

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7159 PCB FTC 09-04 Tax on Sales, Use, and Other Transactions

SPONSOR(S): Finance & Tax Council; Bogdanoff

TIED BILLS: _____ **IDEN./SIM. BILLS:** _____

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Finance & Tax Council	13 Y, 0 N	Shaw	Langston
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

The bill repeals the following sales tax exemptions:

- Memberships in physical fitness facilities owned or operated by a hospital.
- Sales, leases, maintenance, and repairs of aircraft with a certified takeoff of less than 10,000 pounds used in a fleet of on-demand air carriers when the fleet contains at least 25 aircraft and the purchaser or lessee of the aircraft has offered, in writing, to participate in a flight training and research program with two or more universities.
- Ostrich feed.
- Newspaper, magazine, and newsletter subscriptions delivered by mail.

The bill repeals the 2% sales tax rate abatement on coin operated amusement machines except for those machines located in certain facilities owned, operated, or leased by federally chartered veterans organizations.

The bill amends the following sales tax exemptions:

- The rental of a skybox or other box seat during a high school or college football game when the rent is imposed by a nonprofit organization.
- Chartering fishing vessels.

The bill saves from scheduled repeal certain tax exemptions for convention halls, exhibit halls, auditoriums, stadiums, theatres, arenas, civic centers, performing arts centers and publically owned recreational facilities.

The bill creates sales tax exemptions for:

- Aircraft owned by a nonresident which is temporarily in the state for less than 21 days during the first six months after purchase.
- An aircraft owned by a nonresident which is exclusively in the state for flight training, repairs, modifications, or similar services.
- The sale or use of aircraft primarily used in a fractional aircraft ownership program.
- Industrial machinery and equipment (for two years).
- Tickets to the NBA All Star game and the NHL All Star game.

The bill creates a maximum sales tax cap of \$300 on purchases of fractional aircraft ownership interests and of \$18,000 on the purchase of a boat or aircraft.

The bill creates a 3-day "Back-to-School" sales tax holiday on clothing and school supplies. The bill creates a 3-day hurricane preparedness sales tax holiday. The bill provides appropriations to implement the holidays.

The Revenue Estimating Conference (REC) has not reviewed the bill in its current form. However, based on prior REC analysis, staff estimates that the bill will result in a reduction of state and local government revenues. See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/22/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property, admissions, commercial rentals, and a limited number of services.

Physical Fitness Facilities

Section 212.02(1), F.S., provides that the charge for memberships to fitness or recreational facilities is subject to sales tax. These facilities include golf, tennis, swimming, yachting, boating, exercise, and fitness. However, memberships to physical fitness facilities owned or operated by a hospital licensed under chapter 395 is exempt from the sales tax.

Aircraft

Aircraft Purchases

Section 212.05, F.S., provides exemptions from the sales and use tax on the purchase of an aircraft if the purchaser removes the aircraft from the state within 10 days after the date of purchase, or when the aircraft is repaired or altered, within 20 days after completion of the repairs or alterations. A purchaser must provide proof to the Department of Revenue (DOR) that the aircraft has been removed from the state within 10 days of purchase to maintain their tax exempt status.

If a purchaser fails to remove the aircraft within 10 days of purchase, fails to remove the aircraft within 20 days of repair, returns to Florida within six months after purchase, or does not submit correct information to the DOR, the purchaser must pay the use tax on the cost of the aircraft and a penalty equal to the tax payable. The 100 percent penalty cannot be waived by DOR. Any purchaser who submits fraudulent information to avoid tax liability is subject to payment of the tax due, a mandatory penalty of 200 percent of the tax, and a fine of up to \$5,000 and imprisonment for up to five years.

Importation of Aircraft

Section 212.06, F.S., provides that a use tax shall apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that, it shall be presumed that tangible personal

property used in another state, territory of the United States, or in the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state.

Exports of Aircraft

Section 212.06(5)(a)1., F.S., provides that aircraft exported outside of the continental U.S. is tax exempt when the purchaser provides a validated U.S. customs declaration and the cancelled U.S. registry of the aircraft.

Aircraft Manufacturers

Section 212.08(11), F.S., provides that the sales tax imposed on aircraft sold by a manufacturer is equal to the amount of sales tax that would be imposed by the state where the aircraft will be domiciled, up to the six percent imposed by Florida. This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in Florida, a purchaser who is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.

Miscellaneous Exemptions

A number of sales and use tax exemptions related to aviation exist in s. 212.08, F.S.:

- Aircraft repair and maintenance labor charges – For aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,000 pounds maximum certified takeoff weight;
- Equipment used in aircraft repair and maintenance – For aircraft of more than 15,000 pounds maximum certified takeoff weight, and rotary wing aircraft of more than 10,300 pounds maximum certified takeoff weight;
- Aircraft sales and leases – For aircraft of more than 15,000 pounds maximum certified takeoff weight used by a common carrier, as defined by federal regulations;
- Aircraft that is purchased in Florida, but will not be used or stored in this state, qualifies for either a full or partial sales tax exemption, depending on the circumstances;
- Sales, leases, maintenance, and repairs of aircraft with a certified takeoff of less than 10,000 pounds used in a fleet of on-demand air carriers when the fleet contains at least 25 aircraft and the purchaser or lessee of the aircraft has offered, in writing, to participate in a flight training and research program with two or more universities.¹

Fractional Aircraft Ownership Programs

With “fractional aircraft ownership,” individuals or entities purchase an undivided interest in a specific, serial-numbered aircraft, and are guaranteed availability of the aircraft (or a similar one) within a time-frame specified by contract. Typically, fractional aircraft ownership contracts also require fractional owners to pay management or maintenance fees for the operation, upkeep, and storage of the aircraft.

Because of the substantial growth of this industry in the 1990’s, the Federal Aviation Administration (FAA) adopted rules on fractional aircraft ownership operations in 2001.² The rules establish ownership definitions and set forth certain requirements for fractional aircraft ownership and program operation. For example, the rules define “minimum fractional ownership interest” as equal to, or greater than,

¹ Based on information from the Department of Revenue and industry representatives, there does not appear to be any businesses who presently qualify for this exemption.

² Title 14, Chapter I, Part 91, Subpart K, Code of Federal Regulations (CFR).

1/16th of a subsonic, fixed-winged, or powered-lift program aircraft; for a helicopter, the ownership interest can be as small as 1/32^{hd}.³

Currently in the Florida sales tax exemptions available for aircraft of a certain takeoff weight, there is a gap such that aircraft between 10,000-pound and 15,000-pound certified takeoff weight thresholds are not specifically exempt. Several of the types of planes typically used in fractional aircraft ownership programs fall between these thresholds; thus some aircraft used in fractional operations are ineligible for certain current Florida tax exemptions.

Box Seats

In general the rental, lease, sublease, or license for the use of a skybox, luxury box, or other box seats is subject to sales tax. However, s. 212.08, 031, F.S., provides a exemption for such box seats used during a high school or college football game when the charge for rental or use is imposed by a nonprofit organization.

Ostrich Feed

Section 212.08(7), F.S., provides that feeds for poultry, ostriches, and livestock, including racehorses and dairy cows are exempt from sales tax.

Newspapers and Magazines

Newspapers, magazines, and newsletters sold at a retail store are subject to sales tax. However, s. 212.08(7), F.S., provides an exemption for newspaper, magazine, and newsletters subscriptions where the product is delivered by mail.

Chartering Fishing Vessels

In general, the rental of a boat for fishing, sightseeing, or other activity is subject to sales tax. However, s. 212.08(7), F.S., provides an exemption for the charge for chartering any boat or vessel for fishing, with the crew furnished.

Coin Operated Amusement Machines

Sales tax is imposed on the gross receipts of coin-operated amusement machines at the rate of four percent.

Convention Halls, Civic Centers, and Other Public Facilities

The following sales tax exemptions are scheduled to be repealed on July 1, 2009, pursuant to chapter 2006-101, L.O.F.:

- Section 212.031(1)(a)12., F.S., provides an exemption from any tax to be paid to a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility that is renting, leasing, subleasing, or licensing use of the facility to a concessionaire for the sale of souvenirs, novelties, or other event-related products. The exemption applies only to that portion of the tax based on a percentage of sales and not based on a fixed price;
- Section 212.031(10), F.S., provides a tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real

³ 14 CFR s. 91.1001(b)(10).

property. This exemption includes charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing;

- Section 212.04(2)(a)2.b., F.S., grants an exemption for admission charges to an event that is sponsored 100 percent by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility. In order to be eligible the event must not exclusively use student or faculty talent and the governmental entity sports authority, or sports commission must be responsible for: 100 percent of the risk of success or failure of the event, and 100 percent of the funds at risk for the event. The terms “sports authority” and “sports commission” mean a nonprofit organization that is exempt from federal income tax under s. 501(c) (3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.

Property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550 is currently exempt from tax.

Back to School Sales Tax Holiday

Since 1998, the Legislature has enacted eight similar temporary exemptions (commonly called “sales tax holidays”) from the state sales tax and county discretionary sales surtaxes.⁴ The 1998 sales tax holiday exempted clothing and footwear that cost \$50 or less from taxation for 7 days.

From 1999-2001 to 2004-2006, each sales tax holiday has lasted for 9 days. The 2007 sales tax holiday lasted for 10 days.

Beginning in 1999, in addition to exempting clothing and footwear from taxation, each sales tax holiday has also exempted wallets and bags.

Except for 1999 and 2000, the sales tax holiday has been limited to clothing, footwear, wallets, and bags that cost \$50 or less. In 1999 and 2000, the Legislature increased the exemption to \$100 or less.

Beginning in 2001, each sales tax holiday has also exempted school supplies that cost \$10 or less from taxation. Since 2004, the Legislature has also exempted books that cost \$50 or less from taxation.

Hurricane Preparedness Sales Tax Holiday

The first day of hurricane season is June 1. Chapter 2007-25, Laws of Florida, authorized a sales tax exemption for hurricane preparedness items from June 1, 2007, through June 12, 2007.

Admissions to Sporting Events

In general, admissions (tickets) to professional sporting events are subject to sales tax. Currently, admissions are tax exempt to the National Football League championship game and to a Major League Baseball all-star game.

Industrial Machinery and Equipment

Currently there are several exemptions for industrial machinery and equipment based on the equipment’s use.

⁴ Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63, and 2007-144, Laws of Florida.

- Machinery and equipment used to increase productive output.—
 - Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities or for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state.
 - Industrial machinery and equipment purchased for exclusive use by an expanding facility which is engaged in spaceport activities or for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state when such items are used to increase the productive output of the expanded facility or business by not less than 10 percent.

- Machinery and equipment used in production of electrical or steam energy.—
 - Machinery and equipment for use at a fixed location and the machinery and equipment are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil.

- Machinery and equipment used under federal procurement contract.—
 - Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state when such items are used to increase the implicit productive output of the business by not less than 10 percent.

Proposed Changes

Exemption Repeals

The bill repeals the following exemptions:

- Memberships to physical fitness facilities owned or operated by a hospital licensed under chapter 395.
- Sales, leases, maintenance, and repairs of aircraft with a certified takeoff of less than 10,000 pounds used in a fleet of on-demand air carriers when the fleet contains at least 25 aircraft and the purchaser or lessee of the aircraft has offered, in writing, to participate in a flight training and research program with two or more universities..
- Ostrich feed.
- Newspaper, magazine, and newsletter subscriptions delivered by mail.

The bill repeals the 2% sales tax rate abatement on coin-operated amusement machines. Coin-operated amusement machines will be taxed at 6% of gross receipts. The bill also creates an exception for those coin-operated amusement machines as described in s. 849.161⁵ located at any facility owned, operated, or leased by a division, post, or chapter of a veterans service organization granted a federal charter under Title 36 of the United States Code. These machines will continue to be taxed at 4% of gross receipts.

⁵ S. 849.161, F.S., describes machines which are not considered gambling devices and therefore not subject to regulation under Ch. 849 (Gambling).

Abrogate Scheduled Repeals

The bill deletes the repeal date thus permanently implementing the following exemptions:

- Section 212.031(1)(a)12., F.S., which provides an exemption for souvenir concessionaires on the portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price;
- Section 212.031(10), F.S., which provides a tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real property; and
- Section 212.04(2)(a)2.b., F.S., which grants an exemption from admissions to events solely dependent on the government entity, sports authority, or sports commission sponsoring the event.

Modified Exemptions

The Department of Revenue has reported that some taxpayers have tried to claim the exemption for property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within certain premises for the entire building rather than only the space actually used for the selling and distribution of food and drinks. The bill clarifies the exemption for property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550⁶. The bill specifies that the exemption applies only to the space used exclusively for selling and distribution of food and drinks.

The bill amends the exemption for certain box seats. The bill removes the phrase: “a skybox, luxury box, or other.” The exemption will read:

The rental, lease, sublease, or license for the use of box seats for use during a high school or college football game is exempt from the tax imposed by this section when the charge for such rental, lease, sublease, or license is imposed by a nonprofit sponsoring organization which is qualified as nonprofit pursuant to s. 501(c)(3) of the Internal Revenue Code.

The bill modifies the exemption for chartering fishing vessels. The modified exemption applies only to the charge for chartering any boat or vessel for fishing, licensed under s. 379.354(7)⁷ for no more than six customers and with the crew furnished.

New Exemptions and Caps

The bill provides that aircraft owned by non-residents that enter and remain in the state for less than 21 days during the six-month period after the date of purchase are exempt from the use tax. The use and removal of aircraft from the state may be proven by invoices for fuel or hangars, repairs, or other similar documentation issued by Florida-based vendors or suppliers which clearly identify the aircraft owned by the non-resident.

A use tax exemption is created for aircraft owned by non-residents that enter the state exclusively for the purpose of flight training, repairs, alterations, refitting, or modification. Such training, repairs, or

⁶ Chapter 550 is the “Florida Pari-mutuel Wagering Act.”

⁷ s. 379.354(7), F.S., provides the requirements for recreation saltwater fishing licenses for vessels.

modifications may be proven by written documentation issued by Florida-based vendors or suppliers which clearly identify the aircraft owned by the non-resident.

The bill creates a definition of “fractional aircraft ownership program” for purposes of ch. 212, F.S. “Fractional aircraft ownership program” means a program that meets the FAA requirements of fractional ownership operations set forth at 14 C.F.R. part 91, subpart K. Additionally, the business or affiliated group providing the fractional ownership program must own or lease a minimum of 25 aircraft, which are also used in the program, to fall within the definition.

The FAA rules define “fractional ownership program” in 14 CFR, s. 91.1001(b)(5), as “any system of aircraft ownership and exchange that consists of all of the following elements:

- (i) The provision for fractional ownership program management services by a single fractional ownership program manager on behalf of the fractional owners.
- (ii) Two or more airworthy aircraft.
- (iii) One or more fractional owners per program aircraft, with at least one program aircraft having more than one owner.
- (iv) Possession of at least a minimum fractional ownership interest in one or more program aircraft by each fractional owner.
- (v) A dry-lease aircraft exchange arrangement among all of the fractional owners.
- (vi) Multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.”

An exemption is created for fractional aircraft ownership programs. The exemption applies to:

- Aircraft primarily used in a fractional aircraft ownership program; and
- Any parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft primarily used in a fractional aircraft ownership program.

In order to apply the exemption, the purchaser or lessee must furnish the dealer with a DOR formatted certificate which states that:

- The lease, purchase, repair, or maintenance is for aircraft primarily used in a fractional aircraft ownership program; and
- The purchaser or lessee qualifies for the exemption.

This certificate may be left on file with the dealer if the purchaser or lessee transacts tax-exempt business with the dealer on a continual basis. It is up to the purchaser or lessee to notify the dealer if the purchaser or lessee no longer qualifies for the certificate.

The bill sets a maximum tax of \$300 for state and local taxes levied under ch. 212, F.S., including any discretionary sales surtaxes, on the sale or use of a fractional aircraft ownership interest pursuant to a fractional aircraft ownership program. The tax cap applies to the total consideration paid for the fractional ownership interest, including amounts for monthly management or maintenance fees, and only when sold by or to the operator of the fractional ownership program or transferred upon the operator’s approval.

The bill provides that the maximum amount of sales or use tax on an aircraft or boat may not exceed \$18,000.

The bill creates an exemption for admissions to the National Basketball Association All Star game and the National Hockey League All Star game.

Temporary Exemptions

For the period beginning July 1, 2009 and ending June 30, 2011, certain industrial machinery and equipment used in manufacturing will be exempt from tax when its purchase price is in excess of \$2,500. The industrial machinery and equipment must be purchased for use in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state. For purposes of the exemption, “industrial machinery

and equipment” means tangible personal property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale.

Back to School Sales Tax Holiday

The bill establishes a back to school sales tax holiday on August 8-10, 2009 (3 days). During the sales tax holiday, the following items that cost \$50 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing and Footwear (defined as an “article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts school supplies that cost \$10 or less per item. The school supplies exempted are “pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.”

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, any sales in these locations will be subject to taxation during the sales tax holiday.

The bill authorizes the Department of Revenue to adopt rules to carry out the sales tax holiday.

The bill provides an appropriation of \$246,157 in non-recurring General Revenue to the Department of Revenue for administering the sales tax holiday during FY 2008-09.

Hurricane Preparedness Sales Tax Holiday

The bill establishes a hurricane preparedness sales tax holiday on June 5-7, 2009 (3 days). During the sales tax holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- (a) Any portable self-powered light source selling for \$20 or less.
- (b) Any portable self-powered radio, two-way radio, or weatherband radio selling for \$75 or less.
- (c) Any tarpaulin or other flexible waterproof sheeting selling for \$50 or less.
- (d) Any item normally sold as, or generally advertised as, a ground anchor system or tie-down kit selling for \$50 or less.
- (e) Any gas or diesel fuel tank selling for \$25 or less.
- (f) Any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.
- (g) Any cell phone battery selling for \$60 or less or any cell phone charger selling for \$40 or less.
- (h) Any nonelectric food storage cooler selling for \$30 or less.
- (i) Any portable generator used to provide light or communications or preserve food in the event of a power outage selling for \$1,000 or less.
- (j) Any storm shutter device selling for \$200 or less.
- (k) Any carbon monoxide detector selling for \$75 or less.
- (l) Any reusable ice selling for \$10 or less.
- (m) Any single product consisting of two or more of the items listed in paragraphs (a)-(l) selling for \$75 or less.

The bill defines "storm shutter device" as any materials and products manufactured, rated, and marketed specifically for the purpose of preventing window damage from storms.

The bill provides that the hurricane preparedness sale tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, any sales in these locations will be subject to taxation during the sales tax holiday.

The bill authorizes the Department of Revenue to adopt rules to carry out the sales tax holiday.

The bill provides an appropriation of \$308,810 in non-recurring General Revenue to the Department of Revenue for administering the sales tax holiday during FY 2008-09.

B. SECTION DIRECTORY:

Section 1. Amending s. 212.02, F.S., repealing the exemption for certain memberships; repealing the definition of "qualified aircraft"; creating a definition of "fractional aircraft ownership program."

Section 2. Amending s. 212.031, F.S., abrogating the repeal of certain exemptions for certain public facilities; clarifying the exemption for certain property leased, subleased, or rented to a person providing food and drink concessionaire services; amending the exemption for certain box seats.

Section 3. Amending s. 212.04, F.S., abrogating the repeal of certain exemptions for certain public facilities; creating an exemption on admissions to the NBA All-Star Game and the NHL All-Star Game.

Section 4. Amending s. 212.05, F.S., revising the tax rate on coin-operated amusement machines; providing exceptions; providing that the maximum amount of tax on sales of boats and aircraft.

Section 5. Creating s. 212.0597, F.S., providing a limit on the sales tax imposed on fractional aircraft ownership interests.

Section 6. Amending s. 212.08, F.S., creating a two year exemption for certain industrial machinery and equipment; repealing the exemption for ostrich feeds; repealing the exemption for newspaper, magazine, and newsletter subscriptions delivered by mail; amending the exemption for charter fishing vessels; repealing certain exemptions for qualified aircraft; providing certain exemptions for certain aircraft; providing an exemption for fractional aircraft ownership programs.

Section 7. Repealing s. 212.0801, F.S., repealing the conditions for qualified aircraft to receive certain tax exemptions.

Section 8. Amending s. 2, ch. 2006-101, Laws of Florida abrogating the repeal of the tax exemption provided for certain charges imposed by a convention or exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility.

Section 9. Providing a back to school sales tax holiday.

Section 10. Providing a hurricane preparedness sales tax holiday.

Section 11. Providing an appropriation.

Section 12. Providing an appropriation.

Section 13. Providing a effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) has not evaluated the bill in its current form. The REC did address the impacts of the prior version of the bill and estimated that the bill would reduce state General Revenue by -\$2.7 million in FY 2009-10 but increase revenues by \$37.0 million on a recurring basis. State trust fund revenue impacts were estimated at -\$0.1 million in FY 2009-10 and insignificant positive recurring. Because the present version of the bill embodies more tax exemptions than the prior version, the estimated revenue reductions are expected to be larger than indicated above and the recurring impact may be negative.

2. Expenditures:

The bill provides an appropriation of \$308,810 in non-recurring General Revenue to the Department of Revenue for administering the sales tax holiday during FY 2008-09. The bill provides an appropriation of \$246,157 in non-recurring General Revenue to the Department of Revenue for administering the sales tax holiday during FY 2009-10.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. The Revenue Estimating Conference (REC) has not evaluated the bill in its current form. The REC did address the impacts of the prior version of the bill and estimated that the bill would reduce local government revenue by -\$0.9 million in FY 2009-10 but increase revenues by \$8.0 million on a recurring basis. Because the present version of the bill embodies more tax exemptions than the prior version, the estimated revenue reductions are expected to be larger than indicated above and the recurring impact may be negative.

3. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons that purchase the items covered by sales tax holidays will save money by not having to pay a sales tax on the specified items. In addition, the availability of the sales tax exemption may prompt some consumers to purchase more of the items eligible for the exemption, thereby causing an increase in the number of sales by Florida retailers. The reduced costs of acquiring hurricane preparedness items may lead to reductions in the loss of life and damage to property in the event of a hurricane.

Persons who purchase items that are no longer tax exempt under the bill will pay slightly more, which may, in turn, reduce consumption of those items.

The new exemptions related to the aviation, boating, and manufacturing industries may stimulate more activities in these areas.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill will reduce the authority of municipalities and counties to raise revenues. However, since the impact is expected to be insignificant, the bill is exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to adopt rules to carry out the two sales tax holidays created by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The bill was amended in the Finance & Tax Council on April 20, 2009. This analysis reflects the bill as amended.