

By the Committee on Finance and Taxation; and Senator Campbell

314-1981B-02

1                                   A bill to be entitled  
2           An act relating to tax administration; creating  
3           s. 175.1015, F.S.; authorizing the Department  
4           of Revenue to create and maintain a database  
5           for use by insurers; providing insurers with  
6           incentives for using the database; providing  
7           penalties for failure to use the database;  
8           requiring local governments to provide  
9           information to the department; appropriating  
10          funds to the department for the administration  
11          of the database; authorizing the department to  
12          adopt rules; creating s. 185.085, F.S.;  
13          authorizing the Department of Revenue to create  
14          and maintain a database for use by insurers;  
15          providing incentives to insurers for using the  
16          database and penalties for failure to use the  
17          database; requiring local governments to  
18          provide information to the department;  
19          appropriating funds to the department for the  
20          administration of the database; authorizing the  
21          department to adopt rules; amending s. 199.052,  
22          F.S.; eliminating the requirement that a  
23          corporation file an intangibles tax return when  
24          no tax is due; repealing s. 199.062(1) and (2),  
25          F.S.; eliminating the requirement that a  
26          corporation file an annual information return  
27          regarding stock value; amending s. 199.218,  
28          F.S.; eliminating the requirement that a  
29          corporation maintain records relating to  
30          information reported under s. 199.062(2), F.S.;  
31          amending s. 199.282, F.S.; eliminating the

1 penalty imposed upon a corporation for failure  
2 to file the notice required under s.  
3 199.062(2), F.S.; repealing s. 201.05, F.S.,  
4 relating to tax on stock certificates; amending  
5 s. 201.08, F.S.; providing for the maximum tax  
6 that must be paid on unsecured obligations;  
7 conforming cross-references; amending s.  
8 212.11, F.S.; authorizing the Department of  
9 Revenue to require a report to be submitted  
10 when filing a sales and use tax return that  
11 claims certain credits; authorizing the  
12 department to adopt rules regarding the forms  
13 and documentation required to verify these  
14 credits; authorizing the department to disallow  
15 any credit not supported by the required report  
16 and to impose penalties and interest; amending  
17 s. 212.18, F.S.; authorizing the Department of  
18 Revenue to waive registration fees for online  
19 registrations and registrations made using the  
20 Multistate Tax Commission procedures; amending  
21 s. 220.22, F.S.; eliminating initial  
22 information returns for certain corporations;  
23 amending s. 220.23, F.S.; providing that  
24 interest on any deficiency accrues from the  
25 date fixed for filing the original return;  
26 amending s. 220.809, F.S.; conforming  
27 provisions; amending s. 376.70, F.S.;  
28 authorizing the Department of Revenue to waive  
29 registration fees for online registrations;  
30 amending s. 443.131, F.S.; allowing certain  
31 employers of domestic employees to file

1           annually for unemployment tax; providing an  
2           appropriation to the Department of Revenue;  
3           amending s. 220.15, F.S., which provides for  
4           apportionment of adjusted federal income to  
5           this state; revising the conditions for  
6           determining when sales of tangible personal  
7           property occur in this state for certain  
8           industries; providing for retroactive effect;  
9           amending s. 72.011, F.S.; providing for the  
10          venue and jurisdiction of taxpayer actions in  
11          circuit court; amending s. 212.12, F.S.;  
12          providing for methods of determining  
13          overpayments by persons paying the tax on  
14          sales, use, and other transactions; amending s.  
15          213.21, F.S.; revising the process for review  
16          of a taxpayer's liability for tax and interest;  
17          amending ss. 213.285, F.S., 213.053, F.S.;  
18          postponing the repeal of the certified audits  
19          project; amending s. 608.471, F.S.; providing  
20          for the tax treatment of certain types of  
21          limited liability companies; amending s.  
22          220.187, F.S.; providing for an additional  
23          class of "qualified student," repealing section  
24          9 of ch. 2001-225, Laws of Florida; repealing  
25          an incorrect statutory reference; repealing s.  
26          220.331, F.S.; allowing credits to be applied  
27          to the first two estimated payments; providing  
28          an appropriation; providing effective dates.

29  
30 Be It Enacted by the Legislature of the State of Florida:

31

1           Section 1. Section 175.1015, Florida Statutes, is  
2 created to read:

3           175.1015 Determination of local premium tax situs.--

4           (1) Any insurance company that is obligated to report  
5 and remit the excise tax on property insurance premiums  
6 imposed under s. 175.101 shall be held harmless from any  
7 liability for taxes, interest, or penalties that would  
8 otherwise be due solely as a result of an assignment of an  
9 insured property to an incorrect local taxing jurisdiction if  
10 the insurance company exercises due diligence in applying an  
11 electronic database provided by the Department of Revenue  
12 under subsection (2). Insurance companies that do not use the  
13 electronic database provided by the Department of Revenue or  
14 that do not exercise due diligence in applying the electronic  
15 database are subject to a 0.5-percent penalty on the premium  
16 for each policy that is improperly assigned, whether assigned  
17 to an improper local taxing jurisdiction, not assigned to a  
18 local taxing jurisdiction when it should be assigned to a  
19 local taxing jurisdiction, or assigned to a local taxing  
20 jurisdiction when it should not be assigned to a local taxing  
21 jurisdiction.

22           (2)(a) The Department of Revenue shall, subject to  
23 legislative appropriation, create as soon as practical and  
24 feasible, and thereafter shall maintain, an electronic  
25 database that gives due and proper regard to any format that  
26 is approved by the American National Standards Institute's  
27 Accredited Standards Committee X12 and that designates for  
28 each street address and address range in the state, including  
29 any multiple postal street addresses applicable to one street  
30 location, the local taxing jurisdiction in which the street  
31 address and address range is located and the appropriate code

1 for each such participating local taxing jurisdiction,  
2 identified by one nationwide standard numeric code. The  
3 nationwide standard numeric code must contain the same number  
4 of numeric digits, and each digit or combination of digits  
5 must refer to the same level of taxing jurisdiction throughout  
6 the United States and must be in a format similar to FIPS 55-3  
7 or other appropriate standard approved by the Federation of  
8 Tax Administrators and the Multistate Tax Commission. Each  
9 address or address range must be provided in standard postal  
10 format, including the street number, street number range,  
11 street name, and zip code. Each year after the creation of the  
12 initial database, the Department of Revenue shall annually  
13 create and maintain a database for the current tax year. Each  
14 annual database must be calendar-year specific.

15 (b)1. Each participating local taxing jurisdiction  
16 shall furnish to the Department of Revenue all information  
17 needed to create the electronic database as soon as practical  
18 and feasible. The information furnished to the Department of  
19 Revenue must specify an effective date.

20 2. Each participating local taxing jurisdiction shall  
21 furnish to the Department of Revenue all information needed to  
22 create and update the current year's database, including  
23 changes in annexations, incorporations, and reorganizations  
24 and any other changes in jurisdictional boundaries, as well as  
25 changes in eligibility to participate in the excise tax  
26 imposed under this chapter. The information must specify an  
27 effective date and must be furnished to the Department of  
28 Revenue by July 1 of the current year.

29 3. The Department of Revenue shall create and update  
30 the current year's database in accordance with the information  
31 furnished by participating local taxing jurisdictions under

1 subparagraph 1. or subparagraph 2., as appropriate. To the  
2 extent practicable, the Department of Revenue shall post each  
3 new annual database on a web site by September 1 of each year.  
4 Each participating local taxing jurisdiction shall have access  
5 to this web site and, within 30 days thereafter, shall provide  
6 any corrections to the Department of Revenue. The Department  
7 of Revenue shall finalize the current year's database and post  
8 it on a web site by November 1 of the tax year. If a dispute  
9 in jurisdictional boundaries cannot be resolved so that  
10 changes in boundaries may be included, as appropriate, in the  
11 database by November 1, the changes may not be retroactively  
12 included in the current year's database and the boundaries  
13 will remain the same as in the previous year's database. The  
14 finalized database must be used in assigning policies and  
15 premiums to the proper local taxing jurisdiction for the  
16 insurance premium tax return due on the following March 1. The  
17 Department of Revenue shall furnish the annual database on  
18 magnetic or electronic media to any insurance company or  
19 vendor that requests the database for the sole purpose of  
20 assigning insurance premiums to the proper local taxing  
21 jurisdiction for the excise tax imposed under this chapter.  
22 Information contained in the electronic database is conclusive  
23 for purposes of this chapter. The electronic database is not  
24 an order, a rule, or a policy of general applicability.

25 4. Each annual database must identify the additions,  
26 deletions, and other changes to the preceding version of the  
27 database.

28 (3)(a) As used in this section, the term "due  
29 diligence" means the care and attention that is expected from  
30 and is ordinarily exercised by a reasonable and prudent person  
31 under the circumstances.

1           (b) Notwithstanding any law to the contrary, an  
2 insurance company is exercising due diligence if the insurance  
3 company assigns an insured's premium to local taxing  
4 jurisdictions in accordance with the Department of Revenue's  
5 annual database and:

6           1. Expends reasonable resources to accurately and  
7 reliably implement such method;

8           2. Maintains adequate internal controls to correctly  
9 include in its database of policyholders the location of the  
10 property insured, in the proper address format, so that  
11 matching with the department's database is accurate; and

12           3. Corrects errors in the assignment of addresses to  
13 local taxing jurisdictions within 120 days after the insurance  
14 company discovers the errors.

15           (6) There is annually appropriated from the moneys  
16 collected under this chapter and deposited in the Police and  
17 Firefighter's Premium Tax Trust Fund an amount sufficient to  
18 pay the expenses of the Department of Revenue in administering  
19 this section, but not to exceed \$50,000 annually, adjusted  
20 annually by the lesser of a 5-percent increase or the  
21 percentage of growth in the total collections.

22           (7) The Department of Revenue shall adopt rules  
23 necessary to administer this section, including rules  
24 establishing procedures and forms.

25           Section 2. Section 185.085, Florida Statutes, is  
26 created to read:

27           185.085 Determination of local premium tax situs.--

28           (1) Any insurance company that is obligated to report  
29 and remit the excise tax on casualty insurance premiums  
30 imposed under s. 185.08 shall be held harmless from any  
31 liability for taxes, interest, or penalties that would

1 otherwise be due solely as a result of an assignment of an  
2 insured property to an incorrect local taxing jurisdiction if  
3 the insurance company exercises due diligence in applying an  
4 electronic database provided by the Department of Revenue  
5 under subsection (2). Insurance companies that do not use the  
6 electronic database provided by the Department of Revenue or  
7 that do not exercise due diligence in applying the electronic  
8 database are subject to a 0.5-percent penalty on the premium  
9 for each policy that is improperly assigned, whether assigned  
10 to an improper local taxing jurisdiction, not assigned to a  
11 local taxing jurisdiction when it should be assigned to a  
12 local taxing jurisdiction, or assigned to a local taxing  
13 jurisdiction when it should not be assigned to a local taxing  
14 jurisdiction.

15 (2)(a) The Department of Revenue shall, subject to  
16 legislative appropriation, create as soon as practical and  
17 feasible, and thereafter shall maintain, an electronic  
18 database that gives due and proper regard to any format that  
19 is approved by the American National Standards Institute's  
20 Accredited Standards Committee X12 and that designates for  
21 each street address and address range in the state, including  
22 any multiple postal street addresses applicable to one street  
23 location, the local taxing jurisdiction in which the street  
24 address and address range is located and the appropriate code  
25 for each such participating local taxing jurisdiction,  
26 identified by one nationwide standard numeric code. The  
27 nationwide standard numeric code must contain the same number  
28 of numeric digits, and each digit or combination of digits  
29 must refer to the same level of taxing jurisdiction throughout  
30 the United States and must be in a format similar to FIPS 55-3  
31 or other appropriate standard approved by the Federation of



1 Tax Administrators and the Multistate Tax Commission. Each  
2 address or address range must be provided in standard postal  
3 format, including the street number, street number range,  
4 street name, and zip code. Each year after the creation of the  
5 initial database, the Department of Revenue shall annually  
6 create and maintain a database for the current tax year. Each  
7 annual database must be calendar-year specific.

8 (b)1. Each participating local taxing jurisdiction  
9 shall furnish to the Department of Revenue all information  
10 needed to create the electronic database as soon as practical  
11 and feasible. The information furnished to the Department of  
12 Revenue must specify an effective date.

13 2. Each participating local taxing jurisdiction shall  
14 furnish to the Department of Revenue all information needed to  
15 create and update the current year's database, including  
16 changes in annexations, incorporations, and reorganizations  
17 and any other changes in jurisdictional boundaries, as well as  
18 changes in eligibility to participate in the excise tax  
19 imposed under this chapter. The information must specify an  
20 effective date and must be furnished to the Department of  
21 Revenue by July 1 of the current year.

22 3. The Department of Revenue shall create and update  
23 the current year's database in accordance with the information  
24 furnished by participating local taxing jurisdictions under  
25 subparagraph 1. or subparagraph 2., as appropriate. To the  
26 extent practicable, the Department of Revenue shall post each  
27 new annual database on a web site by September 1 of each year.  
28 Each participating local taxing jurisdiction shall have access  
29 to this web site and, within 30 days thereafter, shall provide  
30 any corrections to the Department of Revenue. The Department  
31 of Revenue shall finalize the current year's database and post

1 it on a web site by November 1 of the tax year. If a dispute  
2 in jurisdictional boundaries cannot be resolved so that  
3 changes in boundaries may be included, as appropriate, in the  
4 database by November 1, the changes may not be retroactively  
5 included in the current year's database and the boundaries  
6 will remain the same as in the previous year's database. The  
7 finalized database must be used in assigning policies and  
8 premiums to the proper local taxing jurisdiction for the  
9 insurance premium tax return due on the following March 1. The  
10 Department of Revenue shall furnish the annual database on  
11 magnetic or electronic media to any insurance company or  
12 vendor that requests the database for the sole purpose of  
13 assigning insurance premiums to the proper local taxing  
14 jurisdiction for the excise tax imposed under this chapter.  
15 Information contained in the electronic database is conclusive  
16 for purposes of this chapter. The electronic database is not  
17 an order, a rule, or a policy of general applicability.

18 4. Each annual database must identify the additions,  
19 deletions, and other changes to the preceding version of the  
20 database.

21 (3)(a) As used in this section, the term "due  
22 diligence" means the care and attention that is expected from  
23 and is ordinarily exercised by a reasonable and prudent person  
24 under the circumstances.

25 (b) Notwithstanding any law to the contrary, an  
26 insurance company is exercising due diligence if the insurance  
27 company assigns an insured's premium to local taxing  
28 jurisdictions in accordance with the Department of Revenue's  
29 annual database and:

30 1. Expends reasonable resources to accurately and  
31 reliably implement such method;

1           2. Maintains adequate internal controls to correctly  
2 include in its database of policyholders the location of the  
3 property insured, in the proper address format, so that  
4 matching with the department's database is accurate; and

5           3. Corrects errors in the assignment of addresses to  
6 local taxing jurisdictions within 120 days after the insurance  
7 company discovers the errors.

8           (6) There is annually appropriated from the moneys  
9 collected under this chapter and deposited in the Police and  
10 Firefighter's Premium Tax Trust Fund an amount sufficient to  
11 pay the expenses of the Department of Revenue in administering  
12 this section, but not to exceed \$50,000 annually, adjusted  
13 annually by the lesser of a 5-percent increase or the  
14 percentage of growth in the total collections.

15           (7) The Department of Revenue shall adopt rules  
16 necessary to administer this section, including rules  
17 establishing procedures and forms.

18           Section 3. Subsection (2) of section 199.052, Florida  
19 Statutes, is amended to read:

20           199.052 Annual tax returns; payment of annual tax.--

21           (2) No person, corporation, agent, or fiduciary shall  
22 be required to pay the annual tax in any year when the  
23 aggregate annual tax upon the ~~person's~~ intangible personal  
24 property, after exemptions but before application of any  
25 discount for early filing, would be less than \$60. In such  
26 case, an annual return is not required ~~unless the taxpayer is~~  
27 ~~a corporation or an agent or fiduciary of whom the department~~  
28 ~~requires an informational return~~. Agents and fiduciaries shall  
29 report for each person for whom they hold intangible personal  
30 property if the aggregate annual tax on such person is \$60 or  
31 more.

1           Section 4. Subsections (1) and (2) of section 199.062,  
2 Florida Statutes, are repealed.

3           Section 5. Subsection (2) of section 199.218, Florida  
4 Statutes, is amended to read:

5           199.218 Books and records.--

6           (2) Each ~~corporation and~~ broker subject to the  
7 provisions of s. 199.062 shall preserve all books and other  
8 records relating to the information reported under s. 199.062  
9 or otherwise required by rule of the department for a period  
10 of 3 years from the due date of the report.

11           Section 6. Paragraph (a) of subsection (6) of section  
12 199.282, Florida Statutes, is amended to read:

13           199.282 Penalties for violation of this chapter.--

14           (6) Late reporting penalties shall be imposed as  
15 follows:

16           (a) A penalty of \$100 upon any corporation that ~~which~~  
17 does not timely file a written notice required under s.  
18 199.057(2)(c) ~~or s. 199.062(2).~~

19           Section 7. Section 201.05, Florida Statutes, is  
20 repealed.

21           Section 8. Subsections (1), (2), (4), and (5) of  
22 section 201.08, Florida Statutes, are amended to read:

23           201.08 Tax on promissory or nonnegotiable notes,  
24 written obligations to pay money, or assignments of wages or  
25 other compensation; exception.--

26           (1)(a) On promissory notes, nonnegotiable notes,  
27 written obligations to pay money, or assignments of salaries,  
28 wages, or other compensation made, executed, delivered, sold,  
29 transferred, or assigned in the state, and for each renewal of  
30 the same, the tax shall be 35 cents on each \$100 or fraction  
31 thereof of the indebtedness or obligation evidenced thereby.

1 The tax on any document described in this paragraph may not  
2 exceed \$2,450.

3       **(b)** On mortgages, trust deeds, security agreements, or  
4 other evidences of indebtedness filed or recorded in this  
5 state, and for each renewal of the same, the tax shall be 35  
6 cents on each \$100 or fraction thereof of the indebtedness or  
7 obligation evidenced thereby. Mortgages, including, but not  
8 limited to, mortgages executed without the state and recorded  
9 in the state, which incorporate the certificate of  
10 indebtedness, not otherwise shown in separate instruments, are  
11 subject to the same tax at the same rate. When there is both  
12 a mortgage, trust deed, or security agreement and a note,  
13 certificate of indebtedness, or obligation, the tax shall be  
14 paid on the mortgage, trust deed, or security agreement at the  
15 time of recordation. A notation shall be made on the note,  
16 certificate of indebtedness, or obligation that the tax has  
17 been paid on the mortgage, trust deed, or security agreement.  
18 If a mortgage, trust deed, security agreement, or other  
19 evidence of indebtedness is subsequently filed or recorded in  
20 this state to evidence an indebtedness or obligation upon  
21 which tax was paid under paragraph (a) or subsection (2), tax  
22 shall be paid on the mortgage, trust deed, security agreement,  
23 or other evidence of indebtedness on the amount of the  
24 indebtedness or obligation evidenced which exceeds the  
25 aggregate amount upon which tax was previously paid under this  
26 paragraph and under paragraph (a) or subsection (2). If the  
27 mortgage, trust deed, security agreement, or other evidence of  
28 indebtedness subject to the tax levied by this section secures  
29 future advances, as provided in s. 697.04, the tax shall be  
30 paid at the time of recordation on the initial debt or  
31 obligation secured, excluding future advances; at the time and

1 so often as any future advance is made, the tax shall be paid  
2 on all sums then advanced regardless of where such advance is  
3 made. Notwithstanding the aforestated general rule, any  
4 increase in the amount of original indebtedness caused by  
5 interest accruing under an adjustable rate note or mortgage  
6 having an initial interest rate adjustment interval of not  
7 less than 6 months shall be taxable as a future advance only  
8 to the extent such increase is a computable sum certain when  
9 the document is executed. Failure to pay the tax shall not  
10 affect the lien for any such future advance given by s.  
11 697.04, but any person who fails or refuses to pay such tax  
12 due by him or her is guilty of a misdemeanor of the first  
13 degree. The mortgage, trust deed, or other instrument shall  
14 not be enforceable in any court of this state as to any such  
15 advance unless and until the tax due thereon upon each advance  
16 that may have been made thereunder has been paid.

17 (2)(a) On promissory notes, nonnegotiable notes,  
18 written obligations to pay money, or other compensation, made,  
19 executed, delivered, sold, transferred, or assigned in the  
20 state, in connection with sales made under retail charge  
21 account services, incident to sales which are not conditional  
22 in character and which are not secured by mortgage or other  
23 pledge of purchaser, the tax shall be 35 cents on each \$100 or  
24 fraction thereof of the gross amount of the indebtedness  
25 evidenced by such instruments, payable quarterly on such forms  
26 and under such rules and regulations as may be promulgated by  
27 the Department of Revenue. The tax on any document described  
28 in this paragraph may not exceed \$2,450.

29 (b) Any receipt, charge slip, or other record of a  
30 transaction effected with the use of a credit card, charge  
31

1 card, or debit card shall be exempt from the tax imposed by  
2 this section.

3 (4) Notwithstanding paragraph (1)(b)~~subsection (1)~~, a  
4 supplement or an amendment to a mortgage, deed of trust,  
5 indenture, or security agreement, which supplement or  
6 amendment is filed or recorded in this state in connection  
7 with a new issue of bonds, shall be subject to the tax imposed  
8 by paragraph (1)(b)~~subsection (1)~~ only to the extent of the  
9 aggregate amount of the new issue of bonds or other evidence  
10 of indebtedness and not to the extent of the aggregate amount  
11 of bonds or other evidence of indebtedness previously issued  
12 under the instrument being supplemented or amended. In order  
13 to qualify for the tax treatment provided for in this  
14 subsection, the document which evidences the increase in  
15 indebtedness must show the official records book and page  
16 number in which, and the county in which, the original  
17 obligation and any prior increase in that obligation were  
18 recorded.

19 (5) For purposes of this section, a renewal shall only  
20 include modifications of an original document which change the  
21 terms of the indebtedness evidenced by the original document  
22 by adding one or more obligors, increasing the principal  
23 balance, or changing the interest rate, maturity date, or  
24 payment terms. Modifications to documents which do not modify  
25 the terms of the indebtedness evidenced such as those given or  
26 recorded to correct error; modify covenants, conditions, or  
27 terms unrelated to the debt; sever a lien into separate liens;  
28 provide for additional, substitute, or further security for  
29 the indebtedness; consolidate indebtedness or collateral; add,  
30 change, or delete guarantors; or which substitute a new  
31 mortgagee or payee are not renewals and are not subject to tax

1 pursuant to this section. If the taxable amount of a mortgage  
2 is limited by language contained in the mortgage or by the  
3 application of rules limiting the tax base when there is  
4 collateral in more than one state, then a modification which  
5 changes such limitation or tax base shall be taxable only to  
6 the extent of any increase in the limitation or tax base  
7 attributable to such modification. This subsection shall not  
8 be interpreted to exempt from taxation an original mortgage  
9 that which would otherwise be subject to tax pursuant to  
10 paragraph (1)(b) ~~subsection (1)~~.

11 Section 9. Subsection (5) is added to section 212.11,  
12 Florida Statutes, to read:

13 212.11 Tax returns and regulations.--

14 (5)(a) Each dealer that claims any credits granted in  
15 this chapter against that dealer's sales and use tax  
16 liabilities shall submit to the department, upon request,  
17 documentation that provides all of the information required to  
18 verify the dealer's entitlement to such credits, excluding  
19 credits authorized pursuant to the provisions of s. 212.17.  
20 All information must be broken down as prescribed by the  
21 department and shall be submitted in a manner that enables the  
22 department to verify that the credits are allowable by law.  
23 With respect to any credit that is granted in the form of a  
24 refund of previously paid taxes, supporting documentation must  
25 be provided with the application for refund, and the penalty  
26 provisions of paragraph (c) do not apply.

27 (b) The department shall adopt rules regarding the  
28 forms and documentation required to verify credits against  
29 sales and use tax liabilities and the format in which  
30 documentation is to be submitted, which format may include  
31 magnetic tape or other means of electronic transmission.



1           (c) The department shall disallow any credit that is  
2 not supported by the information required under this  
3 subsection. In addition, the disallowed credit or any part of  
4 the credit disallowed is subject to a mandatory penalty of 25  
5 percent and interest as provided for in s. 212.12. A specific  
6 penalty of 25 percent of the otherwise available credit shall  
7 be applied to any credit for which the required information  
8 report is not received within 30 days after a written request  
9 from the department.

10           Section 10. Effective upon this act becoming a law,  
11 paragraph (a) of subsection (3) of section 212.18, Florida  
12 Statutes, is amended to read:

13           212.18 Administration of law; registration of dealers;  
14 rules.--

15           (3)(a) Every person desiring to engage in or conduct  
16 business in this state as a dealer, as defined in this  
17 chapter, or to lease, rent, or let or grant licenses in living  
18 quarters or sleeping or housekeeping accommodations in hotels,  
19 apartment houses, roominghouses, or tourist or trailer camps  
20 that are subject to tax under s. 212.03, or to lease, rent, or  
21 let or grant licenses in real property, as defined in this  
22 chapter, and every person who sells or receives anything of  
23 value by way of admissions, must file with the department an  
24 application for a certificate of registration for each place  
25 of business, showing the names of the persons who have  
26 interests in such business and their residences, the address  
27 of the business, and such other data as the department may  
28 reasonably require. However, owners and operators of vending  
29 machines or newspaper rack machines are required to obtain  
30 only one certificate of registration for each county in which  
31 such machines are located. The department, by rule, may

1 authorize a dealer that uses independent sellers to sell its  
2 merchandise to remit tax on the retail sales price charged to  
3 the ultimate consumer in lieu of having the independent seller  
4 register as a dealer and remit the tax. The department may  
5 appoint the county tax collector as the department's agent to  
6 accept applications for registrations. The application must be  
7 made to the department before the person, firm, copartnership,  
8 or corporation may engage in such business, and it must be  
9 accompanied by a registration fee of \$5. However, a  
10 registration fee is not required to accompany an application  
11 to engage in or conduct business to make mail order sales. The  
12 department may waive the registration fee for applications  
13 submitted through the department's Internet registration  
14 process.

15 Section 11. Subsection (4) of section 220.22, Florida  
16 Statutes, is amended to read:

17 220.22 Returns; filing requirement.--

18 (4) The department shall designate by rule certain  
19 not-for-profit entities and others that are not required to  
20 file a return under this code, including an initial  
21 information return, unless the entities have taxable income as  
22 defined in s. 220.13(2). These entities must include  
23 subchapter S corporations, tax-exempt entities, and others  
24 that do not usually owe federal income tax.~~For the year in~~  
25 ~~which an election is made pursuant to s. 1361(b)(3) of the~~  
26 ~~Internal Revenue Code, the qualified subchapter S subsidiary~~  
27 ~~shall file an informational return with the department, which~~  
28 ~~return shall be restricted to information identifying the~~  
29 ~~subsidiary, the electing S corporation parent, and the~~  
30 ~~effective date of the election.~~

31

1           Section 12. Present paragraph (d) of subsection (2) of  
2 section 220.23, Florida Statutes, is redesignated as paragraph  
3 (e), and a new paragraph (d) is added to that subsection, to  
4 read:

5           220.23 Federal returns.--

6           (2) In the event the taxable income, any item of  
7 income or deduction, or the income tax liability reported in a  
8 federal income tax return of any taxpayer for any taxable year  
9 is adjusted by amendment of such return or as a result of any  
10 other recomputation or redetermination of federal taxable  
11 income or loss, if such adjustment would affect any item or  
12 items entering into the computation of such taxpayer's net  
13 income subject to tax for any taxable year under this code,  
14 the following special rules shall apply:

15           (d) Interest in accordance with s. 220.807 is due on  
16 the amount of any deficiency from the date fixed for filing  
17 the original return for the taxable year, determined without  
18 regard to any extension of time for filing the original  
19 return, until the date of payment of the deficiency.

20           Section 13. Subsection (1) of section 220.809, Florida  
21 Statutes, is amended to read:

22           220.809 Interest on deficiencies.--

23           (1) Except as provided in s. 220.23(2)(d), if any  
24 amount of tax imposed by this chapter is not paid on or before  
25 the date, determined without regard to any extensions,  
26 prescribed for payment of such tax, interest shall be paid in  
27 accordance with the provisions of s. 220.807 on the unpaid  
28 amount from such date to the date of payment.

29           Section 14. Subsection (2) of section 376.70, Florida  
30 Statutes, is amended to read:

31

1           376.70 Tax on gross receipts of drycleaning  
2 facilities.--

3           (2) Each drycleaning facility or dry drop-off facility  
4 imposing a charge for the drycleaning or laundering of  
5 clothing or other fabrics is required to register with the  
6 Department of Revenue and become licensed for the purposes of  
7 this section. The owner or operator of the facility shall  
8 register the facility with the Department of Revenue.

9 Drycleaning facilities or dry drop-off facilities operating at  
10 more than one location are only required to have a single  
11 registration. The fee for registration is \$30. The owner or  
12 operator of the facility shall pay the registration fee to the  
13 Department of Revenue. The department may waive the  
14 registration fee for applications submitted through the  
15 department's Internet registration process.

16           Section 15. Subsection (1) of section 443.131, Florida  
17 Statutes, is amended to read:

18           443.131 Contributions.--

19           (1) WHEN PAYABLE.--Contributions shall accrue and  
20 become payable by each employer for each calendar quarter in  
21 which he or she is subject to this chapter, with respect to  
22 wages paid during such calendar quarter for employment. Such  
23 contributions shall become due and be paid by each employer to  
24 the Agency for Workforce Innovation or its designee division  
25 for the fund, in accordance with such rules as the Agency for  
26 Workforce Innovation or its designee division may prescribe.

27 However, nothing in this subsection shall be construed to  
28 prohibit the Agency for Workforce Innovation or its designee  
29 division from allowing, ~~on a limited basis~~, at the request of  
30 the employer, ~~certain~~ employers of employees performing  
31 domestic services, as defined in s. 443.036(21)(g) ~~and by rule~~

1 ~~of the division~~, to pay contributions or report wages at  
2 intervals other than quarterly when such payment or reporting  
3 is to the advantage of the Agency for Workforce Innovation or  
4 its designee division and the employers, and when such  
5 nonquarterly payment and reporting is authorized under federal  
6 law. This provision gives employers of employees performing  
7 domestic services the option to elect to report wages and pay  
8 taxes annually, with a due date of January ~~April~~ 1 and a  
9 delinquency date of February 1 ~~April 30~~. In order to qualify  
10 for this election, the employer must employ ~~have~~ only  
11 employees who perform domestic services ~~employees~~, be eligible  
12 for a variation from the standard rate as computed pursuant to  
13 s. 443.131(3) ~~in good standing~~, apply to this program no later  
14 than December 1 ~~30~~ of the preceding calendar year, and agree  
15 to provide the Agency for Workforce Innovation or its designee  
16 ~~division~~ with any special reports which might be requested, as  
17 required by rule 60BB-2.025(5) ~~38B-2.025(5)~~, including copies  
18 of all federal employment tax forms. Failure to timely furnish  
19 any wage information when required by the Agency for Workforce  
20 Innovation or its designee shall ~~may~~ result in the employer's  
21 loss of the privilege to elect participation in this program,  
22 effective the calendar quarter immediately following the  
23 calendar quarter in which such failure occurred. The employer  
24 is eligible to reapply for annual reporting after one complete  
25 calendar year has elapsed since the employer's  
26 disqualification if the employer timely furnished any  
27 requested wage information during the period in which annual  
28 reporting was denied. Contributions shall not be deducted, in  
29 whole or in part, from the wages of individuals in such  
30 employer's employ. In the payment of any contributions, a  
31 fractional part of a cent shall be disregarded unless it

1 amounts to one-half cent or more, in which case it shall be  
2 increased to 1 cent.

3 Section 16. Effective upon this act becoming a law,  
4 and applying to tax years beginning on or after January 1,  
5 2002, paragraph (b) of subsection (5) of section 220.15,  
6 Florida Statutes, is amended to read:

7 220.15 Apportionment of adjusted federal income.--

8 (5) The sales factor is a fraction the numerator of  
9 which is the total sales of the taxpayer in this state during  
10 the taxable year or period and the denominator of which is the  
11 total sales of the taxpayer everywhere during the taxable year  
12 or period.

13 (b)1. Sales of tangible personal property occur in  
14 this state if the property is delivered or shipped to a  
15 purchaser within this state, regardless of the f.o.b. point,  
16 other conditions of the sale, or ultimate destination of the  
17 property, unless shipment is made via a common or contract  
18 carrier. However, for industries in SIC Industry Number 2037,  
19 if the ultimate destination of the product is to a location  
20 outside this state, regardless of the method of shipment or  
21 f.o.b. point, the sale shall not be deemed to occur in this  
22 state.

23 2. When citrus fruit is delivered by a cooperative for  
24 a grower-member, by a grower-member to a cooperative, or by a  
25 grower-participant to a Florida processor, the sales factor  
26 for the growers for such citrus fruit delivered to such  
27 processor shall be the same as the sales factor for the most  
28 recent taxable year of that processor. That sales factor,  
29 expressed only as a percentage and not in terms of the dollar  
30 volume of sales, so as to protect the confidentiality of the  
31 sales of the processor, shall be furnished on the request of

1 such a grower promptly after it has been determined for that  
2 taxable year.

3 3. Reimbursement of expenses under an agency contract  
4 between a cooperative, a grower-member of a cooperative, or a  
5 grower and a processor is not a sale within this state.

6 Section 17. Paragraph (a) of subsection (4) and  
7 subsection (5) of section 72.011, Florida Statutes, are  
8 amended to read:

9 72.011 Jurisdiction of circuit courts in specific tax  
10 matters; administrative hearings and appeals; time for  
11 commencing action; parties; deposits.--

12 (4)(a) Except as provided in paragraph (b), an action  
13 initiated in circuit court pursuant to subsection (1) shall be  
14 filed in the Second Judicial Circuit Court in and for Leon  
15 County or in the circuit court in the county where the  
16 taxpayer resides, or maintains its principal commercial  
17 domicile in this state, or, in the ordinary course of  
18 business, regularly maintains its books and records in this  
19 state.

20 (5) The requirements of subsections (1), (2), and (3)  
21 ~~this section~~ are jurisdictional.

22 Section 18. Paragraph (c) of subsection (6) of section  
23 212.12, Florida Statutes, is amended to read:

24 212.12 Dealer's credit for collecting tax; penalties  
25 for noncompliance; powers of Department of Revenue in dealing  
26 with delinquents; brackets applicable to taxable transactions;  
27 records required.--

28 (6)

29 (c)1. If the records of a dealer are adequate but  
30 voluminous in nature and substance, the department may sample  
31 such records, except for fixed assets, and project the audit

1 findings derived therefrom over the entire audit period to  
2 determine the proportion that taxable retail sales bear to  
3 total retail sales or the proportion that taxable purchases  
4 bear to total purchases. In order to conduct such a sample,  
5 the department must first make a good faith effort to reach an  
6 agreement with the dealer, which agreement provides for the  
7 means and methods to be used in the sampling process. In the  
8 event that no agreement is reached, the dealer is entitled to  
9 a review by the executive director.

10           2. For the purposes of sampling pursuant to  
11 subparagraph 1., the department shall project any deficiencies  
12 and overpayments derived therefrom over the entire audit  
13 period. In determining the dealer's compliance, the department  
14 shall reduce any tax deficiency as derived from the sample by  
15 the amount of any overpayment derived from the sample. In the  
16 event the department determines from the sample results that  
17 the dealer has a net tax overpayment, the department shall  
18 provide the findings of this overpayment to the Comptroller  
19 for repayment of funds paid into the State Treasury through  
20 error pursuant to s. 215.26.

21           3.a. A taxpayer is entitled, both in connection with  
22 an audit and in connection with an application for refund  
23 filed independently of any audit, to establish the amount of  
24 any refund or deficiency through statistical sampling when the  
25 taxpayer's records, other than those regarding fixed assets,  
26 are adequate but voluminous. Alternatively, a taxpayer is  
27 entitled to establish any refund or deficiency through any  
28 other sampling method agreed upon by the taxpayer and the  
29 department when the taxpayer's records, other than those  
30 regarding fixed assets, are adequate but voluminous. Whether  
31 done through statistical sampling or any other sampling method



1 agreed upon by the taxpayer and the department, the completed  
2 sample must reflect both overpayments and underpayments of  
3 taxes due. The sample shall be conducted through:

4 (I) A taxpayer request to perform the sampling through  
5 the Certified Audit Program pursuant to s. 213.285;

6 (II) Attestation by a Certified Public Accountant as  
7 to the adequacy of the sampling method utilized and the  
8 results reached using such sampling method; or

9 (III) A sampling method that has been submitted by the  
10 taxpayer and approved by the department before a refund claim  
11 is submitted. This sub-sub-subparagraph does not prohibit a  
12 taxpayer from filing a refund claim prior to approval by the  
13 department of the sampling method; however, a refund claim  
14 submitted before the sampling method has been approved by the  
15 department cannot be a complete refund application pursuant to  
16 s. 213.255 until the sampling method has been approved by the  
17 department.

18 b. The department shall prescribe by rule the  
19 procedures to be followed under each method of sampling. Such  
20 procedures shall follow generally accepted auditing procedures  
21 for sampling. The rule shall also set forth other criteria  
22 regarding the use of sampling, including but not limited to  
23 training requirements that must be met before a sampling  
24 method may be utilized and the steps necessary for the  
25 department and the taxpayer to reach agreement on a sampling  
26 method submitted by the taxpayer for approval by the  
27 department.

28 Section 19. Effective July 1, 2002, paragraph (a) of  
29 subsection (3) and subsection (8) of section 213.21, Florida  
30 Statutes, are amended to read:

31 213.21 Informal conferences; compromises.--

1           (3)(a) A taxpayer's liability for any tax or interest  
2 specified in s. 72.011(1) may be compromised by the department  
3 upon the grounds of doubt as to liability for or  
4 collectibility of such tax or interest. A taxpayer's liability  
5 for penalties under any of the chapters specified in s.  
6 72.011(1) may be settled or compromised if it is determined by  
7 the department that the noncompliance is due to reasonable  
8 cause and not to willful negligence, willful neglect, or  
9 fraud. The facts and circumstances are subject to de novo  
10 review to determine the existence of reasonable cause in any  
11 administrative proceeding or judicial action challenging an  
12 assessment of penalty under any of the chapters specified in  
13 s. 72.011(1).A taxpayer who establishes reasonable reliance  
14 on the written advice issued by the department to the taxpayer  
15 will be deemed to have shown reasonable cause for the  
16 noncompliance. In addition, a taxpayer's liability for  
17 penalties under any of the chapters specified in s. 72.011(1)  
18 in excess of 25 percent of the tax shall be settled or  
19 compromised if the department determines that the  
20 noncompliance is due to reasonable cause and not to willful  
21 negligence, willful neglect, or fraud. The department shall  
22 maintain records of all compromises, and the records shall  
23 state the basis for the compromise. The records of compromise  
24 under this paragraph shall not be subject to disclosure  
25 pursuant to s. 119.07(1) and shall be considered confidential  
26 information governed by the provisions of s. 213.053.

27           (8) In order to determine whether certified audits are  
28 an effective tool in the overall state tax collection effort,  
29 the executive director of the department or the executive  
30 director's designee shall settle or compromise penalty  
31 liabilities of taxpayers who participate in the certified

1 audits project. As further incentive for participating in the  
2 program, the department shall abate the first \$25,000 of any  
3 interest liability and 25 percent of any interest due in  
4 excess of the first \$25,000. A settlement or compromise of  
5 penalties or interest pursuant to this subsection shall not be  
6 subject to the provisions of paragraph (3)(a), except for the  
7 requirement relating to confidentiality of records. The  
8 department may consider an additional compromise of tax or  
9 interest pursuant to the provisions of paragraph (3)(a). This  
10 subsection does not apply to any liability related to taxes  
11 collected but not remitted to the department. This subsection  
12 is repealed on July 1, 2006 ~~2002~~.

13 Section 20. Effective July 1, 2002, paragraph (c) of  
14 subsection (2) of section 213.285, Florida Statutes, is  
15 amended to read:

16 213.285 Certified audits.--

17 (2)

18 (c) The certified audits project is repealed on July  
19 1, 2006 ~~2002~~, or upon completion of the project as determined  
20 by the department, whichever occurs first.

21 Section 21. Effective July 1, 2002, paragraph (n) of  
22 subsection (7) of section 213.053, Florida Statutes, is  
23 amended to read:

24 213.053 Confidentiality and information sharing.--

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

27 (n) Information contained in returns, reports,  
28 accounts, or declarations to the Board of Accountancy in  
29 connection with a disciplinary proceeding conducted pursuant  
30 to chapter 473 when related to a certified public accountant  
31 participating in the certified audits project, or to the court

1 in connection with a civil proceeding brought by the  
2 department relating to a claim for recovery of taxes due to  
3 negligence on the part of a certified public accountant  
4 participating in the certified audits project. In any  
5 judicial proceeding brought by the department, upon motion for  
6 protective order, the court shall limit disclosure of tax  
7 information when necessary to effectuate the purposes of this  
8 section. This paragraph is repealed on July 1, 2006 ~~2002~~.

9 Section 22. Subsection (3) is added to section  
10 608.471, Florida Statutes, to read:

11 608.471 Tax exemption on income of certain limited  
12 liability companies.--

13 (3) Single-member limited liability companies and  
14 other entities that are disregarded for federal income tax  
15 purposes must be treated as separate legal entities for all  
16 non-income-tax purposes. The Department of Revenue shall adopt  
17 rules to take into account that single-member disregarded  
18 entities such as limited liability companies and qualified  
19 subchapter S corporations may be disregarded as separate  
20 entities for federal tax purposes and therefore may report and  
21 account for income, employment, and other taxes under the  
22 taxpayer identification number of the owner of the  
23 single-member entity.

24 Section 23. Effective upon this act becoming a law,  
25 paragraph (e) of subsection (2) of section 220.187, Florida  
26 Statutes, is amended to read:

27 220.187 Credits for contributions to nonprofit  
28 scholarship-funding organizations.--

29 (2) DEFINITIONS.--As used in this section, the term:  
30  
31

1 (e) "Qualified student" means a student who qualifies  
2 for free or reduced-price school lunches under the National  
3 School Lunch Act and who:

4 1. Was counted as a full-time-equivalent student  
5 during the previous state fiscal year for purposes of state  
6 per-student funding; ~~or~~

7 2. Received a scholarship from an eligible nonprofit  
8 scholarship-funding organization during the previous school  
9 year; ~~or~~

10 3. Is eligible to enter kindergarten or first grade.

11 Section 24. Effective upon this act becoming a law,  
12 section 9 of chapter 2001-225, Laws of Florida, is repealed.

13 Section 25. Effective upon this act becoming a law,  
14 section 220.331, Florida Statutes, is repealed.

15 Section 26. The sum of \$300,000 is appropriated from  
16 the General Revenue Fund to the Department of Revenue for the  
17 one-time expense of creating the original database called for  
18 by sections 1 and 2 of this act, and to begin the  
19 implementation process for use of the database. It is the  
20 intent of the Legislature in providing this appropriation that  
21 the database for sections 1 and 2 of this act be available for  
22 use in determining the allocation of premiums to the various  
23 municipalities and special fire control districts for the 2003  
24 insurance premium tax return that is due by March 1, 2004.

25 Section 27. Except for this section and sections 10,  
26 16, 23, 24, and 25 of this act, which shall take effect upon  
27 becoming a law, and sections 19, 20, and 21 of this act, which  
28 shall take effect July 1, 2002, this act shall take effect  
29 January 1, 2003.

30  
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2 COMMITTEE SUBSTITUTE FOR  
3 SB 426

4 This committee substitute adds provisions recommended by the  
5 State Tax Reform Task Force plus other tax administration  
6 provisions to SB 426, and removes a provision from that bill  
7 that provides that the tax classification of a business  
8 entity, as determined under sections 7701 and 7704 of the  
9 Internal Revenue Code, is determinative of the entity's  
10 classification under the Florida Income Tax Code, even though  
11 other provisions of the law call for a different  
12 classification.

13 Additions to the bill include:

- 14 1. It provides an electronic database to enable insurance  
15 companies to determine the situs of property and  
16 casualty insurance policies and provides certain  
17 safeguards for insurance companies that utilize the  
18 database.
- 19 2. It eliminates the requirement for corporations to file  
20 intangibles tax returns when no tax is due and the  
21 requirement to file information returns regarding stock  
22 value.
- 23 3. It repeals the documentary stamp tax on stock  
24 certificates and caps the tax on unsecured loans.
- 25 4. It authorizes the Department of Revenue to require a  
26 report with certain claims for tax credits, and to  
27 disallow any credit not supported by the required  
28 report.
- 29 5. It authorizes the Department of Revenue to waive  
30 registration fees under ss. 212.18 and 376.70, F.S., for  
31 online registrations.
6. It eliminates initial information returns for certain  
corporations and provides that interest on any corporate  
income tax deficiency accrues from the date fixed for  
filing the original return.
7. It allows certain employers of domestic service  
employees to file annually for unemployment tax.
8. It provides that for the frozen fruits, fruit juices,  
and vegetables industry, if the ultimate destination of  
the product is a location outside the state, the sale is  
not deemed to occur in this state.
9. It extends the Department of Revenue's Certified Audit  
Program through July 1, 2006. Under current law this  
program is repealed July 1, 2002.
10. It expands the definition of "qualified student," for  
purposes of granting tax credits for contributions to  
eligible non-profit scholarship funding organizations,  
to include students who meet the income criteria and who

- 1 are eligible to enter kindergarten or first grade.
- 2 11. It repeals a limitation on the effect of contributions  
3 to eligible non-profit scholarship funding organizations  
4 on the first two estimated corporate income tax  
5 payments.
- 6 12. It provides an appropriation for the Department of  
7 Revenue to develop an electronic database, and provides  
8 that it is the intent of the Legislature that such  
9 database be used to determine the allocation of  
10 insurance premiums for the 2003 insurance premium tax  
11 return.
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