubstantial degree,
13 nonproduction activities.

14 b. "Production activities" means activities directed
15 toward the preparation of a:

16 (I) Master tape or master record embodying sound; or

17 (II) Motion picture or television production which is
18 produced for theatrical, commercial, advertising, or
19 educational purposes and utilizes live or animated actions or
20 a combination of live and animated actions. The motion picture
21 or television production shall be commercially produced for
22 sale or for showing on screens or broadcasting on television
23 and may be on film or video tape.

24 (10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT
25 OF ANOTHER STATE.--

26 (a) The tax collected on the sale of a new or used
27 motor vehicle in this state to a resident of another state
28 shall be an amount equal to the sales tax which would be
29 imposed on such sale under the laws of the state of which the
30 purchaser is a resident, except that such tax shall not exceed
31 the tax that would otherwise be imposed under this chapter.

1 At the time of the sale, the purchaser shall execute a
 2 notarized statement of his or her intent to license the
 3 vehicle in the state of which the purchaser is a resident
 4 within 45 days of the sale and of the fact of the payment to
 5 the State of Florida of a sales tax in an amount equivalent to
 6 the sales tax of his or her state of residence and shall
 7 submit the statement to the appropriate sales tax collection
 8 agency in his or her state of residence. Nothing in this
 9 subsection shall be construed to require the removal of the
 10 vehicle from this state following the filing of an intent to
 11 license the vehicle in the purchaser's home state if the
 12 purchaser licenses the vehicle in his or her home state within
 13 45 days after the date of sale. Nothing in this paragraph
 14 shall require the payment of tax to this state for assessments
 15 made prior to July 1, 2001, if the tax imposed by this section
 16 has been paid to the state in which the vehicle was licensed
 17 and the department has assessed a like amount of tax on the
 18 same transaction. This applies retroactively to assessments
 19 which have been protested prior to August 1, 1999, and have
 20 not been paid on July 1, 2001.

21 (b) Notwithstanding the partial exemption allowed
 22 under paragraph (a), a vehicle is subject to this state's
 23 sales tax at the applicable state sales tax rate plus
 24 authorized surtaxes when the vehicle is purchased by a
 25 nonresident corporation or partnership and:

26 1. An officer of the corporation is a resident of this
 27 state;

28 2. A stockholder of the corporation who owns at least
 29 10 percent of the corporation is a resident of this state; or

30 3. A partner in the partnership who has at least 10
 31 percent ownership is a resident of this state.

1
2 However, if the vehicle is removed from this state within 45
3 days after purchase and remains outside the state for a
4 minimum of 180 days, the vehicle may qualify for the partial
5 exemption allowed under paragraph (a) despite the residency of
6 owners or stockholders of the purchasing entity.

7 Section 15. (1) It is the intent of the Legislature
8 to provide guidance in tax matters that is current and useful.
9 Accordingly, the continued reference to a federal regulation
10 that no longer exists causes confusion and an undue burden on
11 persons affected by s. 212.08, Florida Statutes.

12 (2) It is the purpose of the amendment to s.
13 212.08(5)(b), (d), and (f), Florida Statutes, by this act to
14 replace specific references therein to "section 38 property"
15 as defined in s. 48(a)(1)(A) and (B)(i) of the Internal
16 Revenue Code with a general description of such property, and
17 such new description shall have the same meaning as the former
18 federal Internal Revenue Code regulation without limitation.

19 Section 16. Subsection (6) of section 212.084, Florida
20 Statutes, is repealed.

21 Section 17. Effective upon this act becoming a law,
22 and applying retroactively to June 1, 2001, if this act does
23 not become a law by that date, section 4 of chapter 96-395,
24 Laws of Florida, is repealed.

25 Section 18. Subsection (2) of section 213.285, Florida
26 Statutes, is amended to read:

27 213.285 Certified audits.--

28 (2)(a) The department is authorized to initiate a
29 certified audits project to further enhance tax compliance
30 reviews performed by qualified practitioners and to encourage
31 taxpayers to hire qualified practitioners at their own expense

1 to review and report on their tax compliance. The nature of
2 certified audit work performed by qualified practitioners
3 shall be agreed-upon procedures in which the department is the
4 specified user of the resulting report.

5 (b) As an incentive for taxpayers to incur the costs
6 of a certified audit, the department shall compromise
7 penalties and abate interest due on any tax liabilities
8 revealed by a certified audit as provided in s. 213.21. This
9 authority to compromise penalties or abate interest shall not
10 apply to any liability for taxes that were collected by the
11 participating taxpayer but that were not remitted to the
12 department.

13 (c) The certified audits project is repealed on July
14 1, 2006 ~~2002~~, or upon completion of the project as determined
15 by the department, whichever occurs first.

16 Section 19. Paragraph (n) of subsection (7) of section
17 213.053, Florida Statutes, is amended to read:

18 213.053 Confidentiality and information sharing.--

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

21 (n) Information contained in returns, reports,
22 accounts, or declarations to the Board of Accountancy in
23 connection with a disciplinary proceeding conducted pursuant
24 to chapter 473 when related to a certified public accountant
25 participating in the certified audits project, or to the court
26 in connection with a civil proceeding brought by the
27 department relating to a claim for recovery of taxes due to
28 negligence on the part of a certified public accountant
29 participating in the certified audits project. In any
30 judicial proceeding brought by the department, upon motion for
31 protective order, the court shall limit disclosure of tax

1 information when necessary to effectuate the purposes of this
2 section. This paragraph is repealed on July 1, 2006 ~~2002~~.

3
4 Disclosure of information under this subsection shall be
5 pursuant to a written agreement between the executive director
6 and the agency. Such agencies, governmental or
7 nongovernmental, shall be bound by the same requirements of
8 confidentiality as the Department of Revenue. Breach of
9 confidentiality is a misdemeanor of the first degree,
10 punishable as provided by s. 775.082 or s. 775.083.

11 Section 20. Subsection (8) of section 213.21, Florida
12 Statutes, is amended to read:

13 213.21 Informal conferences; compromises.--

14 (8) In order to determine whether certified audits are
15 an effective tool in the overall state tax collection effort,
16 the executive director of the department or the executive
17 director's designee shall settle or compromise penalty
18 liabilities of taxpayers who participate in the certified
19 audits project. As further incentive for participating in the
20 program, the department shall abate the first \$25,000 of any
21 interest liability and 25 percent of any interest due in
22 excess of the first \$25,000. A settlement or compromise of
23 penalties or interest pursuant to this subsection shall not be
24 subject to the provisions of paragraph (3)(a), except for the
25 requirement relating to confidentiality of records. The
26 department may consider an additional compromise of tax or
27 interest pursuant to the provisions of paragraph (3)(a). This
28 subsection does not apply to any liability related to taxes
29 collected but not remitted to the department. This subsection
30 is repealed on July 1, 2006 ~~2002~~.

1 Section 21. Subsection (3) is added to section 213.30,
2 Florida Statutes, to read:

3 213.30 Compensation for information relating to a
4 violation of the tax laws.--

5 (1) The executive director of the department, pursuant
6 to rules adopted by the department, is authorized to
7 compensate persons providing information to the department
8 leading to:

9 (a) The punishment of, or collection of taxes,
10 penalties, or interest from, any person with respect to the
11 taxes enumerated in s. 213.05. The amount of any payment made
12 under this paragraph may not exceed 10 percent of any tax,
13 penalties, or interest collected as a result of such
14 information.

15 (b) The identification and registration of a taxpayer
16 who is not in compliance with the registration requirements of
17 any tax statute that is listed in s. 213.05. The amount of
18 the payment made to any person who provides information to the
19 department which results in the registration of a noncompliant
20 taxpayer shall be \$100. The reward authorized in this
21 paragraph shall be paid only if the noncompliant taxpayer:

22 1. Conducts business from a permanent, fixed location;
23 2. Is engaged in a bona fide taxable activity; and
24 3. Is found by the department to have an unpaid tax
25 liability.

26 (2) Any employee of the department or of any other
27 state or federal agency who comes into possession of
28 information relating to a violation of a revenue law while an
29 employee of such agency may provide information to the
30 department of the type described in subsection (1), but the
31 employee may not be compensated under this section. Any

1 former employee of the department or any other state or
2 federal agency who came into possession of information
3 relating to a violation of a revenue law while an employee of
4 such agency may provide information to the department of the
5 type described in subsection (1), but the former employee may
6 not receive compensation under this section.

7 (3) Notwithstanding the provisions of any other law,
8 this section is the sole means by which any person may seek or
9 obtain any moneys as the result of, in relation to, or founded
10 upon the failure by another person to comply with tax laws of
11 this state, and a person's use of any other law to seek or
12 obtain moneys for such failure is in derogation of this
13 statute and conflicts with the state's duty to administer the
14 tax laws.

15 Section 22. The amendment to Section 213.30, Florida
16 Statutes, made by this act applies to any case in litigation
17 or under seal on the effective date of this act.

18 Section 23. Subsection (9) of section 213.27, Florida
19 Statutes, is repealed.

20 Section 24. Section 213.256, Florida Statutes, is
21 created to read:

22 213.256 Simplified Sales and Use Tax Administration
23 Act.--

24 (1) As used in this section:

25 (a) "Department" means the Department of Revenue.

26 (b) "Agreement" means the Streamlined Sales and Use
27 Tax Agreement as amended and adopted on January 27, 2001, by
28 the Executive Committee of the National Conference of State
29 Legislatures.

30 (c) "Certified automated system" means software
31 certified jointly by the states that are signatories to the

1 agreement to calculate the tax imposed by each jurisdiction on
2 a transaction, determine the amount of tax to remit to the
3 appropriate state, and maintain a record of the transaction.

4 (d) "Certified service provider" means an agent
5 certified jointly by the states that are signatories to the
6 agreement to perform all of the seller's sales tax functions.

7 (e) "Person" means an individual, trust, estate,
8 fiduciary, partnership, limited liability company, limited
9 liability partnership, corporation, or any other legal entity.

10 (f) "Sales tax" means the tax levied under chapter
11 212.

12 (g) "Seller" means any person making sales, leases, or
13 rentals of personal property or services.

14 (h) "State" means any state of the United States and
15 the District of Columbia.

16 (i) "Use tax" means the tax levied under chapter 212.

17 (2)(a) The executive director of the department shall
18 enter into the Streamlined Sales and Use Tax Agreement with
19 one or more states to simplify and modernize sales and use tax
20 administration in order to substantially reduce the burden of
21 tax compliance for all sellers and for all types of commerce.
22 In furtherance of the agreement, the executive director of the
23 department or his or her designee shall act jointly with other
24 states that are members of the agreement to establish
25 standards for certification of a certified service provider
26 and certified automated system and establish performance
27 standards for multistate sellers.

28 (b) The executive director of the department or his or
29 her designee shall take other actions reasonably required to
30 administer this section. Other actions authorized by this
31 section include, but are not limited to, the adoption of rules

1 and the joint procurement, with other member states, of goods
2 and services in furtherance of the cooperative agreement.

3 (c) The executive director of the department or his or
4 her designee may represent this state before the other states
5 that are signatories to the agreement.

6 (3) The executive director of the department shall not
7 enter into the Streamlined Sales and Use Tax Agreement unless
8 the agreement requires each state to abide by the following
9 requirements:

10 (a) The agreement must set restrictions to limit, over
11 time, the number of state tax rates.

12 (b) The agreement must establish uniform standards
13 for:

14 1. The sourcing of transactions to taxing
15 jurisdictions.

16 2. The administration of exempt sales.

17 3. Sales and use tax returns and remittances.

18 (c) The agreement must provide a central electronic
19 registration system that allows a seller to register to
20 collect and remit sales and use taxes for all signatory
21 states.

22 (d) The agreement must provide that registration with
23 the central registration system and the collection of sales
24 and use taxes in the signatory state will not be used as a
25 factor in determining whether the seller has nexus with a
26 state for any tax.

27 (e) The agreement must provide for reduction of the
28 burdens of complying with local sales and use taxes through:

29 1. Restricting variances between the state and local
30 tax bases.

31

1 2. Requiring states to administer any sales and use
2 taxes levied by local jurisdictions within the state so that
3 sellers who collect and remit these taxes will not have to
4 register or file returns with, remit funds to, or be subject
5 to independent audits from local taxing jurisdictions.

6 3. Restricting the frequency of changes in the local
7 sales and use tax rates and setting effective dates for the
8 application of local jurisdictional boundary changes to local
9 sales and use taxes.

10 4. Providing notice of changes in local sales and use
11 tax rates and of local changes in the boundaries of local
12 taxing jurisdictions.

13 (f) The agreement must outline any monetary allowances
14 that are to be provided by the states to sellers or certified
15 service providers. The agreement must allow for a joint study
16 by the public and private sectors, which must be completed by
17 July 1, 2002, of the compliance cost to sellers and certified
18 service providers of collecting sales and use taxes for state
19 and local governments under various levels of complexity.

20 (g) The agreement must require each state to certify
21 compliance with the terms of the agreement before joining and
22 to maintain compliance, under the laws of the member state,
23 with all provisions of the agreement while a member.

24 (h) The agreement must require each state to adopt a
25 uniform policy for certified service providers which protects
26 the privacy of consumers and maintains the confidentiality of
27 tax information.

28 (i) The agreement must provide for the appointment of
29 an advisory council of private sector representatives and an
30 advisory council of nonmember state representatives to consult
31 within the administration of the agreement.

1 (4) For the purposes of reviewing or amending the
2 agreement to embody the simplification requirements as set
3 forth in subsection (3), this state shall enter into
4 multistate discussions. For purposes of such discussions, this
5 state shall be represented by three delegates, one appointed
6 by the President of the Senate, one appointed by the Speaker
7 of the House of Representatives, and the executive director of
8 the department or his or her designee.

9 (5) No provision of the agreement authorized by this
10 section in whole or in part invalidates or amends any
11 provision of the laws of this state. Adoption of the agreement
12 by this state does not amend or modify any law of the state.
13 Implementation of any condition of the agreement in this
14 state, whether adopted before, at, or after membership of this
15 state in the agreement, must be by the action of the state.

16 (6) The agreement authorized by this section is an
17 accord among individual cooperating sovereigns in furtherance
18 of their governmental functions. The agreement provides a
19 mechanism among the member states to establish and maintain a
20 cooperative, simplified system for the application and
21 administration of sales and use taxes under the duly adopted
22 law of each member state.

23 (7)(a) The agreement authorized by this act binds and
24 inures only to the benefit of this state and the other member
25 states. No person, other than a member state, is an intended
26 beneficiary of the agreement. Any benefit to a person other
27 than a state is established by the laws of this state and of
28 other member states and not by the terms of the agreement.

29 (b) Consistent with paragraph (a), no person has any
30 cause of action or defense under the agreement or by virtue of
31 this state's approval of the agreement. No person may

1 challenge, in any action brought under any provision of law,
2 any action or inaction by any department, agency, or other
3 instrumentality of this state, or of any political subdivision
4 of this state, on the ground that the action or inaction is
5 inconsistent with the agreement.

6 (c) No law of this state, or the application thereof,
7 may be declared invalid as to any person or circumstance on
8 the ground that the provision or application is inconsistent
9 with the agreement.

10 (8)(a) A certified service provider is the agent of a
11 seller with whom the certified service provider has contracted
12 for the collection and remittance of sales and use taxes. As
13 the seller's agent, the certified service provider is liable
14 for sales and use tax due each member state on all sales
15 transactions it processes for the seller except as set out in
16 this subsection.

17 (b) A seller that contracts with a certified service
18 provider is not liable to the state for sales or use tax due
19 on transactions processed by the certified service provider
20 unless the seller has misrepresented the type of items it
21 sells or has committed fraud. In the absence of probable cause
22 to believe that the seller has committed fraud or made a
23 material misrepresentation, the seller is not subject to audit
24 on the transactions processed by the certified service
25 provider. A seller is subject to audit for transactions that
26 have not been processed by the certified service provider. The
27 member states acting jointly may perform a system check of the
28 seller and review the seller's procedures to determine if the
29 certified service provider's system is functioning properly
30 and to determine the extent to which the seller's transactions
31 are being processed by the certified service provider.

1 (c) A person that provides a certified automated
2 system is responsible for the proper functioning of that
3 system and is liable to the state for underpayments of tax
4 attributable to errors in the functioning of the certified
5 automated system. A seller that uses a certified automated
6 system remains responsible and is liable to the state for
7 reporting and remitting tax.

8 (d) A seller that has a proprietary system for
9 determining the amount of tax due on transactions and has
10 signed an agreement establishing a performance standard for
11 that system is liable for the failure of the system to meet
12 the performance standard.

13 (9) Disclosure of information necessary under this
14 section must be pursuant to a written agreement between the
15 executive director of the department or his or her designee
16 and the certified service provider. The certified service
17 provider is bound by the same requirements of confidentiality
18 as the department. Breach of confidentiality is a misdemeanor
19 of the first degree, punishable as provided in s. 775.082 or
20 s. 775.083.

21 (10) On or before January 1 annually, the department
22 shall provide recommendations to the President of the Senate,
23 the Senate Minority Leader, the Speaker of the House of
24 Representatives, and the Minority Leader of the House of
25 Representatives for provisions to be adopted for inclusion
26 within the system which are necessary to bring it into
27 compliance with the Streamlined Sales and Use Tax Agreement.

28 Section 25. Notwithstanding section 10 of chapter
29 90-110, Laws of Florida, subsection (3) of s. 215.20, Florida
30 Statutes, shall not expire on October 1, 2001, as scheduled by
31

1 that section, but subsection (3) of s. 215.20, Florida
2 Statutes, is revived and readopted.

3 Section 26. Effective July 1, 2001, subsection (4) of
4 section 220.22, Florida Statutes, is amended to read:

5 220.22 Returns; filing requirement.--

6 (4) The department shall designate by rule certain
7 not-for-profit entities and others that are not required to
8 file a return, including an initial information return, under
9 this code unless the entities have taxable income as defined
10 in s. 220.13(2). These entities shall include subchapter S
11 corporations, tax-exempt entities, and others that do not
12 usually owe federal income tax.~~For the year in which an~~
13 ~~election is made pursuant to s. 1361(b)(3) of the Internal~~
14 ~~Revenue Code, the qualified subchapter S subsidiary shall file~~
15 ~~an informational return with the department, which return~~
16 ~~shall be restricted to information identifying the subsidiary,~~
17 ~~the electing S corporation parent, and the effective date of~~
18 ~~the election.~~

19 Section 27. Paragraph (e) of subsection (3) of section
20 443.131, Florida Statutes, is amended to read:

21 443.131 Contributions.--

22 (3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.--

23 (e)1. Variations from the standard rate of
24 contributions shall be assigned with respect to each calendar
25 year to employers eligible therefor. In determining the
26 contribution rate, varying from the standard rate to be
27 assigned each employer, adjustment factors provided for in
28 sub-subparagraphs a.-c. will be added to the benefit ratio.
29 This addition will be accomplished in two steps by adding a
30 variable adjustment factor and a final adjustment factor as
31 defined below. The sum of these adjustment factors provided

1 for in sub-subparagraphs a.-c. will first be algebraically
2 summed. The sum of these adjustment factors will then be
3 divided by a gross benefit ratio to be determined as follows:
4 Total benefit payments for the previous 3 years, as defined in
5 subparagraph (b)1., charged to employers eligible to be
6 assigned a contribution rate different from the standard rate
7 minus excess payments for the same period divided by taxable
8 payroll entering into the computation of individual benefit
9 ratios for the calendar year for which the contribution rate
10 is being computed. The ratio of the sum of the adjustment
11 factors provided for in sub-subparagraphs a.-c. to the gross
12 benefit ratio will be multiplied by each individual benefit
13 ratio below the maximum tax rate to obtain variable adjustment
14 factors; except that in any instance in which the sum of an
15 employer's individual benefit ratio and variable adjustment
16 factor exceeds the maximum tax rate, the variable adjustment
17 factor will be reduced so that the sum equals the maximum tax
18 rate. The variable adjustment factor of each such employer
19 will be multiplied by his or her taxable payroll entering into
20 the computation of his or her benefit ratio. The sum of these
21 products will be divided by the taxable payroll of such
22 employers that entered into the computation of their benefit
23 ratios. The resulting ratio will be subtracted from the sum of
24 the adjustment factors provided for in sub-subparagraphs a.-c.
25 to obtain the final adjustment factor. The variable adjustment
26 factors and the final adjustment factor will be computed to
27 five decimal places and rounded to the fourth decimal place.
28 This final adjustment factor will be added to the variable
29 adjustment factor and benefit ratio of each employer to obtain
30 each employer's contribution rate; however, at no time shall
31

1 an employer's contribution rate be rounded to less than 0.1
2 percent.

3 a. An adjustment factor for noncharge benefits will be
4 computed to the fifth decimal place, and rounded to the fourth
5 decimal place, by dividing the amount of benefit payments
6 noncharged in the 3 preceding years as defined in subparagraph
7 (b)1. by the taxable payroll of employers eligible to be
8 considered for assignment of a contribution rate different
9 from the standard rate that have a benefit ratio for the
10 current year less than the maximum contribution rate. The
11 taxable payroll of such employers will be the taxable payrolls
12 for the 3 years ending June 30 of the current calendar year
13 that had been reported to the division by September 30 of the
14 same calendar year. Noncharge benefits for the purpose of this
15 section shall be defined as benefit payments to an individual
16 which were paid from the Unemployment Compensation Trust Fund
17 but which were not charged to the unemployment record of any
18 employer.

19 b. An excess payments adjustment factor will be
20 computed to the fifth decimal place, and rounded to the fourth
21 decimal place, by dividing the total excess payments during
22 the 3 preceding years as defined in subparagraph (b)1. by the
23 taxable payroll of employers eligible to be considered for
24 assignment of a contribution rate different from the standard
25 rate that have a benefit ratio for the current year less than
26 the maximum contribution rate. The taxable payroll of such
27 employers will be the same as used in computing the noncharge
28 adjustment factor as described in sub-subparagraph a. The term
29 "excess payments" for the purpose of this section is defined
30 as the amount of benefit payments charged to the employment
31 record of an employer during the 3 preceding years, as defined

1 in subparagraph (b)1., less the product of the maximum
2 contribution rate and his or her taxable payroll for the 3
3 years ending June 30 of the current calendar year that had
4 been reported to the division by September 30 of the same
5 calendar year. The term "total excess payments" is defined as
6 the sum of the individual employer excess payments for those
7 employers that were eligible to be considered for assignment
8 of a contribution rate different from the standard rate.

9 c. If the balance in the Unemployment Compensation
10 Trust Fund as of June 30 of the calendar year immediately
11 preceding the calendar year for which the contribution rate is
12 being computed is less than 3.7 ~~4~~ percent of the taxable
13 payrolls for the year ending June 30 as reported to the
14 division by September 30 of that calendar year, a positive
15 adjustment factor will be computed. Such adjustment factor
16 shall be computed annually to the fifth decimal place, and
17 rounded to the fourth decimal place, by dividing the sum of
18 the total taxable payrolls for the year ending June 30 of the
19 current calendar year as reported to the division by September
20 30 of such calendar year into a sum equal to one-fourth of the
21 difference between the amount in the fund as of June 30 of
22 such calendar year and the sum of 4.7 ~~5~~ percent of the total
23 taxable payrolls for that year. Such adjustment factor will
24 remain in effect in subsequent years until a balance in the
25 Unemployment Compensation Trust Fund as of June 30 of the year
26 immediately preceding the effective date of such contribution
27 rate equals or exceeds 3.7 ~~4~~ percent of the taxable payrolls
28 for the year ending June 30 of the current calendar year as
29 reported to the division by September 30 of that calendar
30 year. If the balance in the Unemployment Compensation Trust
31 Fund as of June 30 of the year immediately preceding the

1 calendar year for which the contribution rate is being
 2 computed exceeds 4.7 5 percent of the taxable payrolls for the
 3 year ending June 30 of the current calendar year as reported
 4 to the division by September 30 of that calendar year, a
 5 negative adjustment factor will be computed. Such adjustment
 6 factor shall be computed annually to the fifth decimal place,
 7 and rounded to the fourth decimal place, by dividing the sum
 8 of the total taxable payrolls for the year ending June 30 of
 9 the current calendar year as reported to the division by
 10 September 30 of such calendar year into a sum equal to
 11 one-fourth of the difference between the amount in the fund as
 12 of June 30 of the current calendar year and 4.7 5 percent of
 13 the total taxable payrolls of such year. Such adjustment
 14 factor will remain in effect in subsequent years until the
 15 balance in the Unemployment Compensation Trust Fund as of June
 16 30 of the year immediately preceding the effective date of
 17 such contribution rate is less than 4.7 5 percent but more
 18 than 3.7 4 percent of the taxable payrolls for the year ending
 19 June 30 of the current calendar year as reported to the
 20 division by September 30 of that calendar year.

21 d. The maximum contribution rate that can be assigned
 22 to any employer shall be 5.4 percent, except those employers
 23 participating in an approved short-time compensation plan in
 24 which case the maximum shall be 1 percent above the current
 25 maximum contribution rate, with respect to any calendar year
 26 in which short-time compensation benefits are in the
 27 employer's employment record.

28 2. In the event of the transfer of employment records
 29 to an employing unit pursuant to paragraph (g) which, prior to
 30 such transfer, was an employer, the division shall recompute a
 31 benefit ratio for the successor employer on the basis of the

1 combined employment records and reassign an appropriate
2 contribution rate to such successor employer as of the
3 beginning of the calendar quarter immediately following the
4 effective date of such transfer of employment records.

5 Section 28. (1) Section 443.1315, Florida Statutes,
6 is created to read:

7 443.1315 Treatment of Indian tribes.--

8 (1) As used in this section:

9 (a) "Employer" includes any Indian tribe for which
10 service in employment as defined by this chapter is performed.

11 (b) "Employment" includes service performed in the
12 employ of an Indian tribe, as defined by s. 3306(u) of the
13 Federal Unemployment Tax Act, provided such service is
14 excluded from "employment," as defined by said act, solely by
15 reason of s. 3306(c)(7) of said act and is not otherwise
16 excluded from "employment" under this chapter. For purposes of
17 this section, the exclusions from employment under s.
18 443.036(21)(d) shall be applicable to services performed in
19 the employ of an Indian tribe.

20 (2) Benefits based on service in employment, as
21 defined by this section, shall be payable in the same amount,
22 on the same terms, and subject to the same conditions as
23 benefits payable on the basis of other service subject to this
24 chapter.

25 (3)(a) Indian tribes or tribal units, including
26 subdivisions, subsidiaries, or business enterprises wholly
27 owned by such Indian tribes, subject to this chapter shall pay
28 contributions under the same terms and conditions as all other
29 subject employers, unless they elect to pay into the
30 Unemployment Compensation Trust Fund amounts equal to the
31

1 amount of benefits attributable to service in the employ of
2 the Indian tribe.

3 (b) Indian tribes electing to make payments in lieu of
4 contributions must make such election in the same manner and
5 under the same conditions as provided by s. 443.131 for state
6 and local governments and nonprofit organizations subject to
7 this chapter. Indian tribes shall determine if reimbursement
8 for benefits paid will be elected by the tribe as a whole, by
9 individual tribal units, or by combinations of individual
10 tribal units.

11 (c) Indian tribes or tribal units shall be billed for
12 the full amount of benefits attributable to service in the
13 employ of the Indian tribe or tribal unit on the same schedule
14 as other employing units that have elected to make payments in
15 lieu of contributions.

16 (d) At the discretion of the director of the Agency
17 for Workforce Innovation or his or her designee, any Indian
18 tribe or tribal unit that elects to become liable for payments
19 in lieu of contributions shall be required, within 90 days
20 after the effective date of its election, to:

21 1. Execute and file with the director or his or her
22 designee a surety bond approved by the director or his or her
23 designee; or

24 2. Deposit with the director or his or her designee
25 money or securities on the same basis as other employers with
26 the same election option.

27 (4)(a)1. Failure of the Indian tribe or tribal unit to
28 make required payments, including assessments of interest and
29 penalty, within 90 days after receipt of the bill, will cause
30 the Indian tribe to lose the option to make payments in lieu
31 of contributions, as described in subsection (3), for the

1 following tax year, unless payment in full is received before
2 contribution rates for the next tax year are computed.

3 2. Any Indian tribe that loses the option to make
4 payments in lieu of contributions due to late payment or
5 nonpayment, as described in subparagraph 1., shall have such
6 option reinstated if, after a period of 1 year, all
7 contributions have been made timely, provided no
8 contributions, payments in lieu of contributions for benefits
9 paid, penalties, or interest remain outstanding.

10 (b)1. Failure of the Indian tribe or any tribal unit
11 thereof to make required payments, including assessments of
12 interest and penalty, after all collection activities deemed
13 necessary by the director of the Agency for Workforce
14 Innovation or his or her designee have been exhausted, will
15 cause services performed for such tribe to not be treated as
16 "employment" for purposes of paragraph (1)(b).

17 2. The director or his or her designee may determine
18 that any Indian tribe that loses coverage under subparagraph
19 1. may have services performed for such tribe again included
20 as "employment" for purposes of paragraph (1)(b) if all
21 contributions, payments in lieu of contributions, penalties,
22 and interest have been paid.

23 (c) If an Indian tribe fails to make payments required
24 under this section, including assessments of interest and
25 penalty, within 90 days after a final notice of delinquency,
26 the director of the Agency for Workforce Innovation shall
27 immediately notify the United States Internal Revenue Service
28 and the United States Department of Labor.

29 (5) Notices of payment and reporting delinquency to
30 Indian tribes or their tribal units shall include information
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1 that failure to make full payment within the prescribed
2 timeframe:

3 (a) Will cause the Indian tribe to be liable for taxes
4 under the Federal Unemployment Tax Act.

5 (b) Will cause the Indian tribe to lose the option to
6 make payments in lieu of contributions.

7 (c) Could cause the Indian tribe to be excepted from
8 the definition of "employer," as provided in paragraph (1)(a),
9 and services in the employ of the Indian tribe, as provided in
10 paragraph (1)(b), to be excepted from "employment."

11 (6) Extended benefits paid that are attributable to
12 service in the employ of an Indian tribe and not reimbursed by
13 the Federal Government shall be financed in their entirety by
14 such Indian tribe.

15 (7) The Agency for Workforce Innovation is authorized
16 to adopt any rules it deems necessary to implement this
17 section.

18 (2) This section shall take effect upon this act
19 becoming a law and shall apply retroactively to December 21,
20 2000.

21 Section 29. Effective July 1, 2001, subsection (10) of
22 section 624.509, Florida Statutes, is repealed.

23 Section 30. Except as otherwise provided herein, this
24 act shall take effect upon becoming a law.

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