

By Senator Geller

31-1832A-04

See HB 171

1                                   A bill to be entitled  
 2           An act relating to the Joint Legislative Sales  
 3           and Use Tax Exemption Review Committee;  
 4           creating s. 11.95, F.S.; creating the Joint  
 5           Legislative Sales and Use Tax Exemption Review  
 6           Committee for the purpose of reviewing  
 7           exemptions from the general state sales and use  
 8           tax; providing for appointments to and  
 9           organization of the committee; specifying  
 10          duties and procedures with respect to such  
 11          review; providing for open meetings; providing  
 12          for reports; requiring continuing periodic  
 13          review of sales and use tax exemptions;  
 14          providing a period of exemption from review for  
 15          newly enacted exemptions; providing  
 16          applicability to other legislation proposing to  
 17          modify, repeal, or enact an exemption;  
 18          providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Section 11.95, Florida Statutes, is created  
 23 to read:

24           11.95 Joint Legislative Sales and Use Tax Exemption  
 25 Review Committee.--

26           (1) The Joint Legislative Sales and Use Tax Exemption  
 27 Review Committee is created to conduct comprehensive, periodic  
 28 reviews of all exemptions from the general state sales and use  
 29 tax. The committee shall consist of nine senators appointed by  
 30 the President of the Senate and nine representatives appointed  
 31 by the Speaker of the House of Representatives. The terms of

1 the members of the initial committee for each review cycle  
2 shall commence upon appointment and shall run to the general  
3 election preceding the organization of the next Legislature.  
4 The terms of the members of subsequent committees for each  
5 review cycle shall be for 2 years and shall run from the  
6 organization of one Legislature to the general election  
7 preceding the organization of the next Legislature. A vacancy  
8 shall be filled in the same manner as the original  
9 appointment. During even-numbered years, the chair of the  
10 committee shall be appointed by the President of the Senate,  
11 and the vice chair of the committee shall be appointed by the  
12 Speaker of the House of Representatives. During odd-numbered  
13 years, the chair of the committee shall be appointed by the  
14 Speaker of the House of Representatives, and the vice chair of  
15 the committee shall be appointed by the President of the  
16 Senate.

17 (2) The committee for each review cycle shall have its  
18 initial meeting no later than December 1 of the year of its  
19 first regular session and thereafter as necessary at the call  
20 of the chair at the time and place designated by the chair. A  
21 quorum shall consist of a majority of the committee members  
22 from each house. During the interim between regular sessions,  
23 the committee may conduct its meetings through teleconferences  
24 or other similar means. All meetings of the committee shall be  
25 open and noticed to the public and subject to order and  
26 decorum in accordance with s. 4(e), Art. III of the State  
27 Constitution.

28 (3) The committee shall be governed by joint rules  
29 adopted by the Legislature pursuant to authority to adopt  
30 rules under s. 4, Art. III of the State Constitution.

31 (4) For purposes of this section, the term:

1           (a) "General state sales and use tax" means the sales  
2 and use tax imposed under chapter 212.

3           (b) "Exemption" means a provision in chapter 212 which  
4 relieves from taxation a sale, use, or other transaction that  
5 would, but for such provision, be subject to tax under chapter  
6 212. A transaction that is beyond the reach of chapter 212 by  
7 reason of definitional or other exclusions shall not be deemed  
8 the subject of an exemption for purposes of this section.  
9 Included among the transactions excluded from taxation under  
10 chapter 212 and therefore not the subject of an exemption to  
11 be reviewed by the committee under this section are the  
12 following:

13           1. Sales that are not retail sales pursuant to s.  
14 212.02(14).

15           2. Export sales under s. 212.06(5)(a).

16           3. Sales for resale under s. 212.07.

17           4. Occasional and isolated sales.

18           5. The sale or use of intangible property.

19           6. The sale of real property.

20           7. The sale or use of services, excepting only those  
21 services enumerated as taxable in chapter 212.

22           (5) The committee shall have the power and duty to  
23 conduct a comprehensive review of all current exemptions from  
24 the general state sales and use tax. The committee shall  
25 establish criteria by which each exemption shall be evaluated.  
26 In developing the evaluation criteria, the committee shall  
27 consider the following principles of taxation:

28           (a) Equity.--The Florida tax system should treat  
29 individuals equitably. It should impose similar tax burdens on  
30 people in similar circumstances and should minimize  
31 regressivity.

1           (b) Compliance.--The Florida tax system should  
2 facilitate taxpayer compliance. It should be simple and easy  
3 to understand so as to minimize compliance costs and increase  
4 the visibility and awareness of the taxes being paid.  
5 Enforcement and collection of tax revenues should be done in a  
6 fair, consistent, professional, predictable, and  
7 cost-effective manner.

8           (c) Pro-competitiveness.--The Florida tax system  
9 should be responsive to interstate and international  
10 competition in order to encourage savings and investment in  
11 plants, equipment, people, and technology in Florida.

12           (d) Neutrality.--The Florida tax system should affect  
13 competitors uniformly and not become a tool for "social  
14 engineering." It should minimize government involvement in  
15 investment decisions, making any such involvement explicit,  
16 and should minimize pyramiding.

17           (e) Stability.--The Florida tax system should produce  
18 revenues in a stable and reliable manner that is sufficient to  
19 fund appropriate governmental functions and expenditures.

20           (f) Integration.--The Florida tax system should  
21 balance the need for integration of federal, state, and local  
22 taxation.

23           (g) Public purpose.--Any sales and use tax exemption  
24 under the Florida tax system should be based upon a  
25 determination that the exemption promotes an important state  
26 interest, including, but not limited to, economic development,  
27 job creation and retention, economic diversification, and  
28 community revitalization.

29           (6) In conducting its review of each exemption from  
30 the general state sales and use tax, the committee shall make  
31 findings of fact and recommend whether the exemption should be

1 retained, modified, or repealed. Each recommendation must be  
2 made by majority vote of the committee members. If a majority  
3 vote of the committee members cannot be achieved, the  
4 committee must recommend that the exemption be retained. The  
5 findings of fact and recommendations of the committee shall be  
6 made by reports to the President of the Senate and the Speaker  
7 of the House of Representatives.

8 (7) The committee may use its discretion in  
9 determining the order in which it reviews the exemptions;  
10 however, the committee should review approximately one-third  
11 of the exemptions each year of a 3-year review period. No  
12 exemption shall be reviewed more than once during any 3-year  
13 review period. For the initial 3-year review, the committee  
14 shall submit, to the President of the Senate and the Speaker  
15 of the House of Representatives, its reports not later than 30  
16 days prior to each regular session in the years 2005, 2006,  
17 and 2007. The committee shall begin a new 3-year review cycle  
18 of all exemptions from the general state sales and use tax  
19 every 10 years following the termination of the previous  
20 review cycle. For each subsequent 3-year review, the committee  
21 shall submit its reports not later than 30 days prior to the  
22 regular session of each year of that review period, beginning  
23 with the 10th year after the year of the final report for the  
24 previous review.

25 (8) At the regular session following submission of  
26 each annual report to the presiding officers of the  
27 Legislature, the committee must file for introduction in both  
28 houses of the Legislature bills presenting for modification or  
29 repeal those exemptions from the general state sales and use  
30 tax which were recommended by the committee for modification  
31 or repeal in the report submitted immediately prior to the

1 session in which introduced. Each bill filed by the committee  
2 must be restricted to a single exemption and must be submitted  
3 to a vote of the members of the house of the Legislature in  
4 which introduced no later than the eighth week of the session  
5 in which introduced, unless the substance of the bill has  
6 already been voted on by the members of the other house of the  
7 Legislature in another bill during that session and defeated.  
8 As used in this subsection, a "single exemption" means an  
9 exemption that describes a single transaction or an exemption  
10 set forth in a section, subsection, or paragraph of chapter  
11 212, whichever describes the fewest number of transactions. In  
12 addition, each bill filed by the committee which receives a  
13 majority vote in the house of the Legislature in which  
14 introduced must be submitted to a vote of the members of the  
15 other house of the Legislature during that session, unless the  
16 substance of the bill has already been voted on by the members  
17 of the other house of the Legislature in another bill during  
18 that session and defeated. In no event shall the repeal of an  
19 exemption take effect sooner than 180 days following its  
20 passage by the Legislature.

21 (9) Any new exemption from taxation under chapter 212  
22 is exempt from review under this section for 6 years after it  
23 takes effect.

24 (10) Nothing contained in this section shall preclude,  
25 or be construed to limit, a legislator from filing for any  
26 legislative session a bill proposing to modify, repeal, or  
27 enact any exemption from the general state sales and use tax  
28 or the imposition of such taxation on the sales of any  
29 service.

30 Section 2. This act shall take effect upon becoming a  
31 law.