

1                                   A bill to be entitled  
 2           An act relating to funding for the management and  
 3           restoration of Apalachicola Bay; amending s. 201.15, F.S.;  
 4           authorizing the distribution of certain revenues from the  
 5           excise tax on documents to the General Inspection Trust  
 6           Fund of the Department of Agriculture and Consumer  
 7           Services; providing for such funds to be used for oyster  
 8           management and restoration in Apalachicola Bay; amending  
 9           s. 370.07, F.S.; abolishing a surcharge upon oysters  
 10          harvested from Apalachicola Bay; deleting certain  
 11          requirements related to the surcharge; providing for the  
 12          use of moneys from the General Inspection Trust Fund for  
 13          oyster management and restoration in Apalachicola Bay;  
 14          prohibiting the Department of Revenue from collecting  
 15          uncollected moneys payable from the surcharge; amending  
 16          ss. 72.011, 161.091, 213.05, and 213.053, F.S., to  
 17          conform; providing an effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

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 21           Section 1. Paragraph (e) of subsection (1), paragraph (a)  
 22           of subsection (2), and subsection (11) of section 201.15,  
 23           Florida Statutes, are amended to read:

24           201.15 Distribution of taxes collected.--All taxes  
 25           collected under this chapter shall be distributed as follows and  
 26           shall be subject to the service charge imposed in s. 215.20(1),  
 27           except that such service charge shall not be levied against any  
 28           portion of taxes pledged to debt service on bonds to the extent

29 that the amount of the service charge is required to pay any  
 30 amounts relating to the bonds:

31 (1) Sixty-two and sixty-three hundredths percent of the  
 32 remaining taxes collected under this chapter shall be used for  
 33 the following purposes:

34 (e) The remainder of the moneys distributed under this  
 35 subsection, after the required payments under paragraphs (a),  
 36 (b), (c), and (d), shall be paid into the State Treasury to the  
 37 credit of the General Revenue Fund of the state to be used and  
 38 expended for the purposes for which the General Revenue Fund was  
 39 created and exists by law or to the Ecosystem Management and  
 40 Restoration Trust Fund, ~~or to~~ the Marine Resources Conservation  
 41 Trust Fund, or the General Inspection Trust Fund as provided in  
 42 subsection (11).

43 (2) Seven and fifty-six hundredths percent of the  
 44 remaining taxes collected under this chapter shall be used for  
 45 the following purposes:

46 (a) Beginning in the month following the final payment for  
 47 a fiscal year under paragraph (1)(c), available moneys shall be  
 48 paid into the State Treasury to the credit of the General  
 49 Revenue Fund of the state to be used and expended for the  
 50 purposes for which the General Revenue Fund was created and  
 51 exists by law or to the Ecosystem Management and Restoration  
 52 Trust Fund, ~~or to~~ the Marine Resources Conservation Trust Fund,  
 53 or the General Inspection Trust Fund as provided in subsection  
 54 (11). Payments made under this paragraph shall continue until  
 55 the cumulative amount credited to the General Revenue Fund for  
 56 the fiscal year under this paragraph equals the cumulative

57 | payments made under paragraph (1)(c) for the same fiscal year.

58 |       (11) (a) From the moneys specified in paragraphs (1)(e)  
 59 | ~~(1)(d)~~ and (2)(a) and prior to deposit of any moneys into the  
 60 | General Revenue Fund, \$30 million shall be paid into the State  
 61 | Treasury to the credit of the Ecosystem Management and  
 62 | Restoration Trust Fund in fiscal year 2000-2001 and each fiscal  
 63 | year thereafter, to be used for the preservation and repair of  
 64 | the state's beaches as provided in ss. 161.091-161.212, and \$2  
 65 | million shall be paid into the State Treasury to the credit of  
 66 | the Marine Resources Conservation Trust Fund to be used for  
 67 | marine mammal care as provided in s. 370.0603(3).

68 |       (b) After the payments required in paragraph (a), \$300,000  
 69 | shall be paid into the State Treasury to the credit of the  
 70 | General Inspection Trust Fund in fiscal year 2006-2007 and each  
 71 | fiscal year thereafter, to be used to fund oyster management and  
 72 | restoration programs in Apalachicola Bay as provided in s.  
 73 | 370.07(3).

74 |       Section 2. Effective July 1, 2007, paragraph (e) of  
 75 | subsection (1) and subsections (2), (11), and (13) of section  
 76 | 201.15, Florida Statutes, as amended by section 1 of chapter  
 77 | 2005-92, Laws of Florida, are amended to read:

78 |       201.15 Distribution of taxes collected.--All taxes  
 79 | collected under this chapter shall be distributed as follows and  
 80 | shall be subject to the service charge imposed in s. 215.20(1),  
 81 | except that such service charge shall not be levied against any  
 82 | portion of taxes pledged to debt service on bonds to the extent  
 83 | that the amount of the service charge is required to pay any  
 84 | amounts relating to the bonds:

85 (1) Sixty-two and sixty-three hundredths percent of the  
 86 remaining taxes collected under this chapter shall be used for  
 87 the following purposes:

88 (e) The remainder of the moneys distributed under this  
 89 subsection, after the required payments under paragraphs (a),  
 90 (b), (c), and (d), shall be paid into the State Treasury to the  
 91 credit of the General Revenue Fund to be used and expended for  
 92 the purposes for which the General Revenue Fund was created and  
 93 exists by law or to the Ecosystem Management and Restoration  
 94 Trust Fund, ~~or to~~ the Marine Resources Conservation Trust Fund,  
 95 or the General Inspection Trust Fund as provided in subsection  
 96 (11).

97 (2) The lesser of seven and fifty-six hundredths percent  
 98 of the remaining taxes collected under this chapter or \$85.1  
 99 ~~\$84.9~~ million in each fiscal year shall be used for the  
 100 following purposes:

101 (a) Beginning in the month following the final payment for  
 102 a fiscal year under paragraph (1)(c), available moneys shall be  
 103 paid into the State Treasury to the credit of the General  
 104 Revenue Fund to be used and expended for the purposes for which  
 105 the General Revenue Fund was created and exists by law or to the  
 106 Ecosystem Management and Restoration Trust Fund, ~~or to~~ the  
 107 Marine Resources Conservation Trust Fund, or the General  
 108 Inspection Trust Fund as provided in subsection (11). Payments  
 109 made under this paragraph shall continue until the cumulative  
 110 amount credited to the General Revenue Fund for the fiscal year  
 111 under this paragraph equals the cumulative payments made under  
 112 paragraph (1)(c) for the same fiscal year.

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113 (b) The remainder of the moneys distributed under this  
114 subsection shall be paid into the State Treasury to the credit  
115 of the Land Acquisition Trust Fund. Sums deposited in the fund  
116 pursuant to this subsection may be used for any purpose for  
117 which funds deposited in the Land Acquisition Trust Fund may  
118 lawfully be used.

119 (11) (a) From the moneys specified in paragraphs (1) (e)  
120 ~~(1) (d)~~ and (2) (a) and prior to deposit of any moneys into the  
121 General Revenue Fund, \$30 million shall be paid into the State  
122 Treasury to the credit of the Ecosystem Management and  
123 Restoration Trust Fund in fiscal year 2000-2001 and each fiscal  
124 year thereafter, to be used for the preservation and repair of  
125 the state's beaches as provided in ss. 161.091-161.212, and \$2  
126 million shall be paid into the State Treasury to the credit of  
127 the Marine Resources Conservation Trust Fund to be used for  
128 marine mammal care as provided in s. 370.0603(3).

129 (b) After the payments required in paragraph (a), \$300,000  
130 shall be paid into the State Treasury to the credit of the  
131 General Inspection Trust Fund in fiscal year 2006-2007 and each  
132 fiscal year thereafter, to be used to fund oyster management and  
133 restoration programs in Apalachicola Bay as provided in s.  
134 370.07(3).

135 (13) The distribution of proceeds deposited into the Water  
136 Management Lands Trust Fund and the Conservation and Recreation  
137 Lands Trust Fund, pursuant to subsections (4) and (5), shall not  
138 be used for land acquisition, but may be used for preacquisition  
139 costs associated with land purchases. The Legislature intends  
140 that the Florida Forever program supplant the acquisition

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141 programs formerly authorized under ss. 259.032 and 373.59. ~~Prior~~  
142 ~~to the 2005 Regular Session of the Legislature, the Acquisition~~  
143 ~~and Restoration Council shall review and make recommendations to~~  
144 ~~the Legislature concerning the need to repeal this provision.~~  
145 ~~Based on these recommendations, the Legislature shall review the~~  
146 ~~need to repeal this provision during the 2005 Regular Session.~~

147 Section 3. Subsection (3) of section 370.07, Florida  
148 Statutes, is amended to read:

149 370.07 Wholesale and retail saltwater products dealers;  
150 regulation.--

151 (3) APALACHICOLA BAY OYSTER MANAGEMENT AND RESTORATION  
152 PROGRAM SURCHARGE.--

153 ~~(a) For purposes of this section, "bag" means an amount of~~  
154 ~~oysters with shells weighing approximately 60 pounds.~~

155 ~~(b) Effective October 1, 1989, there shall be assessed a~~  
156 ~~surcharge of 50 cents on each bag of oysters to be paid by the~~  
157 ~~wholesale dealer first receiving, using, or selling the oysters~~  
158 ~~after harvesting from the waters of Apalachicola Bay.~~

159 ~~(c)1. Each wholesale dealer shall certify, on such forms~~  
160 ~~as may be prescribed by the Department of Revenue, to any~~  
161 ~~subsequent purchasing wholesale dealer or other purchaser that~~  
162 ~~the surcharge imposed by this subsection has been paid or will~~  
163 ~~be paid by such wholesale dealer first receiving the oysters.~~

164 ~~2. In the case where the harvester is also the wholesale~~  
165 ~~dealer, such wholesale dealer shall maintain documentation, on~~  
166 ~~forms as may be prescribed by the Department of Revenue,~~  
167 ~~adequate to establish that the surcharge has been paid or will~~  
168 ~~be paid by such wholesale dealer.~~

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169           ~~3.— In such case where the wholesale dealer is also the~~  
170 ~~retail dealer under paragraph (1)(b), such wholesale dealer~~  
171 ~~shall maintain documentation, on forms as may be prescribed by~~  
172 ~~the Department of Revenue, adequate to establish that the~~  
173 ~~surcharge has been paid or will be paid by such wholesale~~  
174 ~~dealer.~~

175           ~~(d) Except for the collection allowance pursuant to s.~~  
176 ~~212.12 and estimated tax filing requirements pursuant to s.~~  
177 ~~212.11, the same duties and privileges imposed by chapter 212~~  
178 ~~upon dealers of tangible personal property respecting the~~  
179 ~~remission of the surcharge, the making of returns, penalties and~~  
180 ~~interest, the keeping of books, records and accounts, and the~~  
181 ~~compliance with the rules of the Department of Revenue in the~~  
182 ~~administration of chapter 212 shall apply and be binding upon~~  
183 ~~all wholesale dealers who are subject to the surcharge imposed~~  
184 ~~by this subsection.~~

185           ~~(e) The Department of Revenue shall keep records showing~~  
186 ~~the amount of the surcharge collected.~~

187           ~~(f) The Department of Revenue shall collect the surcharge~~  
188 ~~for transfer into the General Inspection Trust Fund of the~~  
189 ~~Department of Agriculture and Consumer Services.~~

190           ~~(g) The Department of Revenue is empowered to promulgate~~  
191 ~~rules, establish audit procedures for the audit of wholesale~~  
192 ~~dealers, assess for delinquency, and prescribe and publish such~~  
193 ~~forms as may be necessary to effectuate the provisions of this~~  
194 ~~subsection.~~

195           ~~(h) Annually, the Department of Agriculture and Consumer~~  
196 ~~Services and the Fish and Wildlife Conservation Commission shall~~

197 ~~furnish the Department of Revenue with a current list of~~  
 198 ~~wholesale dealers in the state.~~

199 ~~(i) Collections received by the Department of Revenue from~~  
 200 ~~the surcharge shall be transferred quarterly to the General~~  
 201 ~~Inspection Trust Fund of the Department of Agriculture and~~  
 202 ~~Consumer Services, less the costs of administration.~~

203 ~~(j) The executive director of the Department of Revenue is~~  
 204 ~~hereby authorized to adopt emergency rules pursuant to s.~~  
 205 ~~120.54(4) for purposes of implementing this subsection.~~  
 206 ~~Notwithstanding any other provisions of law, such emergency~~  
 207 ~~rules shall remain effective for 6 months from the date of~~  
 208 ~~adoption. Other rules of the Department of Revenue related to~~  
 209 ~~and in furtherance of the orderly implementation of this~~  
 210 ~~subsection shall not be subject to a s. 120.56(2) rule challenge~~  
 211 ~~or a s. 120.54(3)(c)2. drawout proceeding but, once adopted,~~  
 212 ~~shall be subject to a s. 120.56(3) invalidity challenge. Such~~  
 213 ~~rules shall be adopted by the Governor and Cabinet and shall~~  
 214 ~~become effective upon filing with the Department of State,~~  
 215 ~~notwithstanding the provisions of s. 120.54(3)(c)6.~~

216 ~~(k)~~ The Department of Agriculture and Consumer Services  
 217 shall use or distribute funds paid into the State Treasury to  
 218 the credit of the General Inspection Trust Fund pursuant to s.  
 219 201.15(11) generated by this surcharge, less reasonable costs of  
 220 ~~collection and~~ administration, to fund the following oyster  
 221 management and restoration programs in Apalachicola Bay:

222 (a)1. The relaying and transplanting of live oysters.

223 (b)2. Shell planting to construct or rehabilitate oyster  
 224 bars.



225        (c)~~3~~. Education programs for licensed oyster harvesters on  
 226 oyster biology, aquaculture, boating and water safety,  
 227 sanitation, resource conservation, small business management,  
 228 and other relevant subjects.

229        (d)~~4~~. Research directed toward the enhancement of oyster  
 230 production in the bay and the water management needs of the bay.

231        Section 4. Paragraph (a) of subsection (1) of section  
 232 72.011, Florida Statutes, is amended to read:

233        72.011 Jurisdiction of circuit courts in specific tax  
 234 matters; administrative hearings and appeals; time for  
 235 commencing action; parties; deposits.--

236        (1) (a) A taxpayer may contest the legality of any  
 237 assessment or denial of refund of tax, fee, surcharge, permit,  
 238 interest, or penalty provided for under s. 125.0104, s.  
 239 125.0108, chapter 198, chapter 199, chapter 201, chapter 202,  
 240 chapter 203, chapter 206, chapter 207, chapter 210, chapter 211,  
 241 chapter 212, chapter 213, chapter 220, chapter 221, ~~s.~~  
 242 ~~370.07(3)~~, chapter 376, s. 403.717, s. 403.718, s. 403.7185, s.  
 243 538.09, s. 538.25, chapter 550, chapter 561, chapter 562,  
 244 chapter 563, chapter 564, chapter 565, chapter 624, or s.  
 245 681.117 by filing an action in circuit court; or, alternatively,  
 246 the taxpayer may file a petition under the applicable provisions  
 247 of chapter 120. However, once an action has been initiated under  
 248 s. 120.56, s. 120.565, s. 120.569, s. 120.57, or s.  
 249 120.80(14) (b), no action relating to the same subject matter may  
 250 be filed by the taxpayer in circuit court, and judicial review  
 251 shall be exclusively limited to appellate review pursuant to s.  
 252 120.68; and once an action has been initiated in circuit court,

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253 no action may be brought under chapter 120.

254 Section 5. Subsection (3) of section 161.091, Florida  
255 Statutes, is amended to read:

256 161.091 Beach management; funding; repair and maintenance  
257 strategy.--

258 (3) In accordance with the intent expressed in s. 161.088  
259 and the legislative finding that erosion of the beaches of this  
260 state is detrimental to tourism, the state's major industry,  
261 further exposes the state's highly developed coastline to severe  
262 storm damage, and threatens beach-related jobs, which, if not  
263 stopped, could significantly reduce state sales tax revenues,  
264 funds deposited into the State Treasury to the credit of the  
265 Ecosystem Management and Restoration Trust Fund, in the annual  
266 amounts provided in s. 201.15(11)(a) ~~s. 201.15(11)~~, shall be  
267 used, for a period of not less than 15 years, to fund the  
268 development, implementation, and administration of the state's  
269 beach management plan, as provided in ss. 161.091-161.212, prior  
270 to the use of such funds deposited pursuant to s. 201.15(11)(a)  
271 ~~s. 201.15(11)~~ in that trust fund for any other purpose.

272 Section 6. Section 213.05, Florida Statutes, is amended to  
273 read:

274 213.05 Department of Revenue; control and administration  
275 of revenue laws.--The Department of Revenue shall have only  
276 those responsibilities for ad valorem taxation specified to the  
277 department in chapter 192, taxation, general provisions; chapter  
278 193, assessments; chapter 194, administrative and judicial  
279 review of property taxes; chapter 195, property assessment  
280 administration and finance; chapter 196, exemption; chapter 197,

281 tax collections, sales, and liens; chapter 199, intangible  
 282 personal property taxes; and chapter 200, determination of  
 283 millage. The Department of Revenue shall have the responsibility  
 284 of regulating, controlling, and administering all revenue laws  
 285 and performing all duties as provided in s. 125.0104, the Local  
 286 Option Tourist Development Act; s. 125.0108, tourist impact tax;  
 287 chapter 198, estate taxes; chapter 201, excise tax on documents;  
 288 chapter 202, communications services tax; chapter 203, gross  
 289 receipts taxes; chapter 206, motor and other fuel taxes; chapter  
 290 211, tax on production of oil and gas and severance of solid  
 291 minerals; chapter 212, tax on sales, use, and other  
 292 transactions; chapter 220, income tax code; chapter 221,  
 293 emergency excise tax; ss. 336.021 and 336.025, taxes on motor  
 294 fuel and special fuel; ~~s. 370.07(3), Apalachicola Bay oyster~~  
 295 ~~surcharge~~; s. 376.11, pollutant spill prevention and control; s.  
 296 403.718, waste tire fees; s. 403.7185, lead-acid battery fees;  
 297 s. 538.09, registration of secondhand dealers; s. 538.25,  
 298 registration of secondary metals recyclers; s. 624.4621, group  
 299 self-insurer's fund premium tax; s. 624.5091, retaliatory tax;  
 300 s. 624.475, commercial self-insurance fund premium tax; ss.  
 301 624.509-624.511, insurance code: administration and general  
 302 provisions; s. 624.515, State Fire Marshal regulatory  
 303 assessment; s. 627.357, medical malpractice self-insurance  
 304 premium tax; s. 629.5011, reciprocal insurers premium tax; and  
 305 s. 681.117, motor vehicle warranty enforcement.

306 Section 7. Paragraph (a) of subsection (1) of section  
 307 213.053, Florida Statutes, is amended to read:

308 213.053 Confidentiality and information sharing.--

309 (1) (a) The provisions of this section apply to s.  
 310 125.0104, county government; s. 125.0108, tourist impact tax;  
 311 chapter 175, municipal firefighters' pension trust funds;  
 312 chapter 185, municipal police officers' retirement trust funds;  
 313 chapter 198, estate taxes; chapter 199, intangible personal  
 314 property taxes; chapter 201, excise tax on documents; chapter  
 315 203, gross receipts taxes; chapter 211, tax on severance and  
 316 production of minerals; chapter 212, tax on sales, use, and  
 317 other transactions; chapter 220, income tax code; chapter 221,  
 318 emergency excise tax; s. 252.372, emergency management,  
 319 preparedness, and assistance surcharge; ~~s. 370.07(3),~~  
 320 ~~Apalachicola Bay oyster surcharge,~~ chapter 376, pollutant spill  
 321 prevention and control; s. 403.718, waste tire fees; s.  
 322 403.7185, lead-acid battery fees; s. 538.09, registration of  
 323 secondhand dealers; s. 538.25, registration of secondary metals  
 324 recyclers; ss. 624.501 and 624.509-624.515, insurance code; s.  
 325 681.117, motor vehicle warranty enforcement; and s. 896.102,  
 326 reports of financial transactions in trade or business.

327 Section 8. On the effective date of this act, the  
 328 Department of Revenue shall cease all efforts to collect any  
 329 uncollected revenues due or payable pursuant to the 50-cent-per-  
 330 bag surcharge that is abolished by this act.

331 Section 9. Except as otherwise expressly provided in this  
 332 act, this act shall take effect upon becoming a law.