

HB 1181

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1                   A bill to be entitled  
2           An act relating to revenue-neutral tax reform;  
3           providing legislative intent; replacing revenue from  
4           the required local effort school property tax and  
5           nonvoted discretionary property taxes with revenue  
6           from a state sales tax surtax; revising provisions for  
7           purposes relating to the Streamlined Sales and Use Tax  
8           Agreement; amending s. 212.02, F.S.; revising  
9           definitions; amending s. 212.03, F.S.; specifying  
10          certain facilities that are exempt from the transient  
11          rentals tax; amending ss. 212.0306 and 212.04, F.S.;  
12          deleting the application of brackets for the  
13          calculation of sales and use taxes; amending s.  
14          212.05, F.S.; deleting criteria establishing  
15          circumstances under which taxes on the lease or rental  
16          of a motor vehicle are due; revising criteria  
17          establishing circumstances under which taxes on the  
18          sale of a prepaid calling arrangement are due;  
19          deleting the application of brackets for the  
20          calculation of sales and use taxes; conforming  
21          provisions to changes made by the act; creating s.  
22          212.0502, F.S.; creating an education surtax on the  
23          sales and use tax base; providing for a method of  
24          determining such surtax; amending s. 212.0506, F.S.;  
25          deleting the application of brackets for the  
26          calculation of sales and use taxes; amending s.  
27          212.054, F.S.; limiting the \$5,000 cap on  
28          discretionary sales surtax to the sale of motor

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29 | vehicles, aircraft, boats, manufactured homes, modular  
30 | homes, and mobile homes; specifying the time at which  
31 | changes in surtaxes may take effect; providing  
32 | criteria to determine the situs of certain sales;  
33 | providing for databases to identify taxing  
34 | jurisdictions; providing criteria to hold purchasers  
35 | harmless for failure to pay the correct amount of tax;  
36 | holding sellers harmless for failing to collect a tax  
37 | at a new rate under certain circumstances; amending s.  
38 | 212.06, F.S.; defining terms; deleting provisions  
39 | relating to mail-order sales, to conform; requiring  
40 | purchasers of direct mail to use direct-mail forms;  
41 | providing criteria for determining the location of  
42 | transactions involving tangible personal property,  
43 | digital goods, or services and for the lease or rental  
44 | of tangible personal property; amending s. 212.07,  
45 | F.S.; conforming a cross-reference; providing for the  
46 | creation of a taxability matrix; providing immunity  
47 | from liability for acts in reliance of the taxability  
48 | matrix; amending s. 212.08, F.S.; revising exemptions  
49 | from sales and use tax for food and medical products;  
50 | revising the exemption from sales and use tax for  
51 | drinking water sold in certain containers to limit the  
52 | exemption to water sold in containers of a specified  
53 | size or larger capacity; subjecting drinking water  
54 | sold in containers of a specified size or smaller to  
55 | the sales and use tax; conforming cross-references;  
56 | creating s. 212.094, F.S.; providing a procedure for a

57 purchaser to obtain a refund of or credit against tax  
58 collected by a dealer; amending s. 212.12, F.S.;  
59 authorizing collection allowances for certified  
60 service providers and voluntary sellers in accordance  
61 with the Streamlined Sales and Use Tax Agreement;  
62 providing for the computation of taxes due based on  
63 rounding instead of brackets; amending s. 212.17,  
64 F.S.; providing additional criteria for a dealer to  
65 claim a credit for or obtain a refund of taxes paid  
66 relating to worthless accounts; amending s. 212.18,  
67 F.S.; authorizing the Department of Revenue to waive  
68 the dealer registration fee for applications submitted  
69 through the central electronic registration system  
70 provided by member states of the Streamlined Sales and  
71 Use Tax Agreement; deleting provisions relating to  
72 mail-order sales, to conform; amending s. 212.20,  
73 F.S.; deleting procedures for refunds of tax paid on  
74 mail-order sales, to conform; requiring proceeds from  
75 the education surtax to be reallocated to the State  
76 Schools Trust Fund; creating s. 213.052, F.S.;  
77 providing for notice of state sales or use tax rate  
78 changes; specifying that the failure to receive such  
79 notice does not relieve the seller from the obligation  
80 to collect the sales or use tax or the education  
81 surtax; creating s. 213.0521, F.S.; providing the  
82 effective date for state sales and use tax rate  
83 changes; creating s. 213.215, F.S.; providing amnesty  
84 for uncollected or unpaid sales and use taxes for

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85 | sellers who register under the Streamlined Sales and  
86 | Use Tax Agreement; providing exceptions to the  
87 | amnesty; amending s. 213.256, F.S.; providing and  
88 | revising definitions; providing for entry into  
89 | agreements with other states to simplify and  
90 | facilitate compliance with sales tax laws; providing  
91 | for certification of compliance with agreements;  
92 | creating s. 213.2562, F.S.; providing for the  
93 | department to review software submitted to the  
94 | governing board for certification as a certified  
95 | automated system; creating s. 213.2567, F.S.;  
96 | providing for the registration of sellers, the  
97 | certification of a person as a certified service  
98 | provider, and the certification of a software program  
99 | as a certified automated system by the governing board  
100 | under the Simplified Sales and Use Tax Agreement;  
101 | declaring legislative intent; providing for the  
102 | adoption of emergency rules; amending ss. 11.45,  
103 | 196.012, 202.18, 203.01, 212.031, 212.052, 212.055,  
104 | 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045,  
105 | 288.11621, 288.1169, 551.102, and 790.0655, F.S.;  
106 | conforming cross-references; repealing s. 212.0596,  
107 | F.S., relating to provisions pertaining to the  
108 | taxation of mail-order sales; amending s. 1011.62,  
109 | F.S.; conforming provisions for purposes relating to  
110 | allocation of education surtax proceeds to replace  
111 | revenue that would otherwise need to be raised by  
112 | local property taxes; amending s. 1011.71, F.S.;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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113 deleting a requirement that a district school board  
114 levy the minimum millage rate necessary to provide the  
115 district's required local effort; specifying that  
116 proceeds from the education surtax shall be allocated  
117 from the State Schools Trust Fund annually in the  
118 General Appropriations Act in lieu of the revenue that  
119 would have been raised from the levy of a nonvoted  
120 operating discretionary millage and certain other  
121 millages; authorizing district school boards to levy a  
122 specified millage for fixed capital outlay under  
123 certain circumstances; conforming provisions to  
124 changes made by the act; authorizing a district school  
125 board to levy a millage not to exceed a specified  
126 amount for school operational purposes under certain  
127 circumstances; amending ss. 1002.32, 1011.02, and  
128 1011.69, F.S.; conforming provisions to changes made  
129 by the act; providing effective dates.

130  
131 WHEREAS, job creation is the number-one goal of Florida  
132 residents, and

133 WHEREAS, in addition to tourism and agriculture, growth is  
134 one of the three pillars of Florida's economy, and

135 WHEREAS, although Florida does not levy a state income tax,  
136 it is widely known that property taxes are often a barrier to  
137 growth and business expansion of existing Florida businesses and  
138 expansion and relocation to Florida for businesses currently  
139 located outside of Florida, and

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140 WHEREAS, decreases in fixed-cost asset taxes, including,  
 141 but not limited to, property taxes, that must be paid whether or  
 142 not a profit is made and revenue-neutral replacement of the  
 143 fixed-cost asset taxes with variable cost transaction and  
 144 consumption taxes will benefit businesses that are considering  
 145 expansion in and relocation to Florida, and

146 WHEREAS, decreases in property taxes will allow Florida  
 147 homeowners and renters to choose where to direct the money they  
 148 save through reduced property taxes and rent, and

149 WHEREAS, approximately 25 percent of sales taxes are paid  
 150 by Florida visitors, and

151 WHEREAS, the required local effort school property tax that  
 152 is required by the state to be levied by the local governments  
 153 to fund public education is approximately \$8 billion and is  
 154 often 30 percent or more of the overall property tax levied by  
 155 most Florida local governments, and

156 WHEREAS, there is no statutory provision that requires  
 157 public education to be funded by property taxes rather than by  
 158 other methods of taxation, NOW, THEREFORE,

159

160 Be It Enacted by the Legislature of the State of Florida:

161

162 Section 1. Legislative intent.-

163 (1) The Legislature intends to stimulate growth, business  
 164 expansion, and job creation through revenue-neutral tax reform.

165 As a first step toward achieving those goals in a revenue-

166 neutral manner, the Legislature intends by passage of this act

167 to replace the required local effort school property tax through

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168 a 3-cent education surtax on the sales tax base.

169 (a) The required local effort school property tax and  
170 nonvoted discretionary property taxes shall be eliminated from  
171 the local property tax levy beginning in November 2013, and a 3-  
172 cent education surtax shall become effective beginning January  
173 1, 2013, in order to build up funds for replacing the required  
174 local effort and nonvoted discretionary funding on a dollar-for-  
175 dollar basis.

176 (b) The formulas currently used for determining required  
177 local effort shall be maintained, but future monetary increases  
178 or decreases required by such formulas shall be generated  
179 initially on a dollar-for-dollar basis from a sales tax surtax  
180 rather than from the adjustment of property tax millage.

181 (c) It is financially prudent to allow the buildup of a  
182 revenue reserve from the education surtax to shield against any  
183 potential economic downturn and to ensure that sufficient funds  
184 are available for replacing the currently required local effort  
185 school property tax and nonvoted discretionary property taxes.

186 (2) To ensure that sufficient revenues are available to  
187 replace the required local effort school property tax and  
188 nonvoted discretionary property taxes and eventually to make it  
189 possible to roll back the initial 3-cent education surtax, this  
190 act contains two additional measures:

191 (a) The first measure substantially changes the state's  
192 sales and use tax laws and, by doing so, qualifies the state for  
193 participation in the Streamlined Sales and Use Tax Agreement.  
194 Participation by the state in the Streamlined Sales and Use Tax  
195 Agreement will, in turn, make it easier for out-of-state

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196 businesses to voluntarily collect and remit internet sales taxes  
197 to the state. Initially, participation in the agreement is  
198 projected to have a negative fiscal impact, but after the first  
199 2 years of participation, it is anticipated that an increase in  
200 internet sales tax collections will sufficiently supplement  
201 sales tax collections to allow the Legislature to roll back the  
202 initial 3-cent education surtax.

203 (b) In order to ensure that sufficient additional revenues  
204 are available to support the first rollback, this act also  
205 includes a second measure that imposes sales tax on bottled  
206 water purchased in containers smaller than 1 gallon.

207 (3) Each year the Legislature shall determine through an  
208 automatic rollback provision if sufficient funds have been  
209 collected through the education surtax to allow a rollback in  
210 quarter percent increments.

211 (4) The Legislature intends for the education surtax  
212 provided for in this act to be a replacement for the required  
213 local effort school property tax and nonvoted discretionary  
214 property taxes and for such surtax to be known and referred to  
215 as the "education surtax."

216 Section 2. Section 212.02, Florida Statutes, is amended to  
217 read:

218 212.02 Definitions.—The following terms and phrases when  
219 used in this chapter have the meanings ascribed to them in this  
220 section, except where the context clearly indicates a different  
221 meaning. The term:

222 (1) ~~The term~~ "Admissions" means and includes the net sum  
223 of money after deduction of any federal taxes for admitting a



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224 person or vehicle or persons to any place of amusement, sport,  
225 or recreation or for the privilege of entering or staying in any  
226 place of amusement, sport, or recreation, including, but not  
227 limited to, theaters, outdoor theaters, shows, exhibitions,  
228 games, races, or any place where charge is made by way of sale  
229 of tickets, gate charges, seat charges, box charges, season pass  
230 charges, cover charges, greens fees, participation fees,  
231 entrance fees, or other fees or receipts of anything of value  
232 measured on an admission or entrance or length of stay or seat  
233 box accommodations in any place where there is any exhibition,  
234 amusement, sport, or recreation, and all dues and fees paid to  
235 private clubs and membership clubs providing recreational or  
236 physical fitness facilities, including, but not limited to,  
237 golf, tennis, swimming, yachting, boating, athletic, exercise,  
238 and fitness facilities, except physical fitness facilities owned  
239 or operated by any hospital licensed under chapter 395.

240 (2) "Agricultural commodity" means horticultural,  
241 aquacultural, poultry and farm products, and livestock and  
242 livestock products.

243 (3) "Agricultural production" means the production of  
244 plants and animals useful to humans, including the preparation,  
245 planting, cultivating, or harvesting of these products or any  
246 other practices necessary to accomplish production through the  
247 harvest phase, which includes aquaculture, horticulture,  
248 floriculture, viticulture, forestry, dairy, livestock, poultry,  
249 bees, and all other forms of farm products and farm production.

250 (4) "Bundled transaction" means the retail sale of two or  
251 more products, except real property and services to real

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252 property, in which the products are otherwise distinct and  
253 identifiable and the products are sold for one nonitemized  
254 price. A bundled transaction does not include the sale of any  
255 products in which the sales price varies, or is negotiable,  
256 based on the selection by the purchaser of the products included  
257 in the transaction.

258 (a) As used in this subsection, the term:

259 1. "Distinct and identifiable products" does not include:

260 a. Packaging, such as containers, boxes, sacks, bags, and  
261 bottles or other materials, such as wrapping, labels, tags, and  
262 instruction guides, which accompany the retail sale of the  
263 products and are incidental or immaterial to the retail sale of  
264 the products. Examples of packaging that is incidental or  
265 immaterial include grocery sacks, shoeboxes, dry cleaning  
266 garment bags, and express delivery envelopes and boxes.

267 b. A product provided free of charge with the required  
268 purchase of another product. A product is provided free of  
269 charge if the sales price of the product purchased does not vary  
270 depending on the inclusion of the product provided free of  
271 charge.

272 2. "One nonitemized price" does not include a price that  
273 is separately identified by product on binding sales or other  
274 supporting sales-related documentation made available to the  
275 customer in paper or electronic form, including, but not limited  
276 to, an invoice, bill of sale, receipt, contract, service  
277 agreement, lease agreement, periodic notice of rates and  
278 services, rate card, or price list.

279 3. "De minimis" means that the seller's purchase price or

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280 sales price of the taxable products is 10 percent or less of the  
281 total purchase price or sales price of the bundled products.

282 a. Sellers shall use the purchase price or sales price of  
283 the products to determine if the taxable products are de  
284 minimis. Sellers may not use a combination of the purchase price  
285 and sales price of the products to determine if the taxable  
286 products are de minimis.

287 b. Sellers shall use the full term of a service contract  
288 to determine if the taxable products are de minimis.

289 (b)1. A transaction that otherwise satisfies the  
290 definition of a bundled transaction, as defined in this  
291 subsection, is not a bundled transaction if it is:

292 a. The retail sale of tangible personal property and a  
293 service in which the tangible personal property is essential to  
294 the use of the service, is provided exclusively in connection  
295 with the service, and the true object of the transaction is the  
296 service;

297 b. The retail sale of services in which one service is  
298 provided which is essential to the use or receipt of a second  
299 service and the first service is provided exclusively in  
300 connection with the second service and the true object of the  
301 transaction is the second service;

302 c. A transaction that includes taxable products and  
303 nontaxable products and the purchase price or sales price of the  
304 taxable products is de minimis; or

305 d. The retail sale of exempt tangible personal property  
306 and taxable personal property in which:

307 (I) The transaction includes food and food ingredients,

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308 drugs, durable medical equipment, mobility-enhancing equipment,  
309 over-the-counter drugs, prosthetic devices, or medical supplies;  
310 and

311 (II) The seller's purchase price or sales price of the  
312 taxable tangible personal property is 50 percent or less of the  
313 total purchase price or sales price of the bundled tangible  
314 personal property. Sellers may not use a combination of the  
315 purchase price and sales price of the tangible personal property  
316 to make the determination required in this paragraph.

317 2.a. Sellers shall use the purchase price or sales price  
318 of the products to determine if the taxable products are de  
319 minimis. Sellers may not use a combination of the purchase price  
320 and sales price of the products to determine if the taxable  
321 products are de minimis.

322 b. Sellers shall use the full term of a service contract  
323 to determine if the taxable products are de minimis.

324 (5)-(2) "Business" means any activity engaged in by any  
325 person, or caused to be engaged in by him or her, with the  
326 object of private or public gain, benefit, or advantage, either  
327 direct or indirect. Except for the sales of any aircraft, boat,  
328 mobile home, or motor vehicle, the term "business" shall not be  
329 construed in this chapter to include occasional or isolated  
330 sales or transactions involving tangible personal property or  
331 services by a person who does not hold himself or herself out as  
332 engaged in business or sales of unclaimed tangible personal  
333 property under s. 717.122, but includes other charges for the  
334 sale or rental of tangible personal property, sales of services  
335 taxable under this chapter, sales of or charges of admission,

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336 communication services, all rentals and leases of living  
337 quarters, other than low-rent housing operated under chapter  
338 421, sleeping or housekeeping accommodations in hotels,  
339 apartment houses, roominghouses, tourist or trailer camps, and  
340 all rentals of or licenses in real property, other than low-rent  
341 housing operated under chapter 421, all leases or rentals of or  
342 licenses in parking lots or garages for motor vehicles, docking  
343 or storage spaces for boats in boat docks or marinas as defined  
344 in this chapter and made subject to a tax imposed by this  
345 chapter. The term "business" shall not be construed in this  
346 chapter to include the leasing, subleasing, or licensing of real  
347 property by one corporation to another if all of the stock of  
348 both such corporations is owned, directly or through one or more  
349 wholly owned subsidiaries, by a common parent corporation; the  
350 property was in use prior to July 1, 1989, title to the property  
351 was transferred after July 1, 1988, and before July 1, 1989,  
352 between members of an affiliated group, as defined in s. 1504(a)  
353 of the Internal Revenue Code of 1986, which group included both  
354 such corporations and there is no substantial change in the use  
355 of the property following the transfer of title; the leasing,  
356 subleasing, or licensing of the property was required by an  
357 unrelated lender as a condition of providing financing to one or  
358 more members of the affiliated group; and the corporation to  
359 which the property is leased, subleased, or licensed had sales  
360 subject to the tax imposed by this chapter of not less than \$667  
361 million during the most recent 12-month period ended June 30.  
362 Any tax on such sales, charges, rentals, admissions, or other  
363 transactions made subject to the tax imposed by this chapter

364 shall be collected by the state, county, municipality, any  
 365 political subdivision, agency, bureau, or department, or other  
 366 state or local governmental instrumentality in the same manner  
 367 as other dealers, unless specifically exempted by this chapter.

368 (6) "Certified service provider" has the same meaning as  
 369 provided in s. 213.256.

370 (7)-(3) The terms "Cigarettes," "tobacco," or "tobacco  
 371 products" referred to in this chapter include all such products  
 372 as are defined or may be hereafter defined by the laws of the  
 373 state.

374 (8) "Coin-operated amusement machine" means any machine  
 375 operated by coin, slug, token, coupon, or similar device for the  
 376 purposes of entertainment or amusement. The term includes, but  
 377 is not limited to, coin-operated pinball machines, music  
 378 machines, juke boxes, mechanical games, video games, arcade  
 379 games, billiard tables, moving picture viewers, shooting  
 380 galleries, and all other similar amusement devices.

381 (9) "Computer" means an electronic device that accepts  
 382 information in digital or similar form and manipulates such  
 383 information for a result based on a sequence of instructions.

384 (10) "Computer software" means a set of coded instructions  
 385 designed to cause a computer or automatic data processing  
 386 equipment to perform a task.

387 (11)-(4) "Cost price" means the actual cost of articles of  
 388 tangible personal property without any deductions therefrom on  
 389 account of the cost of materials used, labor or service costs,  
 390 transportation charges, or any expenses whatsoever.

391 (12) "Delivery charges" means charges by the seller of

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392 personal property or services for preparation and delivery to a  
393 location designated by the purchaser of such property or  
394 services, including, but not limited to, transportation,  
395 shipping, postage, handling, crating, and packing.  
396 Notwithstanding any other provision of this section, the term  
397 does not include the charges for delivery of direct mail,  
398 transportation, shipping, postage, handling, crating, and  
399 packing or similar charges if those charges are separately  
400 stated on an invoice or similar billing document given to the  
401 purchaser and are invoiced at cost with no markup. The exclusion  
402 of delivery charges for direct mail shall apply to any sale  
403 involving the delivery or mailing of direct mail, printed  
404 material that would otherwise be direct mail that results from a  
405 transaction that this state considers the sale of a service, or  
406 printed material delivered or mailed to a mass audience when the  
407 cost of the printed material is not billed directly to the  
408 recipients and is the result of a transaction that includes the  
409 development of billing information or the provision of data  
410 processing services. If a shipment includes exempt property and  
411 taxable property, the seller shall tax only the percentage of  
412 the delivery charge allocated to the taxable property. The  
413 seller may allocate the delivery charge by using:

414 (a) A percentage based on the total sales price of the  
415 taxable property compared to the sales price of all property in  
416 the shipment; or

417 (b) A percentage based on the total weight of the taxable  
418 property compared to the total weight of all property in the  
419 shipment.

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420 (13)~~(5)~~ The term "Department" means the Department of  
421 Revenue.

422 (14) "Diesel fuel" means any liquid product, gas product,  
423 or any combination thereof, which is used in an internal  
424 combustion engine or motor to propel any form of vehicle,  
425 machine, or mechanical contrivance. The term includes, but is  
426 not limited to, all forms of fuel commonly or commercially known  
427 or sold as diesel fuel or kerosene. However, the term does not  
428 include butane gas, propane gas, or any other form of liquefied  
429 petroleum gas or compressed natural gas.

430 (15) "Direct mail" means printed material delivered or  
431 distributed by the United States Postal Service or other  
432 delivery service to a mass audience or to addressees on a  
433 mailing list provided by the purchaser or at the direction of  
434 the purchaser when the cost of the items are not billed directly  
435 to the recipients. The term includes tangible personal property  
436 supplied directly or indirectly by the purchaser to the direct  
437 mail seller for inclusion in the package containing the printed  
438 material. The term does not include multiple items of printed  
439 material delivered to a single address.

440 (16) "Electronic" means relating to technology having  
441 electrical, digital, magnetic, wireless, optical,  
442 electromagnetic, or similar capabilities.

443 (17)~~(6)~~ "Enterprise zone" means an area of the state  
444 designated pursuant to s. 290.0065. This subsection expires on  
445 the date specified in s. 290.016 for the expiration of the  
446 Florida Enterprise Zone Act.

447 (18)~~(7)~~ "Factory-built building" means a structure



448 manufactured in a manufacturing facility for installation or  
 449 erection as a finished building; "factory-built building"  
 450 includes, but is not limited to, residential, commercial,  
 451 institutional, storage, and industrial structures.

452 (19) "Farmer" means a person who is directly engaged in  
 453 the business of producing crops, livestock, or other  
 454 agricultural commodities. The term includes, but is not limited  
 455 to, horse breeders, nurserymen, dairy farmers, poultry farmers,  
 456 cattle ranchers, apiarists, and persons raising fish.

457 (20) "Forest" means the land stocked by trees of any size  
 458 used in the production of forest products, or formerly having  
 459 such tree cover, and not currently developed for nonforest use.

460 (21) "Fractional aircraft ownership program" means a  
 461 program that meets the requirements of 14 C.F.R. part 91,  
 462 subpart K, relating to fractional ownership operations, except  
 463 that the program must include a minimum of 25 aircraft owned or  
 464 leased by the program manager and used in the program.

465 (22)-(8) "In this state" or "in the state" means within the  
 466 state boundaries of Florida as defined in s. 1, Art. II of the  
 467 State Constitution and includes all territory within these  
 468 limits owned by or ceded to the United States.

469 (23)-(9) ~~The term~~ "Intoxicating beverages" or "alcoholic  
 470 beverages" referred to in this chapter includes all such  
 471 beverages as are so defined or may be hereafter defined by the  
 472 laws of the state.

473 (24)-(10) "Lease," "let," or "rental" means leasing or  
 474 renting of living quarters or sleeping or housekeeping  
 475 accommodations in hotels, apartment houses, roominghouses,

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476 tourist or trailer camps and real property, the same being  
477 defined as follows:

478 (a) Every building or other structure kept, used,  
479 maintained, or advertised as, or held out to the public to be, a  
480 place where sleeping accommodations are supplied for pay to  
481 transient or permanent guests or tenants, in which 10 or more  
482 rooms are furnished for the accommodation of such guests, and  
483 having one or more dining rooms or cafes where meals or lunches  
484 are served to such transient or permanent guests; such sleeping  
485 accommodations and dining rooms or cafes being conducted in the  
486 same building or buildings in connection therewith, shall, for  
487 the purpose of this chapter, be deemed a hotel.

488 (b) Any building, or part thereof, where separate  
489 accommodations for two or more families living independently of  
490 each other are supplied to transient or permanent guests or  
491 tenants shall for the purpose of this chapter be deemed an  
492 apartment house.

493 (c) Every house, boat, vehicle, motor court, trailer  
494 court, or other structure or any place or location kept, used,  
495 maintained, or advertised as, or held out to the public to be, a  
496 place where living quarters or sleeping or housekeeping  
497 accommodations are supplied for pay to transient or permanent  
498 guests or tenants, whether in one or adjoining buildings, shall  
499 for the purpose of this chapter be deemed a roominghouse.

500 (d) In all hotels, apartment houses, and roominghouses  
501 within the meaning of this chapter, the parlor, dining room,  
502 sleeping porches, kitchen, office, and sample rooms shall be  
503 construed to mean "rooms."

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504 (e) A "tourist camp" is a place where two or more tents,  
 505 tent houses, or camp cottages are located and offered by a  
 506 person or municipality for sleeping or eating accommodations,  
 507 most generally to the transient public for either a direct money  
 508 consideration or an indirect benefit to the lessor or owner in  
 509 connection with a related business.

510 (f) A "trailer camp," "mobile home park," or "recreational  
 511 vehicle park" is a place where space is offered, with or without  
 512 service facilities, by any persons or municipality to the public  
 513 for the parking and accommodation of two or more automobile  
 514 trailers, mobile homes, or recreational vehicles which are used  
 515 for lodging, for either a direct money consideration or an  
 516 indirect benefit to the lessor or owner in connection with a  
 517 related business, such space being hereby defined as living  
 518 quarters, and the rental price thereof shall include all service  
 519 charges paid to the lessor.

520 (g)1. "Lease," "let," or "rental" also means any transfer  
 521 of possession or control of tangible personal property for a  
 522 fixed or indeterminate term for consideration. A clause for a  
 523 future option to purchase or to extend an agreement does not  
 524 preclude an agreement from being a lease or rental. This  
 525 definition shall be used for purposes of the sales and use tax  
 526 regardless of whether a transaction is characterized as a lease  
 527 or rental under generally accepted accounting principles, the  
 528 Internal Revenue Code, the Uniform Commercial Code, or any other  
 529 provisions of federal, state, or local law. These terms include  
 530 agreements covering motor vehicles and trailers if the amount of  
 531 consideration may be increased or decreased by reference to the

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532 amount realized upon sale or disposition of the property as  
 533 provided in 26 U.S.C. s. 7701(h) (1). These terms do not include:

534 a. A transfer of possession or control of property under a  
 535 security agreement or deferred payment plan that requires the  
 536 transfer of title upon completion of the required payments;

537 b. A transfer of possession or control of property under  
 538 an agreement that requires the transfer of title upon completion  
 539 of required payments and payment of an option price does not  
 540 exceed the greater of \$100 or 1 percent of the total required  
 541 payments; or

542 c. The provision of tangible personal property along with  
 543 an operator for a fixed or indeterminate period of time. A  
 544 condition of this exclusion is that the operator is necessary  
 545 for the equipment to perform as designed. For the purpose of  
 546 this sub-subparagraph, an operator must do more than maintain,  
 547 inspect, or set up the tangible personal property ~~the leasing or~~  
 548 rental of tangible personal property and the possession or use  
 549 thereof by the lessee or rentee for a consideration, without  
 550 transfer of the title of such property, except as expressly  
 551 provided to the contrary herein.

552 2. ~~The term~~ "Lease," "let," or "rental" does not include  
 553 ~~mean~~ hourly, daily, or mileage charges, to the extent that such  
 554 charges are subject to the jurisdiction of the United States  
 555 Interstate Commerce Commission, if ~~when~~ such charges are paid by  
 556 reason of the presence of railroad cars owned by another on the  
 557 tracks of the taxpayer, or charges made pursuant to car service  
 558 agreements.

559 3. ~~The term~~ "Lease," "let," "rental," or "license" does

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560 not include payments made to an owner of high-voltage bulk  
561 transmission facilities in connection with the possession or  
562 control of such facilities by a regional transmission  
563 organization, independent system operator, or similar entity  
564 under the jurisdiction of the Federal Energy Regulatory  
565 Commission. However, where two taxpayers, in connection with the  
566 interchange of facilities, rent or lease property, each to the  
567 other, for use in providing or furnishing any of the services  
568 mentioned in s. 166.231, the term "lease or rental" means only  
569 the net amount of rental involved.

570 (h) "Real property" means the surface land, improvements  
571 thereto, and fixtures, and is synonymous with "realty" and "real  
572 estate."

573 (i) "License," ~~as used in this chapter~~ with reference to  
574 the use of real property, means the granting of a privilege to  
575 use or occupy a building or a parcel of real property for any  
576 purpose.

577 (j) Privilege, franchise, or concession fees, or fees for  
578 a license to do business, paid to an airport are not payments  
579 for leasing, letting, renting, or granting a license for the use  
580 of real property.

581 (25) "Livestock" includes all animals of the equine,  
582 bovine, or swine class, including goats, sheep, mules, horses,  
583 hogs, cattle, ostriches, and other grazing animals raised for  
584 commercial purposes. The term also includes fish raised for  
585 commercial purposes.

586 (26) (a) "Model 1 seller" has the same meaning as provided  
587 in s. 213.256.

588 (b) "Model 2 seller" has the same meaning as provided in  
 589 s. 213.256.

590 (c) "Model 3 seller" has the same meaning as provided in  
 591 s. 213.256.

592 ~~(27)(11)~~ "Motor fuel" means and includes what is commonly  
 593 known and sold as gasoline and fuels containing a mixture of  
 594 gasoline and other products.

595 ~~(28)(12)~~ "Person" includes any individual, firm,  
 596 copartnership, joint adventure, association, corporation,  
 597 estate, trust, business trust, receiver, syndicate, or other  
 598 group or combination acting as a unit and also includes any  
 599 political subdivision, municipality, state agency, bureau, or  
 600 department and includes the plural as well as the singular  
 601 number.

602 (29) "Power farm equipment" means moving or stationary  
 603 equipment that contains within itself the means for its own  
 604 propulsion or power and moving or stationary equipment that is  
 605 dependent upon an external power source to perform its  
 606 functions.

607 (30) "Prewritten computer software" means computer  
 608 software, including prewritten upgrades, which is not designed  
 609 and developed by the author or other creator to the  
 610 specifications of a specific purchaser. The combining of two or  
 611 more prewritten computer software programs or prewritten  
 612 portions of such programs does not cause the combination to be  
 613 other than prewritten computer software. Prewritten computer  
 614 software includes software designed and developed by the author  
 615 or other creator to the specifications of a specific purchaser

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616 when such software is sold to a person other than the specific  
617 purchaser. Where a person modifies or enhances computer software  
618 of which the person is not the author or creator, the person  
619 shall be deemed to be the author or creator only of such  
620 person's modifications or enhancements. Prewritten computer  
621 software or a prewritten portion of such software which is  
622 modified or enhanced to any degree, if such modification or  
623 enhancement is designed and developed to the specifications of a  
624 specific purchaser, remains prewritten computer software.  
625 However, prewritten computer software does not include software  
626 that has been modified or enhanced for a particular purchaser if  
627 the charge for the enhancement is reasonable and separately  
628 stated on the invoice or other statement of price given to the  
629 purchaser.

630 (31) "Product transferred electronically" means a product,  
631 except computer software, which was obtained by a purchaser by  
632 means other than the purchase of tangible storage media.

633 (32) "Qualified aircraft" means any aircraft having a  
634 maximum certified takeoff weight of less than 10,000 pounds and  
635 equipped with twin turbofan engines that meet Stage IV noise  
636 requirements which is used by a business operating as an on-  
637 demand air carrier under Federal Aviation Administration  
638 Regulation Title 14, chapter I, part 135, Code of Federal  
639 Regulations, which owns or leases and operates a fleet of at  
640 least 25 of such aircraft in this state.

641 (33)~~(13)~~ "Retailer" means and includes every person  
642 engaged in the business of making sales at retail or for  
643 distribution, or use, or consumption, or storage to be used or

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644 consumed in this state.

645 (34)~~(14)~~(a) "Retail sale" or a "sale at retail" means a  
646 sale to a consumer or to any person for any purpose other than  
647 for resale in the form of tangible personal property or services  
648 taxable under this chapter, and includes all such transactions  
649 that may be made in lieu of retail sales or sales at retail. A  
650 sale for resale includes a sale of qualifying property. As used  
651 in this paragraph, the term "qualifying property" means tangible  
652 personal property, other than electricity, which is used or  
653 consumed by a government contractor in the performance of a  
654 qualifying contract as defined in s. 212.08(17)(c), to the  
655 extent that the cost of the property is allocated or charged as  
656 a direct item of cost to such contract, title to which property  
657 vests in or passes to the government under the contract. The  
658 term "government contractor" includes prime contractors and  
659 subcontractors. As used in this paragraph, a cost is a "direct  
660 item of cost" if it is a "direct cost" as defined in 48 C.F.R.  
661 s. 9904.418-30(a)(2), or similar successor provisions, including  
662 costs identified specifically with a particular contract.

663 (b) ~~The terms~~ "Retail sales," "sales at retail," "use,"  
664 "storage," and "consumption" include the sale, use, storage, or  
665 consumption of all tangible advertising materials imported or  
666 caused to be imported into this state. Tangible advertising  
667 material includes displays, display containers, brochures,  
668 catalogs, price lists, point-of-sale advertising, and technical  
669 manuals or any tangible personal property which does not  
670 accompany the product to the ultimate consumer.

671 (c) "Retail sales," "sale at retail," "use," "storage,"



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672 and "consumption" do not include materials, containers, labels,  
673 sacks, bags, or similar items intended to accompany a product  
674 sold to a customer without which delivery of the product would  
675 be impracticable because of the character of the contents and be  
676 used one time only for packaging tangible personal property for  
677 sale or for the convenience of the customer or for packaging in  
678 the process of providing a service taxable under this chapter.  
679 When a separate charge for packaging materials is made, the  
680 charge shall be considered part of the sales price or rental  
681 charge for purposes of determining the applicability of tax. The  
682 terms do not include the sale, use, storage, or consumption of  
683 industrial materials, including chemicals and fuels except as  
684 provided herein, for future processing, manufacture, or  
685 conversion into articles of tangible personal property for  
686 resale when such industrial materials, including chemicals and  
687 fuels except as provided herein, become a component or  
688 ingredient of the finished product. However, the terms include  
689 the sale, use, storage, or consumption of tangible personal  
690 property, including machinery and equipment or parts thereof,  
691 purchased electricity, and fuels used to power machinery, when  
692 such items are used and dissipated in fabricating, converting,  
693 or processing tangible personal property for sale, even though  
694 they may become ingredients or components of the tangible  
695 personal property for sale through accident, wear, tear,  
696 erosion, corrosion, or similar means. The terms do not include  
697 the sale of materials to a registered repair facility for use in  
698 repairing a motor vehicle, airplane, or boat, when such  
699 materials are incorporated into and sold as part of the repair.

700 Such a sale shall be deemed a purchase for resale by the repair  
 701 facility, even though every material is not separately stated or  
 702 separately priced on the repair invoice.

703 (d) "Gross sales" means the sum total of all sales of  
 704 tangible personal property as defined herein, without any  
 705 deduction whatsoever of any kind or character, except as  
 706 provided in this chapter.

707 ~~(c) The term "Retail sale" includes a mail order sale, as~~  
 708 ~~defined in s. 212.0596(1).~~

709 (35)~~(15)~~ "Sale" means and includes:

710 (a) Any transfer of title or possession, or both,  
 711 exchange, barter, license, lease, or rental, conditional or  
 712 otherwise, in any manner or by any means whatsoever, of tangible  
 713 personal property for a consideration.

714 (b) The rental of living quarters or sleeping or  
 715 housekeeping accommodations in hotels, apartment houses or  
 716 roominghouses, or tourist or trailer camps, as hereinafter  
 717 defined in this chapter.

718 (c) The producing, fabricating, processing, printing, or  
 719 imprinting of tangible personal property for a consideration for  
 720 consumers who furnish either directly or indirectly the  
 721 materials used in the producing, fabricating, processing,  
 722 printing, or imprinting.

723 (d) The furnishing, preparing, or serving for a  
 724 consideration of any tangible personal property for consumption  
 725 on or off the premises of the person furnishing, preparing, or  
 726 serving such tangible personal property which includes the sale  
 727 of meals or prepared food by an employer to his or her

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728 employees.

729 (e) A transaction whereby the possession of property is  
730 transferred but the seller retains title as security for the  
731 payment of the price.

732 (36)(a)-~~(16)~~ "Sales price" applies to the measure subject  
733 to the tax imposed by this chapter and means the total amount of  
734 consideration, including cash, credit, property, and services,  
735 for which tangible personal property or personal services are  
736 sold, leased, or rented, valued in money, whether received in  
737 money or otherwise, without any deduction for the following:

738 1. The seller's cost of the property sold;

739 2. The cost of materials used, labor or service cost,  
740 interest, losses, all costs of transportation to the seller, all  
741 taxes imposed on the seller, and any other expense of the  
742 seller;

743 3. Charges by the seller for any services necessary to  
744 complete the sale, other than delivery and installation charges;

745 4. Delivery charges; or

746 5. Installation charges.

747 (b) "Sales price" does not include:

748 1. Trade-ins allowed and taken at the time of sale if the  
749 amount is separately stated on the invoice, bill of sale, or  
750 similar document given to the purchaser;

751 2. Discounts, including cash, term, or coupons, which are  
752 not reimbursed by a third party, are allowed by a seller, and  
753 taken by a purchaser at the time of sale;

754 3. Interest, financing, and carrying charges from credit  
755 extended on the sale of personal property or services, if the

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756 amount is separately stated on the invoice, bill of sale, or  
757 similar document given to the purchaser;

758 4. Any taxes legally imposed directly on the consumer that  
759 are separately stated on the invoice, bill of sale, or similar  
760 document given to the purchaser; or ~~means the total amount paid~~  
761 ~~for tangible personal property, including any services that are~~  
762 ~~a part of the sale, valued in money, whether paid in money or~~  
763 ~~otherwise, and includes any amount for which credit is given to~~  
764 ~~the purchaser by the seller, without any deduction therefrom on~~  
765 ~~account of the cost of the property sold, the cost of materials~~  
766 ~~used, labor or service cost, interest charged, losses, or any~~  
767 ~~other expense whatsoever. "Sales price" also includes the~~  
768 ~~consideration for a transaction which requires both labor and~~  
769 ~~material to alter, remodel, maintain, adjust, or repair tangible~~  
770 ~~personal property. Trade-ins or discounts allowed and taken at~~  
771 ~~the time of sale shall not be included within the purview of~~  
772 ~~this subsection. "Sales price" also includes the full face value~~  
773 ~~of any coupon used by a purchaser to reduce the price paid to a~~  
774 ~~retailer for an item of tangible personal property; where the~~  
775 ~~retailer will be reimbursed for such coupon, in whole or in~~  
776 ~~part, by the manufacturer of the item of tangible personal~~  
777 ~~property; or whenever it is not practicable for the retailer to~~  
778 ~~determine, at the time of sale, the extent to which~~  
779 ~~reimbursement for the coupon will be made. The term "sales~~  
780 ~~price" does not include federal excise taxes imposed upon the~~  
781 ~~retailer on the sale of tangible personal property. The term~~  
782 ~~"sales price" does include federal manufacturers' excise taxes,~~  
783 ~~even if the federal tax is listed as a separate item on the~~

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784 ~~invoice. To the extent required by federal law, the term "sales~~  
785 ~~price" does not include~~

786 5. Charges for Internet access services which are not  
787 itemized on the customer's bill, but which can be reasonably  
788 identified from the selling dealer's books and records kept in  
789 the regular course of business. The dealer may support the  
790 allocation of charges with books and records kept in the regular  
791 course of business covering the dealer's entire service area,  
792 including territories outside this state.

793 (37) "Sea trial" means a voyage for the purpose of testing  
794 repair or modification work, which is in length and scope  
795 reasonably necessary to test repairs or modifications, or a  
796 voyage for the purpose of ascertaining the seaworthiness of a  
797 vessel. If the sea trial is to test repair or modification work,  
798 the owner or repair facility shall certify, in a form required  
799 by the department, what repairs have been tested. The owner and  
800 the repair facility may also be required to certify that the  
801 length and scope of the voyage were reasonably necessary to test  
802 the repairs or modifications.

803 (38) "Seller" means a person making sales, leases, or  
804 rentals of personal property or services.

805 (39) "Solar energy system" means the equipment and  
806 requisite hardware that provide and are used for collecting,  
807 transferring, converting, storing, or using incident solar  
808 energy for water heating, space heating, cooling, or other  
809 applications that would otherwise require the use of a  
810 conventional source of energy such as petroleum products,  
811 natural gas, manufactured gas, or electricity.

812           (40) "Space flight" means any flight designed for  
 813 suborbital, orbital, or interplanetary travel of a space  
 814 vehicle, satellite, or station of any kind.

815           (41) "Spaceport activities" means activities directed or  
 816 sponsored by Space Florida on spaceport territory pursuant to  
 817 its powers and responsibilities under the Space Florida Act.

818           ~~(17) "Diesel fuel" means any liquid product, gas product,~~  
 819 ~~or combination thereof used in an internal combustion engine or~~  
 820 ~~motor to propel any form of vehicle, machine, or mechanical~~  
 821 ~~contrivance. This term includes, but is not limited to, all~~  
 822 ~~forms of fuel commonly or commercially known or sold as diesel~~  
 823 ~~fuel or kerosene. However, the term "diesel fuel" does not~~  
 824 ~~include butane gas, propane gas, or any other form of liquefied~~  
 825 ~~petroleum gas or compressed natural gas.~~

826           (42)~~(18)~~ "Storage" means and includes any keeping or  
 827 retention in this state of tangible personal property for use or  
 828 consumption in this state or for any purpose other than sale at  
 829 retail in the regular course of business.

830           (43) "Streamlined Sales and Use Tax Agreement" has the  
 831 same meaning as in s. 213.256.

832           (44)~~(19)~~ "Tangible personal property" means and includes  
 833 personal property which may be seen, weighed, measured, or  
 834 touched or is in any manner perceptible to the senses, including  
 835 electric power or energy, water, gas, steam, prewritten computer  
 836 software, boats, motor vehicles and mobile homes as defined in  
 837 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all  
 838 other types of vehicles. The term "tangible personal property"  
 839 does not include stocks, bonds, notes, insurance, ~~or~~ other

840 obligations or securities, any product transferred  
 841 electronically, or pari-mutuel tickets sold or issued under the  
 842 racing laws of the state.

843 ~~(45)-(20)~~ "Use" means and includes the exercise of any  
 844 right or power over tangible personal property incident to the  
 845 ownership thereof, or interest therein, except that it does not  
 846 include the sale at retail of that property in the regular  
 847 course of business. The term "use" does not include:

848 (a) The loan of an automobile by a motor vehicle dealer to  
 849 a high school for use in its driver education and safety  
 850 program. ~~The term "use" does not include; or~~

851 (b) A contractor's use of "qualifying property" as defined  
 852 by paragraph (34) (a) ~~paragraph (14) (a)~~.

853 ~~(46)-(21)~~ The term "Use tax" referred to in this chapter  
 854 includes the use, the consumption, the distribution, and the  
 855 storage as herein defined.

856 (47) "Voluntary seller" or "volunteer seller" means a  
 857 seller that is not required to register in this state to collect  
 858 the tax imposed by this chapter.

859 ~~(22)~~ ~~"Spaceport activities" means activities directed or~~  
 860 ~~sponsored by Space Florida on spaceport territory pursuant to~~  
 861 ~~its powers and responsibilities under the Space Florida Act.~~

862 ~~(23)~~ ~~"Space flight" means any flight designed for~~  
 863 ~~suborbital, orbital, or interplanetary travel of a space~~  
 864 ~~vehicle, satellite, or station of any kind.~~

865 ~~(24)~~ ~~"Coin-operated amusement machine" means any machine~~  
 866 ~~operated by coin, slug, token, coupon, or similar device for the~~  
 867 ~~purposes of entertainment or amusement. The term includes, but~~

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868 ~~is not limited to, coin-operated pinball machines, music~~  
869 ~~machines, juke boxes, mechanical games, video games, arcade~~  
870 ~~games, billiard tables, moving picture viewers, shooting~~  
871 ~~galleries, and all other similar amusement devices.~~

872 ~~(25) "Sea trial" means a voyage for the purpose of testing~~  
873 ~~repair or modification work, which is in length and scope~~  
874 ~~reasonably necessary to test repairs or modifications, or a~~  
875 ~~voyage for the purpose of ascertaining the seaworthiness of a~~  
876 ~~vessel. If the sea trial is to test repair or modification work,~~  
877 ~~the owner or repair facility shall certify, in a form required~~  
878 ~~by the department, what repairs have been tested. The owner and~~  
879 ~~the repair facility may also be required to certify that the~~  
880 ~~length and scope of the voyage were reasonably necessary to test~~  
881 ~~the repairs or modifications.~~

882 ~~(26) "Solar energy system" means the equipment and~~  
883 ~~requisite hardware that provide and are used for collecting,~~  
884 ~~transferring, converting, storing, or using incident solar~~  
885 ~~energy for water heating, space heating, cooling, or other~~  
886 ~~applications that would otherwise require the use of a~~  
887 ~~conventional source of energy such as petroleum products,~~  
888 ~~natural gas, manufactured gas, or electricity.~~

889 ~~(27) "Agricultural commodity" means horticultural,~~  
890 ~~aquacultural, poultry and farm products, and livestock and~~  
891 ~~livestock products.~~

892 ~~(28) "Farmer" means a person who is directly engaged in~~  
893 ~~the business of producing crops, livestock, or other~~  
894 ~~agricultural commodities. The term includes, but is not limited~~  
895 ~~to, horse breeders, nurserymen, dairy farmers, poultry farmers,~~



896 ~~cattle ranchers, apiarists, and persons raising fish.~~

897 ~~(29) "Livestock" includes all animals of the equine,~~  
 898 ~~bovine, or swine class, including goats, sheep, mules, horses,~~  
 899 ~~hogs, cattle, ostriches, and other grazing animals raised for~~  
 900 ~~commercial purposes. The term "livestock" shall also include~~  
 901 ~~fish raised for commercial purposes.~~

902 ~~(30) "Power farm equipment" means moving or stationary~~  
 903 ~~equipment that contains within itself the means for its own~~  
 904 ~~propulsion or power and moving or stationary equipment that is~~  
 905 ~~dependent upon an external power source to perform its~~  
 906 ~~functions.~~

907 ~~(31) "Forest" means the land stocked by trees of any size~~  
 908 ~~used in the production of forest products, or formerly having~~  
 909 ~~such tree cover, and not currently developed for nonforest use.~~

910 ~~(32) "Agricultural production" means the production of~~  
 911 ~~plants and animals useful to humans, including the preparation,~~  
 912 ~~planting, cultivating, or harvesting of these products or any~~  
 913 ~~other practices necessary to accomplish production through the~~  
 914 ~~harvest phase, and includes aquaculture, horticulture,~~  
 915 ~~floriculture, viticulture, forestry, dairy, livestock, poultry,~~  
 916 ~~bees, and any and all forms of farm products and farm~~  
 917 ~~production.~~

918 ~~(33) "Qualified aircraft" means any aircraft having a~~  
 919 ~~maximum certified takeoff weight of less than 10,000 pounds and~~  
 920 ~~equipped with twin turbofan engines that meet Stage IV noise~~  
 921 ~~requirements that is used by a business operating as an on-~~  
 922 ~~demand air carrier under Federal Aviation Administration~~  
 923 ~~Regulation Title 14, chapter I, part 135, Code of Federal~~

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924 ~~Regulations, that owns or leases and operates a fleet of at~~  
 925 ~~least 25 of such aircraft in this state.~~

926 ~~(34) "Fractional aircraft ownership program" means a~~  
 927 ~~program that meets the requirements of 14 C.F.R. part 91,~~  
 928 ~~subpart K, relating to fractional ownership operations, except~~  
 929 ~~that the program must include a minimum of 25 aircraft owned or~~  
 930 ~~leased by the program manager and used in the program.~~

931 Section 3. Paragraph (c) of subsection (7) of section  
 932 212.03, Florida Statutes, is amended to read:

933 212.03 Transient rentals tax; rate, procedure,  
 934 enforcement, exemptions.—

935 (7)

936 (c) The rental of facilities in a trailer camp, mobile  
 937 home park, or recreational vehicle park, as defined in s.  
 938 212.02(24) ~~212.02(10)(f)~~, which are intended primarily for  
 939 rental as a principal or permanent place of residence is exempt  
 940 from the tax imposed by this chapter. The rental of such  
 941 facilities that primarily serve transient guests is not exempt  
 942 by this subsection. In the application of this law, or in making  
 943 any determination against the exemption, the department shall  
 944 consider the facility as primarily serving transient guests  
 945 unless the facility owner makes a verified declaration on a form  
 946 prescribed by the department that more than half of the total  
 947 rental units available are occupied by tenants who have a  
 948 continuous residence in excess of 3 months. The owner of a  
 949 facility declared to be exempt by this paragraph must make a  
 950 determination of the taxable status of the facility at the end  
 951 of the owner's accounting year using any consecutive 3-month

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952 period at least one month of which is in the accounting year.  
 953 The owner must use a selected consecutive 3-month period during  
 954 each annual redetermination. In the event that an exempt  
 955 facility no longer qualifies for exemption by this paragraph,  
 956 the owner must notify the department on a form prescribed by the  
 957 department by the 20th day of the first month of the owner's  
 958 next succeeding accounting year that the facility no longer  
 959 qualifies for such exemption. The tax levied by this section  
 960 shall apply to the rental of facilities that no longer qualify  
 961 for exemption under this paragraph beginning the first day of  
 962 the owner's next succeeding accounting year. The provisions of  
 963 this paragraph do not apply to mobile home lots regulated under  
 964 chapter 723.

965 Section 4. Subsection (6) of section 212.0306, Florida  
 966 Statutes, is amended to read:

967 212.0306 Local option food and beverage tax; procedure for  
 968 levying; authorized uses; administration.—

969 (6) Any county levying a tax authorized by this section  
 970 must locally administer the tax using the powers and duties  
 971 enumerated for local administration of the tourist development  
 972 tax by s. 125.0104, 1992 Supplement to the Florida Statutes  
 973 1991. ~~The county's ordinance shall also provide for brackets~~  
 974 ~~applicable to taxable transactions.~~

975 Section 5. Paragraph (b) of subsection (1) of section  
 976 212.04, Florida Statutes, is amended to read:

977 212.04 Admissions tax; rate, procedure, enforcement.—

978 (1)

979 (b) For the exercise of such privilege, a tax is levied at

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980 the rate of 6 percent of sales price, or the actual value  
 981 received from such admissions, which 6 percent shall be added to  
 982 and collected with all such admissions from the purchaser  
 983 thereof, and such tax shall be paid for the exercise of the  
 984 privilege as defined in the preceding paragraph. Each ticket  
 985 must show on its face the actual sales price of the admission,  
 986 or each dealer selling the admission must prominently display at  
 987 the box office or other place where the admission charge is made  
 988 a notice disclosing the price of the admission, and the tax  
 989 shall be computed and collected on the basis of the actual price  
 990 of the admission charged by the dealer. The sale price or actual  
 991 value of admission shall, for the purpose of this chapter, be  
 992 that price remaining after deduction of federal taxes and state  
 993 or locally imposed or authorized seat surcharges, taxes, or  
 994 fees, if any, imposed upon such admission. The sale price or  
 995 actual value does not include separately stated ticket service  
 996 charges that are imposed by a facility ticket office or a  
 997 ticketing service and added to a separately stated, established  
 998 ticket price. ~~The rate of tax on each admission shall be~~  
 999 ~~according to the brackets established by s. 212.12(9).~~

1000 Section 6. Section 212.05, Florida Statutes, is amended to  
 1001 read:

1002 212.05 Sales, storage, use tax.—It is hereby declared to  
 1003 be the legislative intent that every person is exercising a  
 1004 taxable privilege who engages in the business of selling  
 1005 tangible personal property at retail in this state, ~~including~~  
 1006 ~~the business of making mail order sales,~~ or who rents or  
 1007 furnishes any of the things or services taxable under this

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1008 chapter, or who stores for use or consumption in this state any  
 1009 item or article of tangible personal property as defined herein  
 1010 and who leases or rents such property within the state.

1011 (1) For the exercise of such privilege, a tax is levied on  
 1012 each taxable transaction or incident, which tax is due and  
 1013 payable as follows:

1014 (a)1.a. At the rate of 6 percent of the sales price of  
 1015 each item or article of tangible personal property when sold at  
 1016 retail in this state, computed on each taxable sale for the  
 1017 purpose of remitting the amount of tax due the state, and  
 1018 including each and every retail sale.

1019 b. Each occasional or isolated sale of an aircraft, boat,  
 1020 mobile home, or motor vehicle of a class or type which is  
 1021 required to be registered, licensed, titled, or documented in  
 1022 this state or by the United States Government shall be subject  
 1023 to tax at the rate provided in this paragraph. The department  
 1024 shall by rule adopt any nationally recognized publication for  
 1025 valuation of used motor vehicles as the reference price list for  
 1026 any used motor vehicle which is required to be licensed pursuant  
 1027 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
 1028 party to an occasional or isolated sale of such a vehicle  
 1029 reports to the tax collector a sales price which is less than 80  
 1030 percent of the average loan price for the specified model and  
 1031 year of such vehicle as listed in the most recent reference  
 1032 price list, the tax levied under this paragraph shall be  
 1033 computed by the department on such average loan price unless the  
 1034 parties to the sale have provided to the tax collector an  
 1035 affidavit signed by each party, or other substantial proof,

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1036 | stating the actual sales price. Any party to such sale who  
 1037 | reports a sales price less than the actual sales price is guilty  
 1038 | of a misdemeanor of the first degree, punishable as provided in  
 1039 | s. 775.082 or s. 775.083. The department shall collect or  
 1040 | attempt to collect from such party any delinquent sales taxes.  
 1041 | In addition, such party shall pay any tax due and any penalty  
 1042 | and interest assessed plus a penalty equal to twice the amount  
 1043 | of the additional tax owed. Notwithstanding any other provision  
 1044 | of law, the Department of Revenue may waive or compromise any  
 1045 | penalty imposed pursuant to this subparagraph.

1046 |         2. This paragraph does not apply to the sale of a boat or  
 1047 | aircraft by or through a registered dealer under this chapter to  
 1048 | a purchaser who, at the time of taking delivery, is a  
 1049 | nonresident of this state, does not make his or her permanent  
 1050 | place of abode in this state, and is not engaged in carrying on  
 1051 | in this state any employment, trade, business, or profession in  
 1052 | which the boat or aircraft will be used in this state, or is a  
 1053 | corporation none of the officers or directors of which is a  
 1054 | resident of, or makes his or her permanent place of abode in,  
 1055 | this state, or is a noncorporate entity that has no individual  
 1056 | vested with authority to participate in the management,  
 1057 | direction, or control of the entity's affairs who is a resident  
 1058 | of, or makes his or her permanent abode in, this state. For  
 1059 | purposes of this exemption, either a registered dealer acting on  
 1060 | his or her own behalf as seller, a registered dealer acting as  
 1061 | broker on behalf of a seller, or a registered dealer acting as  
 1062 | broker on behalf of the purchaser may be deemed to be the  
 1063 | selling dealer. This exemption shall not be allowed unless:

1064           a. The purchaser removes a qualifying boat, as described  
 1065 in sub-subparagraph f., from the state within 90 days after the  
 1066 date of purchase or extension, or the purchaser removes a  
 1067 nonqualifying boat or an aircraft from this state within 10 days  
 1068 after the date of purchase or, when the boat or aircraft is  
 1069 repaired or altered, within 20 days after completion of the  
 1070 repairs or alterations;

1071           b. The purchaser, within 30 days from the date of  
 1072 departure, shall provide the department with written proof that  
 1073 the purchaser licensed, registered, titled, or documented the  
 1074 boat or aircraft outside the state. If such written proof is  
 1075 unavailable, within 30 days the purchaser shall provide proof  
 1076 that the purchaser applied for such license, title,  
 1077 registration, or documentation. The purchaser shall forward to  
 1078 the department proof of title, license, registration, or  
 1079 documentation upon receipt;

1080           c. The purchaser, within 10 days of removing the boat or  
 1081 aircraft from Florida, shall furnish the department with proof  
 1082 of removal in the form of receipts for fuel, dockage, slippage,  
 1083 tie-down, or hangaring from outside of Florida. The information  
 1084 so provided must clearly and specifically identify the boat or  
 1085 aircraft;

1086           d. The selling dealer, within 5 days of the date of sale,  
 1087 shall provide to the department a copy of the sales invoice,  
 1088 closing statement, bills of sale, and the original affidavit  
 1089 signed by the purchaser attesting that he or she has read the  
 1090 provisions of this section;

1091           e. The seller makes a copy of the affidavit a part of his

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1092 or her record for as long as required by s. 213.35; and  
1093 f. Unless the nonresident purchaser of a boat of 5 net  
1094 tons of admeasurement or larger intends to remove the boat from  
1095 this state within 10 days after the date of purchase or when the  
1096 boat is repaired or altered, within 20 days after completion of  
1097 the repairs or alterations, the nonresident purchaser shall  
1098 apply to the selling dealer for a decal which authorizes 90 days  
1099 after the date of purchase for removal of the boat. The  
1100 nonresident purchaser of a qualifying boat may apply to the  
1101 selling dealer within 60 days after the date of purchase for an  
1102 extension decal that authorizes the boat to remain in this state  
1103 for an additional 90 days, but not more than a total of 180  
1104 days, before the nonresident purchaser is required to pay the  
1105 tax imposed by this chapter. The department is authorized to  
1106 issue decals in advance to dealers. The number of decals issued  
1107 in advance to a dealer shall be consistent with the volume of  
1108 the dealer's past sales of boats which qualify under this sub-  
1109 subparagraph. The selling dealer or his or her agent shall mark  
1110 and affix the decals to qualifying boats in the manner  
1111 prescribed by the department, prior to delivery of the boat.

1112 (I) The department is hereby authorized to charge dealers  
1113 a fee sufficient to recover the costs of decals issued, except  
1114 the extension decal shall cost \$425.

1115 (II) The proceeds from the sale of decals will be  
1116 deposited into the administrative trust fund.

1117 (III) Decals shall display information to identify the  
1118 boat as a qualifying boat under this sub-subparagraph,  
1119 including, but not limited to, the decal's date of expiration.



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1120 (IV) The department is authorized to require dealers who  
1121 purchase decals to file reports with the department and may  
1122 prescribe all necessary records by rule. All such records are  
1123 subject to inspection by the department.

1124 (V) Any dealer or his or her agent who issues a decal  
1125 falsely, fails to affix a decal, mismarks the expiration date of  
1126 a decal, or fails to properly account for decals will be  
1127 considered prima facie to have committed a fraudulent act to  
1128 evade the tax and will be liable for payment of the tax plus a  
1129 mandatory penalty of 200 percent of the tax, and shall be liable  
1130 for fine and punishment as provided by law for a conviction of a  
1131 misdemeanor of the first degree, as provided in s. 775.082 or s.  
1132 775.083.

1133 (VI) Any nonresident purchaser of a boat who removes a  
1134 decal prior to permanently removing the boat from the state, or  
1135 defaces, changes, modifies, or alters a decal in a manner  
1136 affecting its expiration date prior to its expiration, or who  
1137 causes or allows the same to be done by another, will be  
1138 considered prima facie to have committed a fraudulent act to  
1139 evade the tax and will be liable for payment of the tax plus a  
1140 mandatory penalty of 200 percent of the tax, and shall be liable  
1141 for fine and punishment as provided by law for a conviction of a  
1142 misdemeanor of the first degree, as provided in s. 775.082 or s.  
1143 775.083.

1144 (VII) The department is authorized to adopt rules  
1145 necessary to administer and enforce this subparagraph and to  
1146 publish the necessary forms and instructions.

1147 (VIII) The department is hereby authorized to adopt

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1148 emergency rules pursuant to s. 120.54(4) to administer and  
1149 enforce the provisions of this subparagraph.

1150

1151 If the purchaser fails to remove the qualifying boat from this  
1152 state within the maximum 180 days after purchase or a  
1153 nonqualifying boat or an aircraft from this state within 10 days  
1154 after purchase or, when the boat or aircraft is repaired or  
1155 altered, within 20 days after completion of such repairs or  
1156 alterations, or permits the boat or aircraft to return to this  
1157 state within 6 months from the date of departure, except as  
1158 provided in s. 212.08(7)(fff), or if the purchaser fails to  
1159 furnish the department with any of the documentation required by  
1160 this subparagraph within the prescribed time period, the  
1161 purchaser shall be liable for use tax on the cost price of the  
1162 boat or aircraft and, in addition thereto, payment of a penalty  
1163 to the Department of Revenue equal to the tax payable. This  
1164 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
1165 The maximum 180-day period following the sale of a qualifying  
1166 boat tax-exempt to a nonresident may not be tolled for any  
1167 reason.

1168 (b) At the rate of 6 percent of the cost price of each  
1169 item or article of tangible personal property when the same is  
1170 not sold but is used, consumed, distributed, or stored for use  
1171 or consumption in this state; however, for tangible property  
1172 originally purchased exempt from tax for use exclusively for  
1173 lease and which is converted to the owner's own use, tax may be  
1174 paid on the fair market value of the property at the time of  
1175 conversion. If the fair market value of the property cannot be

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1176 determined, use tax at the time of conversion shall be based on  
 1177 the owner's acquisition cost. Under no circumstances may the  
 1178 aggregate amount of sales tax from leasing the property and use  
 1179 tax due at the time of conversion be less than the total sales  
 1180 tax that would have been due on the original acquisition cost  
 1181 paid by the owner.

1182 (c) At the rate of 6 percent of the gross proceeds derived  
 1183 from the lease or rental of tangible personal property, as  
 1184 defined herein; ~~however, the following special provisions apply~~  
 1185 ~~to the lease or rental of motor vehicles:~~

1186 ~~1. When a motor vehicle is leased or rented for a period~~  
 1187 ~~of less than 12 months:~~

1188 ~~a. If the motor vehicle is rented in Florida, the entire~~  
 1189 ~~amount of such rental is taxable, even if the vehicle is dropped~~  
 1190 ~~off in another state.~~

1191 ~~b. If the motor vehicle is rented in another state and~~  
 1192 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

1193 ~~2. Except as provided in subparagraph 3., for the lease or~~  
 1194 ~~rental of a motor vehicle for a period of not less than 12~~  
 1195 ~~months, sales tax is due on the lease or rental payments if the~~  
 1196 ~~vehicle is registered in this state; provided, however, that no~~  
 1197 ~~tax shall be due if the taxpayer documents use of the motor~~  
 1198 ~~vehicle outside this state and tax is being paid on the lease or~~  
 1199 ~~rental payments in another state.~~

1200 ~~3. The tax imposed by this chapter does not apply to the~~  
 1201 ~~lease or rental of a commercial motor vehicle as defined in s.~~  
 1202 ~~316.003(66) (a) to one lessee or rentee for a period of not less~~  
 1203 ~~than 12 months when tax was paid on the purchase price of such~~

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1204 ~~vehicle by the lessor. To the extent tax was paid with respect~~  
 1205 ~~to the purchase of such vehicle in another state, territory of~~  
 1206 ~~the United States, or the District of Columbia, the Florida tax~~  
 1207 ~~payable shall be reduced in accordance with the provisions of s.~~  
 1208 ~~212.06(7). This subparagraph shall only be available when the~~  
 1209 ~~lease or rental of such property is an established business or~~  
 1210 ~~part of an established business or the same is incidental or~~  
 1211 ~~germane to such business.~~

1212 (d) At the rate of 6 percent of the lease or rental price  
 1213 paid by a lessee or rentee, or contracted or agreed to be paid  
 1214 by a lessee or rentee, to the owner of the tangible personal  
 1215 property.

1216 (e)1. At the rate of 6 percent on charges for:

1217 a. Prepaid calling arrangements. The tax on charges for  
 1218 prepaid calling arrangements shall be collected at the time of  
 1219 sale and remitted by the selling dealer.

1220 (I) "Prepaid calling arrangement" means the separately  
 1221 stated retail sale by advance payment of communications services  
 1222 that consist exclusively of telephone calls originated by using  
 1223 an access number, authorization code, or other means that may be  
 1224 manually, electronically, or otherwise entered and that are sold  
 1225 in predetermined units or dollars whose number declines with use  
 1226 in a known amount.

1227 (II) The sale or recharge of the prepaid calling  
 1228 arrangement is deemed to take place in accordance with s.  
 1229 212.06(17) (d) If the sale or recharge of the prepaid calling  
 1230 arrangement does not take place at the dealer's place of  
 1231 business, it shall be deemed to take place at the customer's

1232 ~~shipping address or, if no item is shipped, at the customer's~~  
 1233 ~~address or the location associated with the customer's mobile~~  
 1234 ~~telephone number.~~

1235 (III) The sale or recharge of a prepaid calling  
 1236 arrangement shall be treated as a sale of tangible personal  
 1237 property for purposes of this chapter, whether or not a tangible  
 1238 item evidencing such arrangement is furnished to the purchaser,  
 1239 and such sale within this state subjects the selling dealer to  
 1240 the jurisdiction of this state for purposes of this subsection.

1241 b. The installation of telecommunication and telegraphic  
 1242 equipment.

1243 c. Electrical power or energy, except that the tax rate  
 1244 for charges for electrical power or energy is 7 percent.

1245 2. The provisions of s. 212.17(3), regarding credit for  
 1246 tax paid on charges subsequently found to be worthless, shall be  
 1247 equally applicable to any tax paid under the provisions of this  
 1248 section on charges for prepaid calling arrangements,  
 1249 telecommunication or telegraph services, or electric power  
 1250 subsequently found to be uncollectible. The word "charges" in  
 1251 this paragraph does not include any excise or similar tax levied  
 1252 by the Federal Government, any political subdivision of the  
 1253 state, or any municipality upon the purchase, sale, or recharge  
 1254 of prepaid calling arrangements or upon the purchase or sale of  
 1255 telecommunication, television system program, or telegraph  
 1256 service or electric power, which tax is collected by the seller  
 1257 from the purchaser.

1258 (f) At the rate of 6 percent on the sale, rental, use,  
 1259 consumption, or storage for use in this state of machines and

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1260 equipment, and parts and accessories therefor, used in  
1261 manufacturing, processing, compounding, producing, mining, or  
1262 quarrying personal property for sale or to be used in furnishing  
1263 communications, transportation, or public utility services.

1264 (g)1. At the rate of 6 percent on the retail price of  
1265 newspapers and magazines sold or used in Florida.

1266 2. Notwithstanding other provisions of this chapter,  
1267 inserts of printed materials which are distributed with a  
1268 newspaper or magazine are a component part of the newspaper or  
1269 magazine, and neither the sale nor use of such inserts is  
1270 subject to tax when:

1271 a. Printed by a newspaper or magazine publisher or  
1272 commercial printer and distributed as a component part of a  
1273 newspaper or magazine, which means that the items after being  
1274 printed are delivered directly to a newspaper or magazine  
1275 publisher by the printer for inclusion in editions of the  
1276 distributed newspaper or magazine;

1277 b. Such publications are labeled as part of the designated  
1278 newspaper or magazine publication into which they are to be  
1279 inserted; and

1280 c. The purchaser of the insert presents a resale  
1281 certificate to the vendor stating that the inserts are to be  
1282 distributed as a component part of a newspaper or magazine.

1283 (h)1. A tax is imposed at the rate of 4 percent on the  
1284 charges for the use of coin-operated amusement machines. The tax  
1285 shall be calculated by dividing the gross receipts from such  
1286 charges for the applicable reporting period by a divisor,  
1287 determined as provided in this subparagraph, to compute gross

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1288 taxable sales, and then subtracting gross taxable sales from  
1289 gross receipts to arrive at the amount of tax due. For counties  
1290 that do not impose a discretionary sales surtax, the divisor is  
1291 equal to 1.04; for counties that impose a 0.5 percent  
1292 discretionary sales surtax, the divisor is equal to 1.045; for  
1293 counties that impose a 1 percent discretionary sales surtax, the  
1294 divisor is equal to 1.050; and for counties that impose a 2  
1295 percent sales surtax, the divisor is equal to 1.060. If a county  
1296 imposes a discretionary sales surtax that is not listed in this  
1297 subparagraph, the department shall make the applicable divisor  
1298 available in an electronic format or otherwise. Additional  
1299 divisors shall bear the same mathematical relationship to the  
1300 next higher and next lower divisors as the new surtax rate bears  
1301 to the next higher and next lower surtax rates for which  
1302 divisors have been established. When a machine is activated by a  
1303 slug, token, coupon, or any similar device which has been  
1304 purchased, the tax is on the price paid by the user of the  
1305 device for such device.

1306 2. As used in this paragraph, the term "operator" means  
1307 any person who possesses a coin-operated amusement machine for  
1308 the purpose of generating sales through that machine and who is  
1309 responsible for removing the receipts from the machine.

1310 a. If the owner of the machine is also the operator of it,  
1311 he or she shall be liable for payment of the tax without any  
1312 deduction for rent or a license fee paid to a location owner for  
1313 the use of any real property on which the machine is located.

1314 b. If the owner or lessee of the machine is also its  
1315 operator, he or she shall be liable for payment of the tax on

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1316 the purchase or lease of the machine, as well as the tax on  
1317 sales generated through the machine.

1318 c. If the proprietor of the business where the machine is  
1319 located does not own the machine, he or she shall be deemed to  
1320 be the lessee and operator of the machine and is responsible for  
1321 the payment of the tax on sales, unless such responsibility is  
1322 otherwise provided for in a written agreement between him or her  
1323 and the machine owner.

1324 3.a. An operator of a coin-operated amusement machine may  
1325 not operate or cause to be operated in this state any such  
1326 machine until the operator has registered with the department  
1327 and has conspicuously displayed an identifying certificate  
1328 issued by the department. The identifying certificate shall be  
1329 issued by the department upon application from the operator. The  
1330 identifying certificate shall include a unique number, and the  
1331 certificate shall be permanently marked with the operator's  
1332 name, the operator's sales tax number, and the maximum number of  
1333 machines to be operated under the certificate. An identifying  
1334 certificate shall not be transferred from one operator to  
1335 another. The identifying certificate must be conspicuously  
1336 displayed on the premises where the coin-operated amusement  
1337 machines are being operated.

1338 b. The operator of the machine must obtain an identifying  
1339 certificate before the machine is first operated in the state  
1340 and by July 1 of each year thereafter. The annual fee for each  
1341 certificate shall be based on the number of machines identified  
1342 on the application times \$30 and is due and payable upon  
1343 application for the identifying device. The application shall



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1344 contain the operator's name, sales tax number, business address  
1345 where the machines are being operated, and the number of  
1346 machines in operation at that place of business by the operator.  
1347 No operator may operate more machines than are listed on the  
1348 certificate. A new certificate is required if more machines are  
1349 being operated at that location than are listed on the  
1350 certificate. The fee for the new certificate shall be based on  
1351 the number of additional machines identified on the application  
1352 form times \$30.

1353 c. A penalty of \$250 per machine is imposed on the  
1354 operator for failing to properly obtain and display the required  
1355 identifying certificate. A penalty of \$250 is imposed on the  
1356 lessee of any machine placed in a place of business without a  
1357 proper current identifying certificate. Such penalties shall  
1358 apply in addition to all other applicable taxes, interest, and  
1359 penalties.

1360 d. Operators of coin-operated amusement machines must  
1361 obtain a separate sales and use tax certificate of registration  
1362 for each county in which such machines are located. One sales  
1363 and use tax certificate of registration is sufficient for all of  
1364 the operator's machines within a single county.

1365 4. The provisions of this paragraph do not apply to coin-  
1366 operated amusement machines owned and operated by churches or  
1367 synagogues.

1368 5. In addition to any other penalties imposed by this  
1369 chapter, a person who knowingly and willfully violates any  
1370 provision of this paragraph commits a misdemeanor of the second  
1371 degree, punishable as provided in s. 775.082 or s. 775.083.

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1372           6. The department may adopt rules necessary to administer  
1373 the provisions of this paragraph.

1374           (i)1. At the rate of 6 percent on charges for all:

1375           a. Detective, burglar protection, and other protection  
1376 services (NAICS National Numbers 561611, 561612, 561613, and  
1377 561621). Any law enforcement officer, as defined in s. 943.10,  
1378 who is performing approved duties as determined by his or her  
1379 local law enforcement agency in his or her capacity as a law  
1380 enforcement officer, and who is subject to the direct and  
1381 immediate command of his or her law enforcement agency, and in  
1382 the law enforcement officer's uniform as authorized by his or  
1383 her law enforcement agency, is performing law enforcement and  
1384 public safety services and is not performing detective, burglar  
1385 protection, or other protective services, if the law enforcement  
1386 officer is performing his or her approved duties in a  
1387 geographical area in which the law enforcement officer has  
1388 arrest jurisdiction. Such law enforcement and public safety  
1389 services are not subject to tax irrespective of whether the duty  
1390 is characterized as "extra duty," "off-duty," or "secondary  
1391 employment," and irrespective of whether the officer is paid  
1392 directly or through the officer's agency by an outside source.  
1393 The term "law enforcement officer" includes full-time or part-  
1394 time law enforcement officers, and any auxiliary law enforcement  
1395 officer, when such auxiliary law enforcement officer is working  
1396 under the direct supervision of a full-time or part-time law  
1397 enforcement officer.

1398           b. Nonresidential cleaning, excluding cleaning of the  
1399 interiors of transportation equipment, and nonresidential

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1400 building pest control services (NAICS National Numbers 561710  
1401 and 561720).

1402 2. As used in this paragraph, "NAICS" means those  
1403 classifications contained in the North American Industry  
1404 Classification System, as published in 2007 by the Office of  
1405 Management and Budget, Executive Office of the President.

1406 3. Charges for detective, burglar protection, and other  
1407 protection security services performed in this state but used  
1408 outside this state are exempt from taxation. Charges for  
1409 detective, burglar protection, and other protection security  
1410 services performed outside this state and used in this state are  
1411 subject to tax.

1412 4. If a transaction involves both the sale or use of a  
1413 service taxable under this paragraph and the sale or use of a  
1414 service or any other item not taxable under this chapter, the  
1415 consideration paid must be separately identified and stated with  
1416 respect to the taxable and exempt portions of the transaction or  
1417 the entire transaction shall be presumed taxable. The burden  
1418 shall be on the seller of the service or the purchaser of the  
1419 service, whichever applicable, to overcome this presumption by  
1420 providing documentary evidence as to which portion of the  
1421 transaction is exempt from tax. The department is authorized to  
1422 adjust the amount of consideration identified as the taxable and  
1423 exempt portions of the transaction; however, a determination  
1424 that the taxable and exempt portions are inaccurately stated and  
1425 that the adjustment is applicable must be supported by  
1426 substantial competent evidence.

1427 5. Each seller of services subject to sales tax pursuant

1428 to this paragraph shall maintain a monthly log showing each  
 1429 transaction for which sales tax was not collected because the  
 1430 services meet the requirements of subparagraph 3. for out-of-  
 1431 state use. The log must identify the purchaser's name, location  
 1432 and mailing address, and federal employer identification number,  
 1433 if a business, or the social security number, if an individual,  
 1434 the service sold, the price of the service, the date of sale,  
 1435 the reason for the exemption, and the sales invoice number. The  
 1436 monthly log shall be maintained pursuant to the same  
 1437 requirements and subject to the same penalties imposed for the  
 1438 keeping of similar records pursuant to this chapter.

1439 (j)1. Notwithstanding any other provision of this chapter,  
 1440 there is hereby levied a tax on the sale, use, consumption, or  
 1441 storage for use in this state of any coin or currency, whether  
 1442 in circulation or not, when such coin or currency:

- 1443 a. Is not legal tender;
- 1444 b. If legal tender, is sold, exchanged, or traded at a  
 1445 rate in excess of its face value; or
- 1446 c. Is sold, exchanged, or traded at a rate based on its  
 1447 precious metal content.

1448 2. Such tax shall be at a rate of 6 percent of the price  
 1449 at which the coin or currency is sold, exchanged, or traded,  
 1450 except that, with respect to a coin or currency which is legal  
 1451 tender of the United States and which is sold, exchanged, or  
 1452 traded, such tax shall not be levied.

1453 3. There are exempt from this tax exchanges of coins or  
 1454 currency which are in general circulation in, and legal tender  
 1455 of, one nation for coins or currency which are in general

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1456 circulation in, and legal tender of, another nation when  
1457 exchanged solely for use as legal tender and at an exchange rate  
1458 based on the relative value of each as a medium of exchange.

1459 4. With respect to any transaction that involves the sale  
1460 of coins or currency taxable under this paragraph in which the  
1461 taxable amount represented by the sale of such coins or currency  
1462 exceeds \$500, the entire amount represented by the sale of such  
1463 coins or currency is exempt from the tax imposed under this  
1464 paragraph. The dealer must maintain proper documentation, as  
1465 prescribed by rule of the department, to identify that portion  
1466 of a transaction which involves the sale of coins or currency  
1467 and is exempt under this subparagraph.

1468 (k) At the rate of 6 percent of the sales price of each  
1469 gallon of diesel fuel not taxed under chapter 206 purchased for  
1470 use in a vessel.

1471 (l) Florists located in this state are liable for sales  
1472 tax on sales to retail customers regardless of where or by whom  
1473 the items sold are to be delivered. Florists located in this  
1474 state are not liable for sales tax on payments received from  
1475 other florists for items delivered to customers in this state.

1476 (m) Operators of game concessions or other concessionaires  
1477 who customarily award tangible personal property as prizes may,  
1478 in lieu of paying tax on the cost price of such property, pay  
1479 tax on 25 percent of the gross receipts from such concession  
1480 activity.

1481 (2) The tax shall be collected by the dealer, as defined  
1482 herein, and remitted by the dealer to the state at the time and  
1483 in the manner as hereinafter provided.

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1484 (3) The tax so levied is in addition to all other taxes,  
 1485 whether levied in the form of excise, license, or privilege  
 1486 taxes, and in addition to all other fees and taxes levied.

1487 ~~(4) The tax imposed pursuant to this chapter shall be due~~  
 1488 ~~and payable according to the brackets set forth in s. 212.12.~~

1489 (4)~~(5)~~ Notwithstanding any other provision of this  
 1490 chapter, the maximum amount of tax imposed under this chapter  
 1491 and collected on each sale or use of a boat in this state may  
 1492 not exceed \$18,000.

1493 Section 7. Section 212.0502, Florida Statutes, is created  
 1494 to read:

1495 212.0502 Education surtax.-

1496 (1) On all transactions subject to the state tax imposed  
 1497 on sales, use, services, rentals, admissions, and other  
 1498 transactions by this chapter, an education surtax is levied at a  
 1499 rate as determined in subsection (2).

1500 (2) (a) Effective January 1, 2013, the education surtax  
 1501 rate shall be 3 percent.

1502 (b) Beginning January 1, 2014, the education surtax rate  
 1503 shall be the product of the education surtax rate in effect on  
 1504 the prior January 1 and a ratio, the numerator of which is the  
 1505 amount appropriated to replace school property taxes and the  
 1506 denominator of which is the estimated education surtax  
 1507 collections for the fiscal year, and this product shall be  
 1508 rounded up to the nearest quarter of a percentage point.

1509 (c) The education surtax rate calculated pursuant to  
 1510 paragraph (b):

1511 1. Shall each year be calculated in the General

1512 Appropriations Act;  
 1513 2. Shall take effect on January 1 during the fiscal year  
 1514 to which that General Appropriations Act applies; and  
 1515 3. Shall not exceed the rate in effect on the prior  
 1516 January 1.  
 1517 (d) As used in this section:  
 1518 1. The amount appropriated to replace school property  
 1519 taxes is the amount appropriated in the General Appropriations  
 1520 Act, pursuant to ss. 1011.62 and 1011.71, for the fiscal year  
 1521 containing the effective date of the new education surtax rate.  
 1522 2. The estimated surtax collections are the education  
 1523 surtax collections estimated, as of the final passage of the  
 1524 General Appropriations Act, by the Consensus Revenue Estimating  
 1525 Conference for the fiscal year containing the effective date of  
 1526 the new education surtax rate, assuming there is no change in  
 1527 the tax rate in effect at the time the estimate is made.  
 1528 (3) The proceeds from the education surtax shall be  
 1529 deposited in the State Schools Trust Fund and shall be used only  
 1530 for the purposes of replacing the required local effort and  
 1531 nonvoted discretionary millages as provided in ss. 1011.62 and  
 1532 1011.71. Each fiscal year, appropriations for this purpose shall  
 1533 not exceed the estimated education surtax collections for the  
 1534 fiscal year.  
 1535 (4) Notwithstanding subsection (3), unencumbered education  
 1536 surtax revenues in the State Schools Trust Fund at the end of  
 1537 each fiscal year in excess of 50 percent of education surtax  
 1538 collections during that fiscal year may be appropriated for  
 1539 supplemental, nonrecurring teacher pay-for-performance bonuses

1540 in subsequent fiscal years.

1541 Section 8. Subsections (6) through (11) of section  
 1542 212.0506, Florida Statutes, are amended to read:

1543 212.0506 Taxation of service warranties.—

1544 ~~(6) This tax shall be due and payable according to the~~  
 1545 ~~brackets set forth in s. 212.12.~~

1546 (6)~~(7)~~ This tax shall not apply to any portion of the  
 1547 consideration received by any person in connection with the  
 1548 issuance of any service warranty contract upon which such person  
 1549 is required to pay any premium tax imposed under the Florida  
 1550 Insurance Code or under s. 634.313(1).

1551 (7)~~(8)~~ If a transaction involves both the issuance of a  
 1552 service warranty that is subject to such tax and the issuance of  
 1553 a warranty, guaranty, extended warranty or extended guaranty,  
 1554 contract, agreement, or other written promise that is not  
 1555 subject to such tax, the consideration shall be separately  
 1556 identified and stated with respect to the taxable and nontaxable  
 1557 portions of the transaction. If the consideration is separately  
 1558 apportioned and identified in good faith, such tax shall apply  
 1559 to the transaction to the extent that the consideration received  
 1560 or to be received in connection with the transaction is payment  
 1561 for a service warranty subject to such tax. If the consideration  
 1562 is not apportioned in good faith, the department may reform the  
 1563 contract; such reformation by the department is to be considered  
 1564 prima facie correct, and the burden to show the contrary rests  
 1565 upon the dealer. If the consideration for such a transaction is  
 1566 not separately identified and stated, the entire transaction is  
 1567 taxable.



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1568            (8)~~(9)~~ Any claim which arises under a service warranty  
 1569 taxable under this section, which claim is paid directly by the  
 1570 person issuing such warranty, is not subject to any tax imposed  
 1571 under this chapter.

1572            (9)~~(10)~~ Materials and supplies used in the performance of  
 1573 a factory or manufacturer's warranty are exempt if the contract  
 1574 is furnished at no extra charge with the equipment guaranteed  
 1575 thereunder and such materials and supplies are paid for by the  
 1576 factory or manufacturer.

1577            (10)~~(11)~~ Any duties imposed by this chapter upon dealers  
 1578 of tangible personal property with respect to collecting and  
 1579 remitting taxes; making returns; keeping books, records, and  
 1580 accounts; and complying with the rules and regulations of the  
 1581 department apply to all dealers as defined in s. 212.06(2)(1).

1582            Section 9. Section 212.054, Florida Statutes, is amended  
 1583 to read:

1584            212.054 Discretionary sales surtax; limitations,  
 1585 administration, and collection.—

1586            (1) A ~~No~~ general excise tax on sales may not ~~shall~~ be  
 1587 levied by the governing body of any county unless specifically  
 1588 authorized in s. 212.055. Any general excise tax on sales  
 1589 authorized pursuant to said section shall be administered and  
 1590 collected exclusively as provided in this section.

1591            (2) (a) The tax imposed by the governing body of any county  
 1592 authorized to so levy pursuant to s. 212.055 shall be a  
 1593 discretionary surtax on all transactions occurring in the county  
 1594 which transactions are subject to the state tax imposed on  
 1595 sales, use, services, rentals, admissions, and other

1596 transactions by this chapter and communications services as  
 1597 defined for purposes of chapter 202. The surtax, if levied,  
 1598 shall be computed as the applicable rate or rates authorized  
 1599 pursuant to s. 212.055 times the amount of taxable sales and  
 1600 taxable purchases representing such transactions. If the surtax  
 1601 is levied on the sale of an item of tangible personal property  
 1602 or on the sale of a service, the surtax shall be computed by  
 1603 multiplying the rate imposed by the county within which the sale  
 1604 occurs by the amount of the taxable sale. The sale of an item of  
 1605 tangible personal property or the sale of a service is not  
 1606 subject to the surtax if the property, the service, or the  
 1607 tangible personal property representing the service is delivered  
 1608 within a county that does not impose a discretionary sales  
 1609 surtax.

1610 (b) However:

1611 1. The sales amount above \$5,000 on a motor vehicle,  
 1612 aircraft, boat, manufactured home, modular home, or mobile home  
 1613 ~~is any item of tangible personal property shall not be subject~~  
 1614 ~~to the surtax. However, charges for prepaid calling~~  
 1615 ~~arrangements, as defined in s. 212.05(1)(c)1.a., shall be~~  
 1616 ~~subject to the surtax. For purposes of administering the \$5,000~~  
 1617 ~~limitation on an item of tangible personal property, if two or~~  
 1618 ~~more taxable items of tangible personal property are sold to the~~  
 1619 ~~same purchaser at the same time and, under generally accepted~~  
 1620 ~~business practice or industry standards or usage, are normally~~  
 1621 ~~sold in bulk or are items that, when assembled, comprise a~~  
 1622 ~~working unit or part of a working unit, such items must be~~  
 1623 ~~considered a single item for purposes of the \$5,000 limitation~~

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1624 ~~when supported by a charge ticket, sales slip, invoice, or other~~  
1625 ~~tangible evidence of a single sale or rental.~~

1626       2. In the case of utility services covering a period  
1627 starting before and ending after the effective date of the  
1628 surtax, the rate applies as follows:

1629       a. In the case of a rate adoption or increase, the new  
1630 rate applies to the first billing period starting on or after  
1631 the effective date of the surtax adoption or increase.

1632       b. In the case of a rate decrease or termination, the new  
1633 rate applies to bills rendered on or after the effective date of  
1634 the rate change ~~billed on or after the effective date of any~~  
1635 ~~such surtax, the entire amount of the charge for utility~~  
1636 ~~services shall be subject to the surtax. In the case of utility~~  
1637 ~~services billed after the last day the surtax is in effect, the~~  
1638 ~~entire amount of the charge on said items shall not be subject~~  
1639 ~~to the surtax. "Utility service," as used in this section, does~~  
1640 not include any communications services as defined in chapter  
1641 202.

1642       3. In the case of written contracts which are signed prior  
1643 to the effective date of any such surtax for the construction of  
1644 improvements to real property or for remodeling of existing  
1645 structures, the surtax shall be paid by the contractor  
1646 responsible for the performance of the contract. However, the  
1647 contractor may apply for one refund of any such surtax paid on  
1648 materials necessary for the completion of the contract. Any  
1649 application for refund shall be made no later than 15 months  
1650 following initial imposition of the surtax in that county. The  
1651 application for refund shall be in the manner prescribed by the

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1652 department by rule. A complete application shall include proof  
 1653 of the written contract and of payment of the surtax. The  
 1654 application shall contain a sworn statement, signed by the  
 1655 applicant or its representative, attesting to the validity of  
 1656 the application. The department shall, within 30 days after  
 1657 approval of a complete application, certify to the county  
 1658 information necessary for issuance of a refund to the applicant.  
 1659 Counties are hereby authorized to issue refunds for this purpose  
 1660 and shall set aside from the proceeds of the surtax a sum  
 1661 sufficient to pay any refund lawfully due. Any person who  
 1662 fraudulently obtains or attempts to obtain a refund pursuant to  
 1663 this subparagraph, in addition to being liable for repayment of  
 1664 any refund fraudulently obtained plus a mandatory penalty of 100  
 1665 percent of the refund, is guilty of a felony of the third  
 1666 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1667 775.084.

1668 4. In the case of any vessel, railroad, or motor vehicle  
 1669 common carrier entitled to partial exemption from tax imposed  
 1670 under this chapter pursuant to s. 212.08(4), (8), or (9), the  
 1671 basis for imposition of surtax shall be the same as provided in  
 1672 s. 212.08 and the ratio shall be applied each month to total  
 1673 purchases in this state of property qualified for proration  
 1674 which is delivered or sold in the taxing county to establish the  
 1675 portion used and consumed in intracounty movement and subject to  
 1676 surtax.

1677 (3) Except as otherwise provided in this section, a surtax  
 1678 applies to a retail sale, lease, or rental of tangible personal  
 1679 property, a digital good, or a service when, under s.

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1680 212.06(17), the transaction occurs in a county that imposes a  
 1681 surtax under s. 212.055.

1682 (4)(3) To determine whether a transaction occurs in a  
 1683 county imposing a surtax, the following provisions apply ~~For the~~  
 1684 ~~purpose of this section, a transaction shall be deemed to have~~  
 1685 ~~occurred in a county imposing the surtax when:~~

1686 (a)~~1~~. The retail sale of a modular or manufactured home,  
 1687 not including a mobile home, occurs in the county to which the  
 1688 house is delivered ~~includes an item of tangible personal~~  
 1689 ~~property, a service, or tangible personal property representing~~  
 1690 ~~a service, and the item of tangible personal property, the~~  
 1691 ~~service, or the tangible personal property representing the~~  
 1692 ~~service is delivered within the county. If there is no~~  
 1693 ~~reasonable evidence of delivery of a service, the sale of a~~  
 1694 ~~service is deemed to occur in the county in which the purchaser~~  
 1695 ~~accepts the bill of sale.~~

1696 (b)~~2~~. The retail sale, excluding a lease or rental, of any  
 1697 motor vehicle that does not qualify as transportation equipment,  
 1698 as defined in s. 212.06(17)(g), or the retail sale of a ~~of any~~  
 1699 ~~motor vehicle or mobile home of a class or type that which is~~  
 1700 ~~required to be registered in this state or in any other state is~~  
 1701 ~~shall be deemed to occur~~ have occurred only in the county  
 1702 identified from as the ~~residence~~ address of the purchaser on the  
 1703 registration or title document for the ~~such~~ property.

1704 (c)~~(b)~~ Admission charged for an event occurs ~~The event for~~  
 1705 ~~which an admission is charged is located~~ in the county in which  
 1706 the event is held.

1707 (d)~~(e)~~ A lease or rental of real property occurs in the

1708 county in which the real property is located. ~~The consumer of~~  
 1709 ~~utility services is located in the county.~~

1710 (e)-(d)1. The retail sale, excluding a lease or rental, of  
 1711 any aircraft that does not qualify as transportation equipment,  
 1712 as defined in s. 212.06(17)(g), or of any boat of a class or  
 1713 type that is required to be registered, licensed, titled, or  
 1714 documented in this state or by the Federal Government occurs in  
 1715 the county to which the aircraft or boat is delivered.

1716 2. The user of any aircraft or boat of a class or type  
 1717 that ~~which~~ is required to be registered, licensed, titled, or  
 1718 documented in this state or by the United States Government  
 1719 imported into the county for use, consumption, distribution, or  
 1720 storage to be used or consumed occurs in the county in which the  
 1721 user is located ~~in the county.~~

1722 3.2- However, it shall be presumed that such items used  
 1723 outside the county imposing the surtax for 6 months or longer  
 1724 before being imported into the county were not purchased for use  
 1725 in the county, except as provided in s. 212.06(8)(b).

1726 4.3- This paragraph does not apply to the use or  
 1727 consumption of items upon which a like tax of equal or greater  
 1728 amount has been lawfully imposed and paid outside the county.

1729 (f)-(e) The purchase ~~purchaser~~ of any motor vehicle or  
 1730 mobile home of a class or type that ~~which~~ is required to be  
 1731 registered in this state occurs in the county identified from  
 1732 the residential address of the purchaser ~~is a resident of the~~  
 1733 ~~taxing county as determined by the address appearing on or to be~~  
 1734 ~~reflected~~ on the registration document for the ~~such~~ property.

1735 (g)-(f)1. The use, consumption, distribution, or storage of

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1736 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~  
 1737 is required to be registered in this state and that is imported  
 1738 from another state occurs in the county to which it is imported  
 1739 ~~into the taxing county by a user residing therein for the~~  
 1740 ~~purpose of use, consumption, distribution, or storage in the~~  
 1741 ~~taxing county.~~

1742 2. However, it shall be presumed that such items used  
 1743 outside the taxing county for 6 months or longer before being  
 1744 imported into the county were not purchased for use in the  
 1745 county.

1746 ~~(g) The real property which is leased or rented is located~~  
 1747 ~~in the county.~~

1748 (h) A ~~The~~ transient rental transaction occurs in the  
 1749 county in which the rental property is located.

1750 ~~(i) The delivery of any aircraft or boat of a class or~~  
 1751 ~~type which is required to be registered, licensed, titled, or~~  
 1752 ~~documented in this state or by the United States Government is~~  
 1753 ~~to a location in the county. However, this paragraph does not~~  
 1754 ~~apply to the use or consumption of items upon which a like tax~~  
 1755 ~~of equal or greater amount has been lawfully imposed and paid~~  
 1756 ~~outside the county.~~

1757 ~~(i)-(j)~~ A transaction occurs in a county imposing the  
 1758 surtax if the dealer owing a use tax on purchases or leases is  
 1759 located in that ~~the~~ county.

1760 ~~(k) The delivery of tangible personal property other than~~  
 1761 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~  
 1762 ~~is made to a location outside the county, but the property is~~  
 1763 ~~brought into the county within 6 months after delivery, in which~~

1764 ~~event, the owner must pay the surtax as a use tax.~~

1765 (j)~~(l)~~ The use of a coin-operated amusement or vending  
 1766 machine occurs ~~is located~~ in the county in which the machine is  
 1767 located.

1768 (k)~~(m)~~ An ~~The florist taking the~~ original order to sell  
 1769 tangible personal property taken by a florist occurs ~~is located~~  
 1770 in the county in which the florist taking the order is located,  
 1771 ~~notwithstanding any other provision of this section.~~

1772 (5)~~(4)~~(a) The department shall administer, collect, and  
 1773 enforce the tax authorized under s. 212.055 pursuant to the same  
 1774 procedures used in the administration, collection, and  
 1775 enforcement of the general state sales tax imposed under the  
 1776 provisions of this chapter, except as provided in this section.  
 1777 The provisions of this chapter regarding interest and penalties  
 1778 on delinquent taxes shall apply to the surtax. Discretionary  
 1779 sales surtaxes shall not be included in the computation of  
 1780 estimated taxes pursuant to s. 212.11. Notwithstanding any other  
 1781 provision of law, a dealer need not separately state the amount  
 1782 of the surtax on the charge ticket, sales slip, invoice, or  
 1783 other tangible evidence of sale. For the purposes of this  
 1784 section and s. 212.055, the "proceeds" of any surtax means all  
 1785 funds collected and received by the department pursuant to a  
 1786 specific authorization and levy under s. 212.055, including any  
 1787 interest and penalties on delinquent surtaxes.

1788 (b) The proceeds of a discretionary sales surtax collected  
 1789 by the selling dealer located in a county imposing the surtax  
 1790 shall be returned, less the cost of administration, to the  
 1791 county where the selling dealer is located. The proceeds shall



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1792 be transferred to the Discretionary Sales Surtax Clearing Trust  
 1793 Fund. A separate account shall be established in the trust fund  
 1794 for each county imposing a discretionary surtax. The amount  
 1795 deducted for the costs of administration may not exceed 3  
 1796 percent of the total revenue generated for all counties levying  
 1797 a surtax authorized in s. 212.055. The amount deducted for the  
 1798 costs of administration may be used only for costs that are  
 1799 solely and directly attributable to the surtax. The total cost  
 1800 of administration shall be prorated among those counties levying  
 1801 the surtax on the basis of the amount collected for a particular  
 1802 county to the total amount collected for all counties. The  
 1803 department shall distribute the moneys in the trust fund to the  
 1804 appropriate counties each month, unless otherwise provided in s.  
 1805 212.055.

1806 (c)1. Any dealer located in a county that does not impose  
 1807 a discretionary sales surtax but who collects the surtax due to  
 1808 sales of tangible personal property or services delivered  
 1809 outside the county shall remit monthly the proceeds of the  
 1810 surtax to the department to be deposited into an account in the  
 1811 Discretionary Sales Surtax Clearing Trust Fund which is separate  
 1812 from the county surtax collection accounts. The department shall  
 1813 distribute funds in this account using a distribution factor  
 1814 determined for each county that levies a surtax and multiplied  
 1815 by the amount of funds in the account and available for  
 1816 distribution. The distribution factor for each county equals the  
 1817 product of:

1818 a. The county's latest official population determined  
 1819 pursuant to s. 186.901;

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1820           b. The county's rate of surtax; and  
 1821           c. The number of months the county has levied a surtax  
 1822 during the most recent distribution period;

1823  
 1824 divided by the sum of all such products of the counties levying  
 1825 the surtax during the most recent distribution period.

1826           2. The department shall compute distribution factors for  
 1827 eligible counties once each quarter and make appropriate  
 1828 quarterly distributions.

1829           3. A county that fails to timely provide the information  
 1830 required by this section to the department authorizes the  
 1831 department, by such action, to use the best information  
 1832 available to it in distributing surtax revenues to the county.  
 1833 If this information is unavailable to the department, the  
 1834 department may partially or entirely disqualify the county from  
 1835 receiving surtax revenues under this paragraph. A county that  
 1836 fails to provide timely information waives its right to  
 1837 challenge the department's determination of the county's share,  
 1838 if any, of revenues provided under this paragraph.

1839           ~~(5) No discretionary sales surtax or increase or decrease~~  
 1840 ~~in the rate of any discretionary sales surtax shall take effect~~  
 1841 ~~on a date other than January 1. No discretionary sales surtax~~  
 1842 ~~shall terminate on a day other than December 31.~~

1843           (6) The governing body of any county levying a  
 1844 discretionary sales surtax shall enact an ordinance levying the  
 1845 surtax in accordance with the procedures described in s.  
 1846 125.66(2).

1847           (7) (a) Any adoption, repeal, or rate change of the surtax

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1848 by the governing body of any county levying a discretionary  
 1849 sales surtax or the school board of any county levying the  
 1850 school capital outlay surtax authorized by s. 212.055(6) is  
 1851 effective on April 1. A county or school board adopting,  
 1852 repealing, or changing the rate of such surtax shall notify the  
 1853 department within 10 days after final adoption by ordinance or  
 1854 referendum of an adoption, repeal, imposition, termination, or  
 1855 rate change of the surtax, but no later than October 20  
 1856 immediately preceding such April 1 ~~November 16~~ ~~prior to the~~  
 1857 ~~effective date~~. The notice must specify the time period during  
 1858 which the surtax will be in effect and the rate and must include  
 1859 a copy of the ordinance and such other information as the  
 1860 department requires by rule. Failure to timely provide such  
 1861 notification to the department shall result in the delay of the  
 1862 effective date for a period of 1 year.

1863 (b) In addition to the notification required by paragraph  
 1864 (a), the governing body of any county proposing to levy a  
 1865 discretionary sales surtax or the school board of any county  
 1866 proposing to levy the school capital outlay surtax authorized by  
 1867 s. 212.055(6) shall notify the department by October 1 if the  
 1868 referendum or consideration of the ordinance that would result  
 1869 in imposition, termination, or rate change of the surtax is  
 1870 scheduled to occur on or after October 1 of that year. Failure  
 1871 to timely provide such notification to the department shall  
 1872 result in the delay of the effective date for a period of 1  
 1873 year.

1874 (c) The department shall provide notice of the adoption,  
 1875 repeal, or rate change of the surtax to affected sellers by

1876 February 1 immediately before the April 1 effective date.

1877 (d) Notwithstanding the date set in an ordinance for the  
 1878 termination of a surtax, a surtax terminates only on March 31. A  
 1879 surtax imposed before January 1, 2013, for which an ordinance  
 1880 provides a different termination date, also terminates on the  
 1881 March 31 after the termination date established in the  
 1882 ordinance.

1883 (8) With respect to any motor vehicle or mobile home of a  
 1884 class or type which is required to be registered in this state,  
 1885 the tax due on a transaction occurring in the taxing county as  
 1886 herein provided shall be collected from the purchaser or user  
 1887 incident to the titling and registration of such property,  
 1888 irrespective of whether such titling or registration occurs in  
 1889 the taxing county.

1890 (9) The department may certify vendor databases, and shall  
 1891 purchase or otherwise make available a database or databases,  
 1892 singly or in combination, which describe boundary changes for  
 1893 all taxing jurisdictions, including a description of the change  
 1894 and the effective date of a boundary change; provide all sales  
 1895 and use tax rates by jurisdiction; assign to each five-digit and  
 1896 nine-digit zip code the proper rate and jurisdiction and apply  
 1897 the lowest combined rate imposed in the zip code area, if the  
 1898 area includes more than one tax rate in any level of taxing  
 1899 jurisdiction; and use address-based boundary database records  
 1900 for assigning taxing jurisdictions and associated tax rates.

1901 (a) A seller or certified service provider that collects  
 1902 and remits the state tax and any local tax imposed by this  
 1903 chapter shall be held harmless from any tax, interest, and

1904 penalties due solely as a result of relying on erroneous data on  
 1905 tax rates, boundaries, or taxing jurisdiction assignments  
 1906 provided by the state if the seller or certified service  
 1907 provider exercises due diligence in applying one or more of the  
 1908 following methods to determine the taxing jurisdiction and tax  
 1909 rate for a transaction:

1910 1. Employing an electronic database provided by the  
 1911 department under this subsection; or

1912 2. Employing a state-certified database.

1913 (b) If a seller or certified service provider is unable to  
 1914 determine the applicable rate and jurisdiction using an address-  
 1915 based database record after exercising due diligence, the seller  
 1916 or certified service provider may apply the nine-digit zip code  
 1917 designation applicable to a purchaser.

1918 (c) If a nine-digit zip code designation is not available  
 1919 for a street address or if a seller or certified service  
 1920 provider is unable to determine the nine-digit zip code  
 1921 designation applicable to a purchase after exercising due  
 1922 diligence to determine the designation, the seller or certified  
 1923 service provider may apply the rate for the five-digit zip code  
 1924 area.

1925 (d) There is a rebuttable presumption that a seller or  
 1926 certified service provider has exercised due diligence if the  
 1927 seller or certified service provider has attempted to determine  
 1928 the tax rate and jurisdiction by using state-certified software  
 1929 that makes this assignment from the address and zip code  
 1930 information applicable to the purchase.

1931 (e) There is a rebuttable presumption that a seller or

1932 certified service provider has exercised due diligence if the  
 1933 seller or certified service provider has attempted to determine  
 1934 the nine-digit zip code designation by using state-certified  
 1935 software that makes this designation from the street address and  
 1936 the five-digit zip code applicable to a purchase.

1937 (f) If a seller or certified service provider does not use  
 1938 one of the methods specified in paragraph (a), the seller or  
 1939 certified service provider may be held liable to the department  
 1940 for tax, interest, and penalties that are due for charging and  
 1941 collecting the incorrect amount of tax.

1942 (10) A purchaser shall be held harmless from tax,  
 1943 interest, and penalties for having failed to pay the correct  
 1944 amount of sales or use tax due solely as a result of any of the  
 1945 following circumstances:

1946 (a) The seller or certified service provider relied on  
 1947 erroneous data on tax rates, boundaries, or taxing jurisdiction  
 1948 assignments provided by the department;

1949 (b) A purchaser holding a direct-pay permit relied on  
 1950 erroneous data on tax rates, boundaries, or taxing jurisdiction  
 1951 assignments provided by the department; or

1952 (c) A purchaser relied on erroneous data supplied in a  
 1953 database described in paragraph (9) (a).

1954 (11) A seller is not liable for failing to collect tax at  
 1955 the new tax rate if:

1956 (a) The new rate takes effect within 30 days after the new  
 1957 rate is enacted;

1958 (b) The seller collected the tax at the preceding rate;

1959 (c) The seller's failure to collect the tax at the new

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1960 rate does not extend beyond 30 days after the enactment of the  
 1961 new rate; and

1962 (d) The seller did not fraudulently fail to collect at the  
 1963 new rate or solicit purchasers based on the preceding rate.

1964 Section 10. Paragraph (c) of subsection (2) and  
 1965 subsections (3) and (5) of section 212.06, Florida Statutes, are  
 1966 amended, and subsection (17) is added to that section, to read:  
 1967 212.06 Sales, storage, use tax; collectible from dealers;  
 1968 "dealer" defined; dealers to collect from purchasers;  
 1969 legislative intent as to scope of tax.—

1970 (2)

1971 (c) The term "dealer" is further defined to mean every  
 1972 person, as used in this chapter, who sells at retail or who  
 1973 offers for sale at retail, or who has in his or her possession  
 1974 for sale at retail; or for use, consumption, or distribution; or  
 1975 for storage to be used or consumed in this state, tangible  
 1976 personal property as defined herein, ~~including a retailer who~~  
 1977 ~~transacts a mail order sale.~~

1978 (3) (a) Except as provided in paragraph (b), every dealer  
 1979 making sales, whether within or outside the state, of tangible  
 1980 personal property for distribution, storage, or use or other  
 1981 consumption, in this state, shall, at the time of making sales,  
 1982 collect the tax imposed by this chapter from the purchaser.

1983 (b)1. Notwithstanding subsection (17), a purchaser of  
 1984 direct mail which is not a holder of a direct-pay permit shall  
 1985 provide to the seller in conjunction with the purchase a direct-  
 1986 mail form or information to show the jurisdictions to which the  
 1987 direct mail is delivered to recipients.

1988           2. Upon receipt of information from the purchaser showing  
 1989 the jurisdictions to which the direct mail is delivered to  
 1990 recipients, the seller shall collect the tax according to the  
 1991 delivery information provided by the purchaser. In the absence  
 1992 of bad faith, the seller is relieved of any further obligation  
 1993 to collect tax on any transaction for which the seller has  
 1994 collected tax pursuant to the delivery information provided by  
 1995 the purchaser.

1996           3. If the purchaser of direct mail does not have a direct-  
 1997 pay permit and does not provide the seller with a direct-mail  
 1998 form or delivery information as required by subparagraph 1., the  
 1999 seller shall collect the tax according to subparagraph (17) (d)5.  
 2000 This paragraph does not limit a purchaser's obligation to remit  
 2001 sales or use tax to any state to which the direct mail is  
 2002 delivered.

2003           4. If a purchaser of direct mail provides the seller with  
 2004 documentation of direct-pay authority, the purchaser is not  
 2005 required to provide a direct-mail form or delivery information  
 2006 to the seller. A purchaser of printed materials shall have sole  
 2007 ~~responsibility for the taxes imposed by this chapter on those~~  
 2008 ~~materials when the printer of the materials delivers them to the~~  
 2009 ~~United States Postal Service for mailing to persons other than~~  
 2010 ~~the purchaser located within and outside this state. Printers of~~  
 2011 ~~materials delivered by mail to persons other than the purchaser~~  
 2012 ~~located within and outside this state shall have no obligation~~  
 2013 ~~or responsibility for the payment or collection of any taxes~~  
 2014 ~~imposed under this chapter on those materials. However, printers~~  
 2015 ~~are obligated to collect the taxes imposed by this chapter on~~



2016 ~~printed materials when all, or substantially all, of the~~  
 2017 ~~materials will be mailed to persons located within this state.~~  
 2018 ~~For purposes of the printer's tax collection obligation, there~~  
 2019 ~~is a rebuttable presumption that all materials printed at a~~  
 2020 ~~facility are mailed to persons located within the same state as~~  
 2021 ~~that in which the facility is located. A certificate provided by~~  
 2022 ~~the purchaser to the printer concerning the delivery of the~~  
 2023 ~~printed materials for that purchase or all purchases shall be~~  
 2024 ~~sufficient for purposes of rebutting the presumption created~~  
 2025 ~~herein.~~

2026 5.2. The Department of Revenue is authorized to adopt  
 2027 rules and forms to implement the provisions of this paragraph.

2028 ~~(5) (a) 1. Except as provided in subparagraph 2., It is not~~  
 2029 ~~the intention of This chapter does not to levy a tax upon~~  
 2030 ~~tangible personal property imported, produced, or manufactured~~  
 2031 ~~in this state for export:~~

2032 1. ~~If, provided that tangible personal property may not be~~  
 2033 ~~considered as being imported, produced, or manufactured for~~  
 2034 ~~export unless the importer, producer, or manufacturer:~~

2035 a. Delivers the tangible personal property ~~same~~ to a  
 2036 licensed exporter for exporting or to a common carrier for  
 2037 shipment outside the state or mails the same by United States  
 2038 mail to a destination outside the state; ~~or, in the case of~~  
 2039 ~~aircraft being exported under their own power to a destination~~  
 2040 ~~outside the continental limits of the United States, by~~  
 2041 ~~submission~~

2042 b. Submits to the department ~~of~~ a duly signed and  
 2043 validated United States customs declaration, showing the

2044 departure of an ~~the~~ aircraft from the continental United States  
 2045 ~~and; and further with respect to aircraft,~~ the canceled United  
 2046 States registry of the said aircraft for an aircraft that is  
 2047 exported under its own power to a destination outside of the  
 2048 continental United States; or ~~in the case of~~

2049 c. Submits documentation as required by rule to the  
 2050 department showing the departure of an aircraft of foreign  
 2051 registry from the continental United States on which parts and  
 2052 equipment have been installed on aircraft of foreign registry,  
 2053 ~~by submission to the department of documentation, the extent of~~  
 2054 ~~which shall be provided by rule, showing the departure of the~~  
 2055 ~~aircraft from the continental United States; or nor is it the~~  
 2056 ~~intention of this chapter to levy a tax on any sale which~~

2057 2. If the state is prohibited from taxing the sale under  
 2058 the Constitution or laws of the United States.

2059  
 2060 Every retail sale made to a person physically present at the  
 2061 time of sale shall be presumed to have been delivered in this  
 2062 state.

2063 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~  
 2064 ~~each sale of tangible personal property to be transported to a~~  
 2065 ~~cooperating state as defined in sub-subparagraph c., at the rate~~  
 2066 ~~specified in sub-subparagraph d. However, a Florida dealer will~~  
 2067 ~~be relieved from the requirements of collecting taxes pursuant~~  
 2068 ~~to this subparagraph if the Florida dealer obtains from the~~  
 2069 ~~purchaser an affidavit setting forth the purchaser's name,~~  
 2070 ~~address, state taxpayer identification number, and a statement~~  
 2071 ~~that the purchaser is aware of his or her state's use tax laws,~~

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2072 ~~is a registered dealer in Florida or another state, or is~~  
 2073 ~~purchasing the tangible personal property for resale or is~~  
 2074 ~~otherwise not required to pay the tax on the transaction. The~~  
 2075 ~~department may, by rule, provide a form to be used for the~~  
 2076 ~~purposes set forth herein.~~

2077 ~~b. For purposes of this subparagraph, "a cooperating~~  
 2078 ~~state" is one determined by the executive director of the~~  
 2079 ~~department to cooperate satisfactorily with this state in~~  
 2080 ~~collecting taxes on mail order sales. No state shall be so~~  
 2081 ~~determined unless it meets all the following minimum~~  
 2082 ~~requirements:~~

2083 ~~(I) It levies and collects taxes on mail order sales of~~  
 2084 ~~property transported from that state to persons in this state,~~  
 2085 ~~as described in s. 212.0596, upon request of the department.~~

2086 ~~(II) The tax so collected shall be at the rate specified~~  
 2087 ~~in s. 212.05, not including any local option or tourist or~~  
 2088 ~~convention development taxes collected pursuant to s. 125.0104~~  
 2089 ~~or this chapter.~~

2090 ~~(III) Such state agrees to remit to the department all~~  
 2091 ~~taxes so collected no later than 30 days from the last day of~~  
 2092 ~~the calendar quarter following their collection.~~

2093 ~~(IV) Such state authorizes the department to audit dealers~~  
 2094 ~~within its jurisdiction who make mail order sales that are the~~  
 2095 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~  
 2096 ~~the department for auditing them with its own personnel.~~

2097 ~~(V) Such state agrees to provide to the department records~~  
 2098 ~~obtained by it from retailers or dealers in such state showing~~  
 2099 ~~delivery of tangible personal property into this state upon~~

2100 ~~which no sales or use tax has been paid in a manner similar to~~  
 2101 ~~that provided in sub-subparagraph g.~~

2102 ~~e. For purposes of this subparagraph, "sales of tangible~~  
 2103 ~~personal property to be transported to a cooperating state"~~  
 2104 ~~means mail order sales to a person who is in the cooperating~~  
 2105 ~~state at the time the order is executed, from a dealer who~~  
 2106 ~~receives that order in this state.~~

2107 ~~d. The tax levied by sub-subparagraph a. shall be at the~~  
 2108 ~~rate at which such a sale would have been taxed pursuant to the~~  
 2109 ~~cooperating state's tax laws if consummated in the cooperating~~  
 2110 ~~state by a dealer and a purchaser, both of whom were physically~~  
 2111 ~~present in that state at the time of the sale.~~

2112 ~~e. The tax levied by sub-subparagraph a., when collected,~~  
 2113 ~~shall be held in the State Treasury in trust for the benefit of~~  
 2114 ~~the cooperating state and shall be paid to it at a time agreed~~  
 2115 ~~upon between the department, acting for this state, and the~~  
 2116 ~~cooperating state or the department or agency designated by it~~  
 2117 ~~to act for it; however, such payment shall in no event be made~~  
 2118 ~~later than 30 days from the last day of the calendar quarter~~  
 2119 ~~after the tax was collected. Funds held in trust for the benefit~~  
 2120 ~~of a cooperating state shall not be subject to the service~~  
 2121 ~~charges imposed by s. 215.20.~~

2122 ~~f. The department is authorized to perform such acts and~~  
 2123 ~~to provide such cooperation to a cooperating state with~~  
 2124 ~~reference to the tax levied by sub-subparagraph a. as is~~  
 2125 ~~required of the cooperating state by sub-subparagraph b.~~

2126 ~~g. In furtherance of this act, dealers selling tangible~~  
 2127 ~~personal property for delivery in another state shall make~~

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2128 ~~available to the department, upon request of the department,~~  
2129 ~~records of all tangible personal property so sold. Such records~~  
2130 ~~shall include a description of the property, the name and~~  
2131 ~~address of the purchaser, the name and address of the person to~~  
2132 ~~whom the property was sent, the purchase price of the property,~~  
2133 ~~information regarding whether sales tax was paid in this state~~  
2134 ~~on the purchase price, and such other information as the~~  
2135 ~~department may by rule prescribe.~~

2136 (b)1. Notwithstanding the provisions of paragraph (a), it  
2137 is not the intention of this chapter to levy a tax on the sale  
2138 of tangible personal property to a nonresident dealer who does  
2139 not hold a Florida sales tax registration, provided such  
2140 nonresident dealer furnishes the seller a statement declaring  
2141 that the tangible personal property will be transported outside  
2142 this state by the nonresident dealer for resale and for no other  
2143 purpose. The statement shall include, but not be limited to, the  
2144 nonresident dealer's name, address, applicable passport or visa  
2145 number, arrival-departure card number, and evidence of authority  
2146 to do business in the nonresident dealer's home state or  
2147 country, such as his or her business name and address,  
2148 occupational license number, if applicable, or any other  
2149 suitable requirement. The statement shall be signed by the  
2150 nonresident dealer and shall include the following sentence:  
2151 "Under penalties of perjury, I declare that I have read the  
2152 foregoing, and the facts alleged are true to the best of my  
2153 knowledge and belief."

2154 2. The burden of proof of subparagraph 1. rests with the  
2155 seller, who must retain the proper documentation to support the

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2156 exempt sale. The exempt transaction is subject to verification  
 2157 by the department.

2158 (c) Notwithstanding the provisions of paragraph (a), it is  
 2159 not the intention of this chapter to levy a tax on the sale by a  
 2160 printer to a nonresident print purchaser of material printed by  
 2161 that printer for that nonresident print purchaser when the print  
 2162 purchaser does not furnish the printer a resale certificate  
 2163 containing a sales tax registration number but does furnish to  
 2164 the printer a statement declaring that such material will be  
 2165 resold by the nonresident print purchaser.

2166 (17) This subsection shall be used to determine the  
 2167 location where a transaction occurs for purposes of applying the  
 2168 tax imposed by this chapter.

2169 (a) For purposes of this subsection, the terms "receive"  
 2170 and "receipt" mean:

- 2171 1. Taking possession of tangible personal property;
- 2172 2. Making first use of services; or
- 2173 3. Taking possession or making first use of digital goods,  
 2174 whichever occurs first.

2175  
 2176 The terms do not include possession by a shipping company on  
 2177 behalf of the purchaser.

2178 (b) For purposes of this subsection, the term "product"  
 2179 means tangible personal property, a digital good, or a service.

2180 (c) This section does not apply to sales or use taxes  
 2181 levied on:

- 2182 1. The retail sale or transfer of a boat, modular home,  
 2183 manufactured home, or mobile home.

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2184        2. The retail sale, excluding a lease or rental, of a  
2185 motor vehicle or aircraft that does not qualify as  
2186 transportation equipment, as defined in paragraph (g). The lease  
2187 or rental of these items shall be deemed to have occurred in  
2188 accordance with paragraph (f).

2189        3. The retail sale of tangible personal property by a  
2190 florist.

2191  
2192 Such retail sales are deemed to take place at the location  
2193 determined under s. 212.054(4).

2194        (d) The retail sale of a product, excluding a lease or  
2195 rental, shall be deemed to take place:

2196        1. When the product is received by the purchaser at a  
2197 business location of the seller, at that business location;

2198        2. When the product is not received by the purchaser at a  
2199 business location of the seller, at the location of receipt by  
2200 the purchaser, or the purchaser's donee, designated as such by  
2201 the purchaser, including the location indicated by instructions  
2202 for delivery to the purchaser or donee, known to the seller;

2203        3. When subparagraphs 1. and 2. do not apply, at the  
2204 location indicated by an address for the purchaser which is  
2205 available from the business records of the seller which are  
2206 maintained in the ordinary course of the seller's business, if  
2207 use of this address does not constitute bad faith;

2208        4. When subparagraphs 1., 2., and 3. do not apply, at the  
2209 location indicated by an address for the purchaser obtained  
2210 during the consummation of the sale, including the address of a  
2211 purchaser's payment instrument, if no other address is available

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2212 and use of this address does not constitute bad faith; or

2213 5. When subparagraphs 1., 2., 3., and 4. do not apply,  
2214 including when the seller is without sufficient information to  
2215 apply the previous subparagraphs, at the address from which  
2216 tangible personal property was shipped, from which the digital  
2217 good or the computer software delivered electronically was first  
2218 available for transmission by the seller, or from which the  
2219 service was provided, disregarding any location that merely  
2220 provided the digital transfer of the product sold.

2221 (e) The lease or rental of tangible personal property,  
2222 other than property identified in paragraphs (f) and (g), shall  
2223 be deemed to have occurred as follows:

2224 1. For a lease or rental that requires recurring periodic  
2225 payments, the first periodic payment is deemed to take place in  
2226 accordance with paragraph (d), notwithstanding the exclusion of  
2227 lease or rental in paragraph (d). Subsequent periodic payments  
2228 are deemed to have occurred at the primary property location for  
2229 each period covered by the payment. The primary property  
2230 location is determined by an address for the property provided  
2231 by the lessee which is available to the lessor from its records  
2232 maintained in the ordinary course of business, if use of this  
2233 address does not constitute bad faith. The property location is  
2234 not altered by intermittent use of the property at different  
2235 locations, such as use of business property that accompanies  
2236 employees on business trips and service calls.

2237 2. For a lease or rental that does not require recurring  
2238 periodic payments, the payment is deemed to take place in  
2239 accordance with paragraph (d), notwithstanding the exclusion of



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2240 a lease or rental in paragraph (d).

2241 3. This paragraph does not affect the imposition or  
2242 computation of sales or use tax on leases or rentals based on a  
2243 lump sum or accelerated basis or on the acquisition of property  
2244 for lease.

2245 (f) The lease or rental of a motor vehicle or aircraft  
2246 that does not qualify as transportation equipment, as defined in  
2247 paragraph (g), shall be sourced as follows:

2248 1. For a lease or rental that requires recurring periodic  
2249 payments, each periodic payment is deemed to take place at the  
2250 primary property location. The primary property location shall  
2251 be determined by an address for the property provided by the  
2252 lessee which is available to the lessor from its records  
2253 maintained in the ordinary course of business, if use of this  
2254 address does not constitute bad faith. This location may not be  
2255 altered by intermittent use at different locations.

2256 2. For a lease or rental that does not require recurring  
2257 periodic payments, the payment is deemed to take place in  
2258 accordance with paragraph (d), notwithstanding the exclusion of  
2259 a lease or rental in paragraph (d).

2260 3. This paragraph does not affect the imposition or  
2261 computation of sales or use tax on leases or rentals based on a  
2262 lump sum or accelerated basis or on the acquisition of property  
2263 for lease.

2264 (g) The retail sale, including a lease or rental, of  
2265 transportation equipment shall be deemed to take place in  
2266 accordance with paragraph (d), notwithstanding the exclusion of  
2267 a lease or rental in paragraph (d). The term "transportation

2268 equipment" means:

2269 1. Locomotives and rail cars that are used for the  
 2270 carriage of persons or property in interstate commerce;

2271 2. Trucks and truck tractors with a gross vehicle weight  
 2272 rating (GVWR) of 10,001 pounds or greater, trailers,  
 2273 semitrailers, or passenger buses that are registered through the  
 2274 International Registration Plan and operated under authority of  
 2275 a carrier authorized and certificated by the United States  
 2276 Department of Transportation or another federal authority to  
 2277 engage in the carriage of persons or property in interstate  
 2278 commerce;

2279 3. Aircraft that are operated by air carriers authorized  
 2280 and certificated by the United States Department of  
 2281 Transportation or another federal or a foreign authority to  
 2282 engage in the carriage of persons or property in interstate or  
 2283 foreign commerce; or

2284 4. Containers designed for use on and component parts  
 2285 attached or secured on the items set forth in subparagraphs 1.-  
 2286 3.

2287 Section 11. Paragraph (c) of subsection (1) of section  
 2288 212.07, Florida Statutes, is amended, and subsection (10) is  
 2289 added that section, to read:

2290 212.07 Sales, storage, use tax; tax added to purchase  
 2291 price; dealer not to absorb; liability of purchasers who cannot  
 2292 prove payment of the tax; penalties; general exemptions.—

2293 (1)

2294 (c) Unless the purchaser of tangible personal property  
 2295 that is incorporated into tangible personal property

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2296 manufactured, produced, compounded, processed, or fabricated for  
 2297 one's own use and subject to the tax imposed under s.  
 2298 212.06(1) (b) or is purchased for export under s. 212.06(5) (a) ~~1~~,-  
 2299 extends a certificate in compliance with the rules of the  
 2300 department, the dealer shall himself or herself be liable for  
 2301 and pay the tax.

2302 (10) (a) The executive director is authorized to maintain  
 2303 and publish a taxability matrix in a downloadable format that  
 2304 has been approved by the governing board of the Streamlined  
 2305 Sales and Use Tax Agreement.

2306 (b) The state shall provide notice of changes to the  
 2307 taxability of the products or services listed in the taxability  
 2308 matrix.

2309 (c) A seller or certified service provider who collects  
 2310 and remits the state and local tax imposed by this chapter shall  
 2311 be held harmless from tax, interest, and penalties for having  
 2312 charged and collected the incorrect amount of sales or use tax  
 2313 due solely as a result of relying on erroneous data provided by  
 2314 the state in the taxability matrix.

2315 (d) A purchaser shall be held harmless from penalties for  
 2316 having failed to pay the correct amount of sales or use tax due  
 2317 solely as a result of any of the following circumstances:

2318 1. The seller or certified service provider relied on  
 2319 erroneous data provided by the state in the taxability matrix  
 2320 completed by the state;

2321 2. A purchaser relied on erroneous data provided by the  
 2322 state in the taxability matrix completed by the state; or

2323 3. A purchaser holding a direct-pay permit relied on

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2324 erroneous data provided by the state in the taxability matrix  
 2325 completed by the state.

2326 (e) A purchaser shall be held harmless from tax and  
 2327 interest for having failed to pay the correct amount of sales or  
 2328 use tax due solely as a result of the state's erroneous  
 2329 classification in the taxability matrix of terms included in the  
 2330 library of definitions as "taxable" or "exempt," "included in  
 2331 sales price" or "excluded from sales price," or "included in the  
 2332 definition" or "excluded from the definition."

2333 Section 12. Subsections (1), (2), and (4) and paragraphs  
 2334 (b) and (c) of subsection (17) of section 212.08, Florida  
 2335 Statutes, are amended to read:

2336 212.08 Sales, rental, use, consumption, distribution, and  
 2337 storage tax; specified exemptions.—The sale at retail, the  
 2338 rental, the use, the consumption, the distribution, and the  
 2339 storage to be used or consumed in this state of the following  
 2340 are hereby specifically exempt from the tax imposed by this  
 2341 chapter.

2342 (1) EXEMPTIONS; GENERAL GROCERIES.—

2343 (a) Food and food ingredients ~~products~~ for human  
 2344 consumption are exempt from the tax imposed by this chapter.

2345 (b) For the purpose of this chapter, as used in this  
 2346 subsection, the term "food and food ingredients ~~products~~" means  
 2347 substances, whether in liquid, concentrated, solid, frozen,  
 2348 dried, or dehydrated form, which are sold for ingestion or  
 2349 chewing by humans and are consumed for their taste or  
 2350 nutritional value ~~edible commodities, whether processed, cooked,~~  
 2351 ~~raw, canned, or in any other form, which are generally regarded~~

2352 ~~as food.~~ This includes, but is not limited to, all of the  
 2353 following:

2354 ~~1. Cereals and cereal products, baked goods,~~  
 2355 ~~oleomargarine, meat and meat products, fish and seafood~~  
 2356 ~~products, frozen foods and dinners, poultry, eggs and egg~~  
 2357 ~~products, vegetables and vegetable products, fruit and fruit~~  
 2358 ~~products, spices, salt, sugar and sugar products, milk and dairy~~  
 2359 ~~products, and products intended to be mixed with milk.~~

2360 ~~2. Natural fruit or vegetable juices or their concentrates~~  
 2361 ~~or reconstituted natural concentrated fruit or vegetable juices,~~  
 2362 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
 2363 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
 2364 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~  
 2365 ~~unless it is sold in a liquid form.~~

2366 1.3. Bakery products sold by bakeries, pastry shops, or  
 2367 like establishments, if sold without eating utensils. For  
 2368 purposes of this subparagraph, bakery products include bread,  
 2369 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,  
 2370 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and  
 2371 tortillas that do not have eating facilities.

2372 2. Dietary supplements. The term "dietary supplements"  
 2373 means any product, other than tobacco, intended to supplement  
 2374 the diet which contains one or more of the following dietary  
 2375 ingredients: a vitamin; a mineral; an herb or other botanical;  
 2376 an amino acid; a dietary substance for use by humans to  
 2377 supplement the diet by increasing the total dietary intake; or a  
 2378 concentrate, metabolite, constituent, extract, or combination of  
 2379 any ingredient described in this subparagraph which is intended

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2380 for ingestion in tablet, capsule, powder, softgel, gelcap, or  
 2381 liquid form or, if not intended for ingestion in such a form, is  
 2382 not represented as conventional food and is not represented for  
 2383 use as a sole item of a meal or of the diet, and which is  
 2384 required to be labeled as a dietary supplement, identifiable by  
 2385 the supplemental facts panel found on the label and as required  
 2386 pursuant to 21 C.F.R. s. 101.36.

2387 (c) The exemption provided by this subsection does not  
 2388 apply to:

2389 ~~1. Food products sold as meals for consumption on or off~~  
 2390 ~~the premises of the dealer.~~

2391 ~~2. Food products furnished, prepared, or served for~~  
 2392 ~~consumption at tables, chairs, or counters or from trays,~~  
 2393 ~~glasses, dishes, or other tableware, whether provided by the~~  
 2394 ~~dealer or by a person with whom the dealer contracts to furnish,~~  
 2395 ~~prepare, or serve food products to others.~~

2396 ~~3. Food products ordinarily sold for immediate consumption~~  
 2397 ~~on the seller's premises or near a location at which parking~~  
 2398 ~~facilities are provided primarily for the use of patrons in~~  
 2399 ~~consuming the products purchased at the location, even though~~  
 2400 ~~such products are sold on a "take out" or "to go" order and are~~  
 2401 ~~actually packaged or wrapped and taken from the premises of the~~  
 2402 ~~dealer.~~

2403 ~~4. Sandwiches sold ready for immediate consumption on or~~  
 2404 ~~off the seller's premises.~~

2405 ~~5. Food products sold ready for immediate consumption~~  
 2406 ~~within a place, the entrance to which is subject to an admission~~  
 2407 ~~charge.~~

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2408 1.6. Food and food ingredients sold as prepared food. The  
 2409 term "prepared food" means:

2410 a. Food sold in a heated state or heated by the seller;

2411 b. Two or more food ingredients mixed or combined by the  
 2412 seller for sale as a single item; or

2413 c. Food sold with eating utensils provided by the seller,  
 2414 including plates, knives, forks, spoons, glasses, cups, napkins,  
 2415 or straws. A plate does not include a container or packaging  
 2416 used to transport food.

2417  
 2418 Prepared food does not include food that is only cut,  
 2419 repackaged, or pasteurized by the seller; eggs, fish, meat,  
 2420 poultry; and foods containing these raw animal foods requiring  
 2421 cooking by the consumer as recommended by the Food and Drug  
 2422 Administration in chapter 3, part 4011 of its food code so as to  
 2423 prevent food-borne illness. ~~Food products sold as hot prepared~~  
 2424 ~~food products.~~

2425 2.7. ~~Soft drinks, including, but not limited to, any~~  
 2426 ~~nonalcoholic beverage, any preparation or beverage commonly~~  
 2427 ~~referred to as a "soft drink," or any noncarbonated drink made~~  
 2428 ~~from milk derivatives or tea, if sold in cans or similar~~  
 2429 ~~containers. The term "soft drinks" means nonalcoholic beverages~~  
 2430 ~~that contain natural or artificial sweeteners. Soft drinks do~~  
 2431 ~~not include beverages that contain milk or milk products, soy,~~  
 2432 ~~rice, or similar milk substitutes, or greater than 50 percent of~~  
 2433 ~~vegetable or fruit juice by volume.~~

2434 8. ~~Ice cream, frozen yogurt, and similar frozen dairy or~~  
 2435 ~~nondairy products in cones, small cups, or pints, popsicles,~~

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2436 ~~frozen fruit bars, or other novelty items, whether or not sold~~  
 2437 ~~separately.~~

2438 ~~9. Food that is prepared, whether on or off the premises,~~  
 2439 ~~and sold for immediate consumption. This does not apply to food~~  
 2440 ~~prepared off the premises and sold in the original sealed~~  
 2441 ~~container, or the slicing of products into smaller portions.~~

2442 ~~3.10. Food and food ingredients products sold through a~~  
 2443 ~~vending machine, pushcart, motor vehicle, or any other form of~~  
 2444 ~~vehicle.~~

2445 ~~4.11. Candy and any similar product regarded as candy or~~  
 2446 ~~confection, based on its normal use, as indicated on the label~~  
 2447 ~~or advertising thereof. The term "candy" means a preparation of~~  
 2448 ~~sugar, honey, or other natural or artificial sweeteners in~~  
 2449 ~~combination with chocolate, fruits, nuts, or other ingredients~~  
 2450 ~~or flavorings in the form of bars, drops, or pieces. Candy does~~  
 2451 ~~not include any preparation that contains flour and does not~~  
 2452 ~~require refrigeration.~~

2453 ~~5. To tobacco.~~

2454 ~~12. Bakery products sold by bakeries, pastry shops, or~~  
 2455 ~~like establishments having eating facilities, except when sold~~  
 2456 ~~for consumption off the seller's premises.~~

2457 ~~13. Food products served, prepared, or sold in or by~~  
 2458 ~~restaurants, lunch counters, cafeterias, hotels, taverns, or~~  
 2459 ~~other like places of business.~~

2460 ~~(d) As used in this subsection, the term:~~

2461 ~~1. "For consumption off the seller's premises" means that~~  
 2462 ~~the food or drink is intended by the customer to be consumed at~~  
 2463 ~~a place away from the dealer's premises.~~



2464           2. ~~"For consumption on the seller's premises" means that~~  
 2465 ~~the food or drink sold may be immediately consumed on the~~  
 2466 ~~premises where the dealer conducts his or her business. In~~  
 2467 ~~determining whether an item of food is sold for immediate~~  
 2468 ~~consumption, the customary consumption practices prevailing at~~  
 2469 ~~the selling facility shall be considered.~~

2470           3. ~~"Premises" shall be construed broadly, and means, but~~  
 2471 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~  
 2472 ~~the seating, aisle, or parking area of an arena, rink, or~~  
 2473 ~~stadium; or the parking area of a drive-in or outdoor theater.~~  
 2474 ~~The premises of a caterer with respect to catered meals or~~  
 2475 ~~beverages shall be the place where such meals or beverages are~~  
 2476 ~~served.~~

2477           4. ~~"Hot prepared food products" means those products,~~  
 2478 ~~items, or components which have been prepared for sale in a~~  
 2479 ~~heated condition and which are sold at any temperature that is~~  
 2480 ~~higher than the air temperature of the room or place where they~~  
 2481 ~~are sold. "Hot prepared food products," for the purposes of this~~  
 2482 ~~subsection, includes a combination of hot and cold food items or~~  
 2483 ~~components where a single price has been established for the~~  
 2484 ~~combination and the food products are sold in such combination,~~  
 2485 ~~such as a hot meal, a hot specialty dish or serving, or a hot~~  
 2486 ~~sandwich or hot pizza, including cold components or side items.~~

2487           (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),  
 2488 (b), and (c), ~~and (d)~~ are exempt, notwithstanding those  
 2489 paragraphs, when purchased with food coupons or Special  
 2490 Supplemental Food Program for Women, Infants, and Children  
 2491 vouchers issued under authority of federal law.

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2492           2. This paragraph is effective only while federal law  
 2493 prohibits a state's participation in the federal food coupon  
 2494 program or Special Supplemental Food Program for Women, Infants,  
 2495 and Children if there is an official determination that state or  
 2496 local sales taxes are collected within that state on purchases  
 2497 of food or drinks with such coupons.

2498           3. This paragraph does ~~shall~~ not apply to any food or  
 2499 drinks on which federal law permits ~~shall permit~~ sales taxes  
 2500 without penalty, such as termination of the state's  
 2501 participation.

2502           (e) Dietary supplements that are sold as prepared food are  
 2503 not exempt.

2504           (f) The application of the tax on a package that contains  
 2505 exempt food products and taxable nonfood products depends upon  
 2506 the essential character of the complete package.

2507           1. If the taxable items represent more than 25 percent of  
 2508 the cost of the complete package and a single charge is made,  
 2509 the entire sales price of the package is taxable. If the taxable  
 2510 items are separately stated, the separate charge for the taxable  
 2511 items is subject to tax.

2512           2. If the taxable items represent 25 percent or less of  
 2513 the cost of the complete package and a single charge is made,  
 2514 the entire sales price of the package is exempt from tax. The  
 2515 person preparing the package is liable for the tax on the cost  
 2516 of the taxable items going into the complete package. If the  
 2517 taxable items are separately stated, the separate charge is  
 2518 subject to tax.

2519           (2) EXEMPTIONS; MEDICAL.—

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2520 (a) There shall be exempt from the tax imposed by this  
 2521 chapter:  
 2522 1. Drugs.  
 2523 2. Durable medical equipment, mobility-enhancing  
 2524 equipment, or prosthetic devices ~~any medical products and~~  
 2525 ~~supplies or medicine~~ dispensed according to an individual  
 2526 prescription or prescriptions, written by a prescriber  
 2527 ~~authorized by law to prescribe medicinal drugs;~~  
 2528 3. Hypodermic needles; ~~hypodermic syringes;~~  
 2529 4. Chemical compounds and test kits used for the diagnosis  
 2530 or treatment of human disease, illness, or injury and intended  
 2531 for one-time use.  
 2532 5. Over-the-counter drugs ~~and common household remedies~~  
 2533 ~~recommended and generally sold for internal or external use in~~  
 2534 ~~the cure, mitigation, treatment, or prevention of illness or~~  
 2535 ~~disease in human beings, but not including grooming and hygiene~~  
 2536 products.  
 2537 6. Band-aids, gauze, bandages, and adhesive tape.  
 2538 7. Funerals. However, tangible personal property used by  
 2539 funeral directors in their business is taxable. ~~cosmetics or~~  
 2540 ~~toilet articles, notwithstanding the presence of medicinal~~  
 2541 ~~ingredients therein, according to a list prescribed and approved~~  
 2542 ~~by the Department of Health, which list shall be certified to~~  
 2543 ~~the Department of Revenue from time to time and included in the~~  
 2544 ~~rules promulgated by the Department of Revenue. There shall also~~  
 2545 ~~be exempt from the tax imposed by this chapter artificial eyes~~  
 2546 ~~and limbs; orthopedic shoes; prescription eyeglasses and items~~  
 2547 ~~incidental thereto or which become a part thereof; dentures;~~

2548 ~~hearing aids; crutches; prosthetic and orthopedic appliances;~~  
 2549 ~~and funerals. In addition, any~~

2550 8. Items intended for one-time use which transfer  
 2551 essential optical characteristics to contact lenses. ~~shall be~~  
 2552 ~~exempt from the tax imposed by this chapter;~~ However, this  
 2553 exemption applies ~~shall apply only~~ after \$100,000 of the tax  
 2554 imposed by this chapter on such items has been paid in any  
 2555 calendar year by a taxpayer who claims the exemption in such  
 2556 year. ~~Funeral directors shall pay tax on all tangible personal~~  
 2557 ~~property used by them in their business.~~

2558 (b) For the purposes of this subsection, the term:

2559 1. "Drug" means a compound, substance, or preparation, and  
 2560 any component of a compound, substance, or preparation, other  
 2561 than food and food ingredients, dietary supplements, and  
 2562 alcoholic beverages, which is:

2563 a. Recognized in the official United States Pharmacopoeia,  
 2564 official Homeopathic Pharmacopoeia of the United States, or  
 2565 official National Formulary, or the supplement to any of them;

2566 b. Intended for use in the diagnosis, cure, mitigation,  
 2567 treatment, or prevention of disease; or

2568 c. Intended to affect the structure or any function of the  
 2569 body.

2570 2. "Durable medical equipment" means equipment, including  
 2571 repair and replacement parts to such equipment, but excluding  
 2572 mobility-enhancing equipment, which can withstand repeated use,  
 2573 is primarily and customarily used to serve a medical purpose,  
 2574 generally is not useful to a person in the absence of illness or  
 2575 injury, and is not worn on or in the body.

2576        3. "Mobility-enhancing equipment" means equipment,  
 2577 including repair and replacement parts to such equipment, but  
 2578 excluding durable medical equipment, which:

2579            a. Is primarily and customarily used to provide or  
 2580 increase the ability to move from one place to another and which  
 2581 is appropriate for use in a home or a motor vehicle.

2582            b. Is not generally used by persons with normal mobility.

2583            c. Does not include any motor vehicle or any equipment on  
 2584 a motor vehicle normally provided by a motor vehicle  
 2585 manufacturer.

2586        4. "Prosthetic device" means a replacement, corrective, or  
 2587 supportive device, including repair or replacement parts to such  
 2588 equipment, which is worn on or in the body to:

2589            a. Artificially replace a missing portion of the body;  
 2590            b. Prevent or correct physical deformity or malfunction;  
 2591 or

2592            c. Support a weak or deformed portion of the body.

2593        5. "Grooming and hygiene products" mean soaps and cleaning  
 2594 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and  
 2595 suntan lotions and screens, regardless of whether the items meet  
 2596 the definition of an over-the-counter drug.

2597        6. "Over-the-counter drug" means a drug the packaging for  
 2598 which contains a label that identifies the product as a drug as  
 2599 required by 21 C.F.R. s. 201.66. The over-the-counter drug label  
 2600 includes a drug-facts panel or a statement of the active  
 2601 ingredients, with a list of those ingredients contained in the  
 2602 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~  
 2603 appliances" means any apparatus, instrument, device, or

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2604 ~~equipment used to replace or substitute for any missing part of~~  
2605 ~~the body, to alleviate the malfunction of any part of the body,~~  
2606 ~~or to assist any disabled person in leading a normal life by~~  
2607 ~~facilitating such person's mobility. Such apparatus, instrument,~~  
2608 ~~device, or equipment shall be exempted according to an~~  
2609 ~~individual prescription or prescriptions written by a physician~~  
2610 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~  
2611 ~~461, or chapter 466, or according to a list prescribed and~~  
2612 ~~approved by the Department of Health, which list shall be~~  
2613 ~~certified to the Department of Revenue from time to time and~~  
2614 ~~included in the rules promulgated by the Department of Revenue.~~

2615 ~~2. "Cosmetics" means articles intended to be rubbed,~~  
2616 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~  
2617 ~~applied to the human body for cleansing, beautifying, promoting~~  
2618 ~~attractiveness, or altering the appearance and also means~~  
2619 ~~articles intended for use as a compound of any such articles,~~  
2620 ~~including, but not limited to, cold creams, suntan lotions,~~  
2621 ~~makeup, and body lotions.~~

2622 ~~3. "Toilet articles" means any article advertised or held~~  
2623 ~~out for sale for grooming purposes and those articles that are~~  
2624 ~~customarily used for grooming purposes, regardless of the name~~  
2625 ~~by which they may be known, including, but not limited to, soap,~~  
2626 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~  
2627 ~~shampoo, deodorant, and mouthwash.~~

2628 ~~7.4. "Prescription" means an order, formula, or recipe~~  
2629 ~~issued in any form of oral, written, electronic, or other means~~  
2630 ~~of transmission by a practitioner licensed under chapter 458,~~  
2631 ~~chapter 459, chapter 460, chapter 461, or chapter 466. The term~~

2632 also includes an orally transmitted order by the lawfully  
 2633 designated agent of such practitioner. The term also includes an  
 2634 order written or transmitted by a practitioner licensed to  
 2635 practice in a jurisdiction other than this state, but only if  
 2636 the pharmacist called upon to dispense the order determines, in  
 2637 the exercise of his or her professional judgment, that the order  
 2638 is valid and necessary for the treatment of a chronic or  
 2639 recurrent illness. ~~includes any order for drugs or medicinal~~  
 2640 ~~supplies written or transmitted by any means of communication by~~  
 2641 ~~a duly licensed practitioner authorized by the laws of the state~~  
 2642 ~~to prescribe such drugs or medicinal supplies and intended to be~~  
 2643 ~~dispensed by a pharmacist. The term also includes an orally~~  
 2644 ~~transmitted order by the lawfully designated agent of such~~  
 2645 ~~practitioner. The term also includes an order written or~~  
 2646 ~~transmitted by a practitioner licensed to practice in a~~  
 2647 ~~jurisdiction other than this state, but only if the pharmacist~~  
 2648 ~~called upon to dispense such order determines, in the exercise~~  
 2649 ~~of his or her professional judgment, that the order is valid and~~  
 2650 ~~necessary for the treatment of a chronic or recurrent illness.~~  
 2651 ~~The term also includes a pharmacist's order for a product~~  
 2652 ~~selected from the formulary created pursuant to s. 465.186. A~~  
 2653 ~~prescription may be retained in written form, or the pharmacist~~  
 2654 ~~may cause it to be recorded in a data processing system,~~  
 2655 ~~provided that such order can be produced in printed form upon~~  
 2656 ~~lawful request.~~

2657 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed  
 2658 by this chapter when used for the treatment of water in swimming  
 2659 pools.

2660           ~~(d) Lithotripters are exempt.~~

2661           (d)~~(e)~~ Human organs are exempt.

2662           ~~(f) Sales of drugs to or by physicians, dentists,~~

2663 ~~veterinarians, and hospitals in connection with medical~~

2664 ~~treatment are exempt.~~

2665           ~~(g) Medical products and supplies used in the cure,~~

2666 ~~mitigation, alleviation, prevention, or treatment of injury,~~

2667 ~~disease, or incapacity which are temporarily or permanently~~

2668 ~~incorporated into a patient or client by a practitioner of the~~

2669 ~~healing arts licensed in the state are exempt.~~

2670           ~~(h) The purchase by a veterinarian of commonly recognized~~

2671 ~~substances possessing curative or remedial properties which are~~

2672 ~~ordered and dispensed as treatment for a diagnosed health~~

2673 ~~disorder by or on the prescription of a duly licensed~~

2674 ~~veterinarian, and which are applied to or consumed by animals~~

2675 ~~for alleviation of pain or the cure or prevention of sickness,~~

2676 ~~disease, or suffering are exempt. Also exempt are the purchase~~

2677 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~

2678 ~~bandages, lotions, vitamins, and worm remedies.~~

2679           ~~(i) X-ray opaques, also known as opaque drugs and~~

2680 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~

2681 ~~when used in connection with medical X rays for treatment of~~

2682 ~~bodies of humans and animals, are exempt.~~

2683           (e)~~(j)~~ Parts, special attachments, special lettering, and

2684 other like items that are added to or attached to tangible

2685 personal property so that a handicapped person can use them are

2686 exempt when such items are purchased by a person pursuant to an

2687 individual prescription.



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2688        (f) ~~(k)~~ This subsection shall be strictly construed and  
 2689 enforced.

2690        (4) EXEMPTIONS; ITEMS BEARING OTHER EXCISE TAXES, ETC.—

2691        (a) Also exempt are:

2692        1. Water delivered to the purchaser through pipes or  
 2693 conduits or delivered for irrigation purposes. The sale of  
 2694 drinking water in bottles, cans, or other containers 1 gallon or  
 2695 larger in capacity, including water that contains minerals or  
 2696 carbonation in its natural state or water to which minerals have  
 2697 been added at a water treatment facility regulated by the  
 2698 Department of Environmental Protection or the Department of  
 2699 Health, is exempt. This exemption does not apply to the sale of  
 2700 drinking water in bottles, cans, or other containers 1 gallon or  
 2701 larger in capacity if carbonation or flavorings, except those  
 2702 added at a water treatment facility, have been added. Water in  
 2703 bottles, cans, or other containers 1 gallon or larger in  
 2704 capacity that has been enhanced by the addition of minerals and  
 2705 that does not contain any added carbonation or flavorings is  
 2706 also exempt.

2707        2. All fuels used by a public or private utility,  
 2708 including any municipal corporation or rural electric  
 2709 cooperative association, in the generation of electric power or  
 2710 energy for sale. Fuel other than motor fuel and diesel fuel is  
 2711 taxable as provided in this chapter with the exception of fuel  
 2712 expressly exempt herein. Motor fuels and diesel fuels are  
 2713 taxable as provided in chapter 206, with the exception of those  
 2714 motor fuels and diesel fuels used by railroad locomotives or  
 2715 vessels to transport persons or property in interstate or

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2716 foreign commerce, which are taxable under this chapter only to  
2717 the extent provided herein. The basis of the tax shall be the  
2718 ratio of intrastate mileage to interstate or foreign mileage  
2719 traveled by the carrier's railroad locomotives or vessels that  
2720 were used in interstate or foreign commerce and that had at  
2721 least some Florida mileage during the previous fiscal year of  
2722 the carrier, such ratio to be determined at the close of the  
2723 fiscal year of the carrier. However, during the fiscal year in  
2724 which the carrier begins its initial operations in this state,  
2725 the carrier's mileage apportionment factor may be determined on  
2726 the basis of an estimated ratio of anticipated miles in this  
2727 state to anticipated total miles for that year, and  
2728 subsequently, additional tax shall be paid on the motor fuel and  
2729 diesel fuels, or a refund may be applied for, on the basis of  
2730 the actual ratio of the carrier's railroad locomotives' or  
2731 vessels' miles in this state to its total miles for that year.  
2732 This ratio shall be applied each month to the total Florida  
2733 purchases made in this state of motor and diesel fuels to  
2734 establish that portion of the total used and consumed in  
2735 intrastate movement and subject to tax under this chapter. The  
2736 basis for imposition of any discretionary surtax shall be set  
2737 forth in s. 212.054. Fuels used exclusively in intrastate  
2738 commerce do not qualify for the proration of tax.

2739 3. The transmission or wheeling of electricity.

2740 (b) Alcoholic beverages and malt beverages are not exempt.  
2741 The terms "alcoholic beverages" and "malt beverages" as used in  
2742 this paragraph have the same meanings ascribed to them in ss.  
2743 561.01(4) and 563.01, respectively. It is determined by the

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2744 Legislature that the classification of alcoholic beverages made  
 2745 in this paragraph for the purpose of extending the tax imposed  
 2746 by this chapter is reasonable and just, and it is intended that  
 2747 such tax be separate from, and in addition to, any other tax  
 2748 imposed on alcoholic beverages.

2749 (17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

2750 (b) As used in this subsection, the term "overhead  
 2751 materials" means all tangible personal property, other than  
 2752 qualifying property as defined in s. 212.02(34)(a) ~~212.02(14)(a)~~  
 2753 and electricity, which is used or consumed in the performance of  
 2754 a qualifying contract, title to which property vests in or  
 2755 passes to the government under the contract.

2756 (c) As used in this subsection and in s. 212.02(34)(a)  
 2757 ~~212.02(14)(a)~~, the term "qualifying contract" means a contract  
 2758 with the United States Department of Defense or the National  
 2759 Aeronautics and Space Administration, or a subcontract  
 2760 thereunder, but does not include a contract or subcontract for  
 2761 the repair, alteration, improvement, or construction of real  
 2762 property, except to the extent that purchases under such a  
 2763 contract would otherwise be exempt from the tax imposed by this  
 2764 chapter.

2765 Section 13. Section 212.094, Florida Statutes, is created  
 2766 to read:

2767 212.094 Purchaser request for refund or credit from  
 2768 dealer.—

2769 (1) If a purchaser seeks from a dealer a refund of or  
 2770 credit against a tax collected under this chapter by that  
 2771 dealer, the purchaser shall submit a written request for the

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2772 refund or credit to the dealer in accordance with this section.  
 2773 The request must contain all the information necessary for the  
 2774 dealer to determine the validity of the purchaser's request.

2775 (2) The purchaser may not take any other action against  
 2776 the dealer with respect to the requested refund or credit until  
 2777 the dealer has had 60 days after receiving a completed request  
 2778 in which to respond.

2779 (3) This section does not affect a person's standing to  
 2780 claim a refund.

2781 (4) This section does not apply to refunds resulting from  
 2782 merchandise returned by a customer to a dealer.

2783 Section 14. Section 212.12, Florida Statutes, is amended  
 2784 to read:

2785 212.12 Dealer's credit for collecting tax; penalties for  
 2786 noncompliance; powers of Department of Revenue in dealing with  
 2787 delinquents; ~~brackets applicable to taxable transactions;~~  
 2788 records required.—

2789 (1) Notwithstanding any other provision of law and for the  
 2790 purpose of compensating persons granting licenses for and the  
 2791 lessors of real and personal property taxed hereunder, for the  
 2792 purpose of compensating dealers in tangible personal property,  
 2793 for the purpose of compensating dealers providing communication  
 2794 services and taxable services, for the purpose of compensating  
 2795 owners of places where admissions are collected, and for the  
 2796 purpose of compensating remitters of any taxes or fees reported  
 2797 on the same documents utilized for the sales and use tax, as  
 2798 compensation for the keeping of prescribed records, filing  
 2799 timely tax returns, and the proper accounting and remitting of

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2800 taxes by them, such seller, person, lessor, dealer, owner, and  
 2801 remitter ~~(except dealers who make mail order sales)~~ shall be  
 2802 allowed 2.5 percent of the amount of the tax due and accounted  
 2803 for and remitted to the department, in the form of a deduction  
 2804 in submitting his or her report and paying the amount due by him  
 2805 or her; the department shall allow such deduction of 2.5 percent  
 2806 of the amount of the tax to the person paying the same for  
 2807 remitting the tax and making of tax returns in the manner herein  
 2808 provided, for paying the amount due to be paid by him or her,  
 2809 and as further compensation to dealers in tangible personal  
 2810 property for the keeping of prescribed records and for  
 2811 collection of taxes and remitting the same. However, if the  
 2812 amount of the tax due and remitted to the department for the  
 2813 reporting period exceeds \$1,200, no allowance shall be allowed  
 2814 for all amounts in excess of \$1,200. ~~The executive director of~~  
 2815 ~~the department is authorized to negotiate a collection~~  
 2816 ~~allowance, pursuant to rules promulgated by the department, with~~  
 2817 ~~a dealer who makes mail order sales. The rules of the department~~  
 2818 ~~shall provide guidelines for establishing the collection~~  
 2819 ~~allowance based upon the dealer's estimated costs of collecting~~  
 2820 ~~the tax, the volume and value of the dealer's mail order sales~~  
 2821 ~~to purchasers in this state, and the administrative and legal~~  
 2822 ~~costs and likelihood of achieving collection of the tax absent~~  
 2823 ~~the cooperation of the dealer. However, in no event shall the~~  
 2824 ~~collection allowance negotiated by the executive director exceed~~  
 2825 ~~10 percent of the tax remitted for a reporting period.~~

2826 (a) The Department of Revenue may deny the collection  
 2827 allowance if a taxpayer files an incomplete return or if the

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2828 required tax return or tax is delinquent at the time of payment.

2829 1. An "incomplete return" is, for purposes of this  
 2830 chapter, a return which is lacking such uniformity,  
 2831 completeness, and arrangement that the physical handling,  
 2832 verification, review of the return, or determination of other  
 2833 taxes and fees reported on the return may not be readily  
 2834 accomplished.

2835 2. The department shall adopt rules requiring such  
 2836 information as it may deem necessary to ensure that the tax  
 2837 levied hereunder is properly collected, reviewed, compiled,  
 2838 reported, and enforced, including, but not limited to: the  
 2839 amount of gross sales; the amount of taxable sales; the amount  
 2840 of tax collected or due; the amount of lawful refunds,  
 2841 deductions, or credits claimed; the amount claimed as the  
 2842 dealer's collection allowance; the amount of penalty and  
 2843 interest; the amount due with the return; and such other  
 2844 information as the Department of Revenue may specify. The  
 2845 department shall require that transient rentals and agricultural  
 2846 equipment transactions be separately shown. Sales made through  
 2847 vending machines as defined in s. 212.0515 must be separately  
 2848 shown on the return. Sales made through coin-operated amusement  
 2849 machines as defined by s. 212.02 and the number of machines  
 2850 operated must be separately shown on the return or on a form  
 2851 prescribed by the department. If a separate form is required,  
 2852 the same penalties for late filing, incomplete filing, or  
 2853 failure to file as provided for the sales tax return shall apply  
 2854 to said form.

2855 (b) The collection allowance and other credits or

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2856 | deductions provided in this chapter shall be applied  
2857 | proportionally to any taxes or fees reported on the same  
2858 | documents used for the sales and use tax.

2859 |       (c)1. A dealer entitled to the collection allowance  
2860 | provided in this section may elect to forego the collection  
2861 | allowance and direct that said amount be transferred into the  
2862 | Educational Enhancement Trust Fund. Such an election must be  
2863 | made with the timely filing of a return and may not be rescinded  
2864 | once made. If a dealer who makes such an election files a  
2865 | delinquent return, underpays the tax, or files an incomplete  
2866 | return, the amount transferred into the Educational Enhancement  
2867 | Trust Fund shall be the amount of the collection allowance  
2868 | remaining after resolution of liability for all of the tax,  
2869 | interest, and penalty due on that return or underpayment of tax.  
2870 | The Department of Education shall distribute the remaining  
2871 | amount from the trust fund to the school districts that have  
2872 | adopted resolutions stating that those funds will be used to  
2873 | ensure that up-to-date technology is purchased for the  
2874 | classrooms in the district and that teachers are trained in the  
2875 | use of that technology. Revenues collected in districts that do  
2876 | not adopt such a resolution shall be equally distributed to  
2877 | districts that have adopted such resolutions.

2878 |       2. This paragraph applies to all taxes, surtaxes, and any  
2879 | local option taxes administered under this chapter and remitted  
2880 | directly to the department. This paragraph does not apply to any  
2881 | locally imposed and self-administered convention development  
2882 | tax, tourist development tax, or tourist impact tax administered  
2883 | under this chapter.

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2884           3. Revenues from the dealer-collection allowances shall be  
 2885 transferred quarterly from the General Revenue Fund to the  
 2886 Educational Enhancement Trust Fund. The Department of Revenue  
 2887 shall provide to the Department of Education quarterly  
 2888 information about such revenues by county to which the  
 2889 collection allowance was attributed.

2890  
 2891 Notwithstanding any provision of chapter 120 to the contrary,  
 2892 the Department of Revenue may adopt rules to carry out the  
 2893 amendment made by chapter 2006-52, Laws of Florida, to this  
 2894 section.

2895           (d) Notwithstanding paragraphs (a) and (b), a Model 1  
 2896 seller under the Streamlined Sales and Use Tax Agreement is not  
 2897 entitled to the collection allowance described in paragraphs (a)  
 2898 and (b).

2899           (e)1. In addition to any collection allowance that may be  
 2900 provided under this subsection, the department may provide the  
 2901 monetary allowances required to be provided by the state to  
 2902 certified service providers and voluntary sellers pursuant to  
 2903 Article VI of the Streamlined Sales and Use Tax Agreement, as  
 2904 amended.

2905           2. Such monetary allowances must be in the form of  
 2906 collection allowances that certified service providers or  
 2907 voluntary sellers are permitted to retain from the tax revenues  
 2908 collected on remote sales to be remitted to the state pursuant  
 2909 to this chapter.

2910           3. For purposes of this paragraph, the term "voluntary  
 2911 seller" or "volunteer seller" means a seller that is not



2912 required to register in this state to collect a tax. The term  
 2913 "remote sales" means revenues generated by such a seller for  
 2914 this state for which the seller is not required to register to  
 2915 collect the tax imposed by this chapter.

2916 (2) (a) When any person required hereunder to make any  
 2917 return or to pay any tax or fee imposed by this chapter either  
 2918 fails to timely file such return or fails to pay the tax or fee  
 2919 shown due on the return within the time required hereunder, in  
 2920 addition to all other penalties provided herein and by the laws  
 2921 of this state in respect to such taxes or fees, a specific  
 2922 penalty shall be added to the tax or fee in the amount of 10  
 2923 percent of either the tax or fee shown on the return that is not  
 2924 timely filed or any tax or fee not paid timely. The penalty may  
 2925 not be less than \$50 for failure to timely file a tax return  
 2926 required by s. 212.11(1) or timely pay the tax or fee shown due  
 2927 on the return except as provided in s. 213.21(10). If a person  
 2928 fails to timely file a return required by s. 212.11(1) and to  
 2929 timely pay the tax or fee shown due on the return, only one  
 2930 penalty of 10 percent, which may not be less than \$50, shall be  
 2931 imposed.

2932 (b) When any person required under this section to make a  
 2933 return or to pay a tax or fee imposed by this chapter fails to  
 2934 disclose the tax or fee on the return within the time required,  
 2935 excluding a noncompliant filing event generated by situations  
 2936 covered in paragraph (a), in addition to all other penalties  
 2937 provided in this section and by the laws of this state in  
 2938 respect to such taxes or fees, a specific penalty shall be added  
 2939 to the additional tax or fee owed in the amount of 10 percent of

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2940 any such unpaid tax or fee not paid timely if the failure is for  
2941 not more than 30 days, with an additional 10 percent of any such  
2942 unpaid tax or fee for each additional 30 days, or fraction  
2943 thereof, while the failure continues, not to exceed a total  
2944 penalty of 50 percent, in the aggregate, of any unpaid tax or  
2945 fee.

2946 (c) Any person who knowingly and with a willful intent to  
2947 evade any tax imposed under this chapter fails to file six  
2948 consecutive returns as required by law commits a felony of the  
2949 third degree, punishable as provided in s. 775.082 or s.  
2950 775.083.

2951 (d) Any person who makes a false or fraudulent return with  
2952 a willful intent to evade payment of any tax or fee imposed  
2953 under this chapter; any person who, after the department's  
2954 delivery of a written notice to the person's last known address  
2955 specifically alerting the person of the requirement to register  
2956 the person's business as a dealer, intentionally fails to  
2957 register the business; and any person who, after the  
2958 department's delivery of a written notice to the person's last  
2959 known address specifically alerting the person of the  
2960 requirement to collect tax on specific transactions,  
2961 intentionally fails to collect such tax, shall, in addition to  
2962 the other penalties provided by law, be liable for a specific  
2963 penalty of 100 percent of any unreported or any uncollected tax  
2964 or fee and, upon conviction, for fine and punishment as provided  
2965 in s. 775.082, s. 775.083, or s. 775.084. Delivery of written  
2966 notice may be made by certified mail, or by the use of such  
2967 other method as is documented as being necessary and reasonable

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2968 | under the circumstances. The civil and criminal penalties  
 2969 | imposed herein for failure to comply with a written notice  
 2970 | alerting the person of the requirement to register the person's  
 2971 | business as a dealer or to collect tax on specific transactions  
 2972 | shall not apply if the person timely files a written challenge  
 2973 | to such notice in accordance with procedures established by the  
 2974 | department by rule or the notice fails to clearly advise that  
 2975 | failure to comply with or timely challenge the notice will  
 2976 | result in the imposition of the civil and criminal penalties  
 2977 | imposed herein.

2978 |         1. If the total amount of unreported or uncollected taxes  
 2979 | or fees is less than \$300, the first offense resulting in  
 2980 | conviction is a misdemeanor of the second degree, the second  
 2981 | offense resulting in conviction is a misdemeanor of the first  
 2982 | degree, and the third and all subsequent offenses resulting in  
 2983 | conviction is a misdemeanor of the first degree, and the third  
 2984 | and all subsequent offenses resulting in conviction are felonies  
 2985 | of the third degree.

2986 |         2. If the total amount of unreported or uncollected taxes  
 2987 | or fees is \$300 or more but less than \$20,000, the offense is a  
 2988 | felony of the third degree.

2989 |         3. If the total amount of unreported or uncollected taxes  
 2990 | or fees is \$20,000 or more but less than \$100,000, the offense  
 2991 | is a felony of the second degree.

2992 |         4. If the total amount of unreported or uncollected taxes  
 2993 | or fees is \$100,000 or more, the offense is a felony of the  
 2994 | first degree.

2995 |         (e) A person who willfully attempts in any manner to evade

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2996 any tax, surcharge, or fee imposed under this chapter or the  
 2997 payment thereof is, in addition to any other penalties provided  
 2998 by law, liable for a specific penalty in the amount of 100  
 2999 percent of the tax, surcharge, or fee, and commits a felony of  
 3000 the third degree, punishable as provided in s. 775.082, s.  
 3001 775.083, or s. 775.084.

3002 (f) When any person, firm, or corporation fails to timely  
 3003 remit the proper estimated payment required under s. 212.11, a  
 3004 specific penalty shall be added in an amount equal to 10 percent  
 3005 of any unpaid estimated tax. Beginning with January 1, 1985,  
 3006 returns, the department, upon a showing of reasonable cause, is  
 3007 authorized to waive or compromise penalties imposed by this  
 3008 paragraph. However, other penalties and interest shall be due  
 3009 and payable if the return on which the estimated payment was due  
 3010 was not timely or properly filed.

3011 (g) A dealer who files a consolidated return pursuant to  
 3012 s. 212.11(1)(e) is subject to the penalty established in  
 3013 paragraph (e) unless the dealer has paid the required estimated  
 3014 tax for his or her consolidated return as a whole without regard  
 3015 to each location. If the dealer fails to pay the required  
 3016 estimated tax for his or her consolidated return as a whole,  
 3017 each filing location shall stand on its own with respect to  
 3018 calculating penalties pursuant to paragraph (f).

3019 (3) When any dealer, or other person charged herein, fails  
 3020 to remit the tax, or any portion thereof, on or before the day  
 3021 when such tax is required by law to be paid, there shall be  
 3022 added to the amount due interest at the rate of 1 percent per  
 3023 month of the amount due from the date due until paid. Interest

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3024 on the delinquent tax shall be calculated beginning on the 21st  
 3025 day of the month following the month for which the tax is due,  
 3026 except as otherwise provided in this chapter.

3027 (4) All penalties and interest imposed by this chapter  
 3028 shall be payable to and collectible by the department in the  
 3029 same manner as if they were a part of the tax imposed. The  
 3030 department may settle or compromise any such interest or  
 3031 penalties pursuant to s. 213.21.

3032 (5) (a) The department is authorized to audit or inspect  
 3033 the records and accounts of dealers defined herein, ~~including~~  
 3034 ~~audits or inspections of dealers who make mail order sales to~~  
 3035 ~~the extent permitted by another state,~~ and to correct by credit  
 3036 any overpayment of tax, and, in the event of a deficiency, an  
 3037 assessment shall be made and collected. No administrative  
 3038 finding of fact is necessary prior to the assessment of any tax  
 3039 deficiency.

3040 (b) In the event any dealer or other person charged herein  
 3041 fails or refuses to make his or her records available for  
 3042 inspection so that no audit or examination has been made of the  
 3043 books and records of such dealer or person, fails or refuses to  
 3044 register as a dealer, fails to make a report and pay the tax as  
 3045 provided by this chapter, makes a grossly incorrect report or  
 3046 makes a report that is false or fraudulent, then, in such event,  
 3047 it shall be the duty of the department to make an assessment  
 3048 from an estimate based upon the best information then available  
 3049 to it for the taxable period of retail sales of such dealer, the  
 3050 gross proceeds from rentals, the total admissions received,  
 3051 amounts received from leases of tangible personal property by

3052 such dealer, or of the cost price of all articles of tangible  
 3053 personal property imported by the dealer for use or consumption  
 3054 or distribution or storage to be used or consumed in this state,  
 3055 or of the sales or cost price of all services the sale or use of  
 3056 which is taxable under this chapter, together with interest,  
 3057 plus penalty, if such have accrued, as the case may be. Then the  
 3058 department shall proceed to collect such taxes, interest, and  
 3059 penalty on the basis of such assessment which shall be  
 3060 considered prima facie correct, and the burden to show the  
 3061 contrary shall rest upon the dealer, seller, owner, or lessor,  
 3062 as the case may be.

3063 (6) (a) The department is given the power to prescribe the  
 3064 records to be kept by all persons subject to taxes imposed by  
 3065 this chapter. It shall be the duty of every person required to  
 3066 make a report and pay any tax under this chapter, every person  
 3067 receiving rentals or license fees, and owners of places of  
 3068 admission, to keep and preserve suitable records of the sales,  
 3069 leases, rentals, license fees, admissions, or purchases, as the  
 3070 case may be, taxable under this chapter; such other books of  
 3071 account as may be necessary to determine the amount of the tax  
 3072 due hereunder; and other information as may be required by the  
 3073 department. It shall be the duty of every such person so charged  
 3074 with such duty, moreover, to keep and preserve as long as  
 3075 required by s. 213.35 all invoices and other records of goods,  
 3076 wares, and merchandise; records of admissions, leases, license  
 3077 fees and rentals; and records of all other subjects of taxation  
 3078 under this chapter. All such books, invoices, and other records  
 3079 shall be open to examination at all reasonable hours to the

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3080 department or any of its duly authorized agents.

3081 (b) For the purpose of this subsection, if a dealer does  
 3082 not have adequate records of his or her retail sales or  
 3083 purchases, the department may, upon the basis of a test or  
 3084 sampling of the dealer's available records or other information  
 3085 relating to the sales or purchases made by such dealer for a  
 3086 representative period, determine the proportion that taxable  
 3087 retail sales bear to total retail sales or the proportion that  
 3088 taxable purchases bear to total purchases. This subsection does  
 3089 not affect the duty of the dealer to collect, or the liability  
 3090 of any consumer to pay, any tax imposed by or pursuant to this  
 3091 chapter.

3092 (c)1. If the records of a dealer are adequate but  
 3093 voluminous in nature and substance, the department may sample  
 3094 such records and project the audit findings derived therefrom  
 3095 over the entire audit period to determine the proportion that  
 3096 taxable retail sales bear to total retail sales or the  
 3097 proportion that taxable purchases bear to total purchases. In  
 3098 order to conduct such a sample, the department must first make a  
 3099 good faith effort to reach an agreement with the dealer, which  
 3100 agreement provides for the means and methods to be used in the  
 3101 sampling process. In the event that no agreement is reached, the  
 3102 dealer is entitled to a review by the executive director. In the  
 3103 case of fixed assets, a dealer may agree in writing with the  
 3104 department for adequate but voluminous records to be  
 3105 statistically sampled. Such an agreement shall provide for the  
 3106 methodology to be used in the statistical sampling process. The  
 3107 audit findings derived therefrom shall be projected over the

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3108 period represented by the sample in order to determine the  
3109 proportion that taxable purchases bear to total purchases. Once  
3110 an agreement has been signed, it is final and conclusive with  
3111 respect to the method of sampling fixed assets, and the  
3112 department may not conduct a detailed audit of fixed assets, and  
3113 the taxpayer may not request a detailed audit after the  
3114 agreement is reached.

3115 2. For the purposes of sampling pursuant to subparagraph  
3116 1., the department shall project any deficiencies and  
3117 overpayments derived therefrom over the entire audit period. In  
3118 determining the dealer's compliance, the department shall reduce  
3119 any tax deficiency as derived from the sample by the amount of  
3120 any overpayment derived from the sample. In the event the  
3121 department determines from the sample results that the dealer  
3122 has a net tax overpayment, the department shall provide the  
3123 findings of this overpayment to the Chief Financial Officer for  
3124 repayment of funds paid into the State Treasury through error  
3125 pursuant to s. 215.26.

3126 3.a. A taxpayer is entitled, both in connection with an  
3127 audit and in connection with an application for refund filed  
3128 independently of any audit, to establish the amount of any  
3129 refund or deficiency through statistical sampling when the  
3130 taxpayer's records are adequate but voluminous. In the case of  
3131 fixed assets, a dealer may agree in writing with the department  
3132 for adequate but voluminous records to be statistically sampled.  
3133 Such an agreement shall provide for the methodology to be used  
3134 in the statistical sampling process. The audit findings derived  
3135 therefrom shall be projected over the period represented by the



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3136 sample in order to determine the proportion that taxable  
3137 purchases bear to total purchases. Once an agreement has been  
3138 signed, it is final and conclusive with respect to the method of  
3139 sampling fixed assets, and the department may not conduct a  
3140 detailed audit of fixed assets, and the taxpayer may not request  
3141 a detailed audit after the agreement is reached.

3142 b. Alternatively, a taxpayer is entitled to establish any  
3143 refund or deficiency through any other sampling method agreed  
3144 upon by the taxpayer and the department when the taxpayer's  
3145 records, other than those regarding fixed assets, are adequate  
3146 but voluminous. Whether done through statistical sampling or any  
3147 other sampling method agreed upon by the taxpayer and the  
3148 department, the completed sample must reflect both overpayments  
3149 and underpayments of taxes due. The sample shall be conducted  
3150 through:

3151 (I) A taxpayer request to perform the sampling through the  
3152 certified audit program pursuant to s. 213.285;

3153 (II) Attestation by a certified public accountant as to  
3154 the adequacy of the sampling method utilized and the results  
3155 reached using such sampling method; or

3156 (III) A sampling method that has been submitted by the  
3157 taxpayer and approved by the department before a refund claim is  
3158 submitted. This sub-sub-subparagraph does not prohibit a  
3159 taxpayer from filing a refund claim prior to approval by the  
3160 department of the sampling method; however, a refund claim  
3161 submitted before the sampling method has been approved by the  
3162 department cannot be a complete refund application pursuant to  
3163 s. 213.255 until the sampling method has been approved by the

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3164 department.

3165 c. The department shall prescribe by rule the procedures  
3166 to be followed under each method of sampling. Such procedures  
3167 shall follow generally accepted auditing procedures for  
3168 sampling. The rule shall also set forth other criteria regarding  
3169 the use of sampling, including, but not limited to, training  
3170 requirements that must be met before a sampling method may be  
3171 utilized and the steps necessary for the department and the  
3172 taxpayer to reach agreement on a sampling method submitted by  
3173 the taxpayer for approval by the department.

3174 (7) In the event the dealer has imported tangible personal  
3175 property and he or she fails to produce an invoice showing the  
3176 cost price of the articles, as defined in this chapter, which  
3177 are subject to tax, or the invoice does not reflect the true or  
3178 actual cost price as defined herein, then the department shall  
3179 ascertain, in any manner feasible, the true cost price, and  
3180 assess and collect the tax thereon with interest plus penalties,  
3181 if such have accrued on the true cost price as assessed by it.  
3182 The assessment so made shall be considered prima facie correct,  
3183 and the duty shall be on the dealer to show to the contrary.

3184 (8) In the case of the lease or rental of tangible  
3185 personal property, or other rentals or license fees as herein  
3186 defined and taxed, if the consideration given or reported by the  
3187 lessor, person receiving rental or license fee, or dealer does  
3188 not, in the judgment of the department, represent the true or  
3189 actual consideration, then the department is authorized to  
3190 ascertain the same and assess and collect the tax thereon in the  
3191 same manner as above provided, with respect to imported tangible

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3192 property, together with interest, plus penalties, if such have  
 3193 accrued.

3194 (9) Taxes imposed by this chapter upon the privilege of  
 3195 the use, consumption, storage for consumption, or sale of  
 3196 tangible personal property, admissions, license fees, rentals,  
 3197 communication services, and upon the sale or use of services as  
 3198 herein taxed shall be collected upon the basis of an addition of  
 3199 the tax imposed by this chapter to the total price of such  
 3200 admissions, license fees, rentals, communication or other  
 3201 services, or sale price of such article or articles that are  
 3202 purchased, sold, or leased at any one time by or to a customer  
 3203 or buyer; the dealer, or person charged herein, is required to  
 3204 pay a privilege tax in the amount of the tax imposed by this  
 3205 chapter on the total of his or her gross sales of tangible  
 3206 personal property, admissions, license fees, rentals, and  
 3207 communication services or to collect a tax upon the sale or use  
 3208 of services, and such person or dealer shall add the tax imposed  
 3209 by this chapter to the price, license fee, rental, or  
 3210 admissions, and communication or other services and collect the  
 3211 total sum from the purchaser, admittee, licensee, lessee, or  
 3212 consumer. In computing the tax due or to be collected as the  
 3213 result of any transaction, the seller may elect to compute the  
 3214 tax due on a transaction on a per-item basis or on an invoice  
 3215 basis. The tax rate shall be the sum of the applicable state and  
 3216 local rates, if any, and the tax computation shall be carried to  
 3217 the third decimal place. Whenever the third decimal place is  
 3218 greater than four, the tax shall be rounded to the next whole  
 3219 cent. ~~The department shall make available in an electronic~~

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3220 ~~format or otherwise the tax amounts and the following brackets~~  
 3221 ~~applicable to all transactions taxable at the rate of 6 percent:~~  
 3222 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 3223 ~~added.~~  
 3224 ~~(b) On single sales in amounts from 10 cents to 16 cents,~~  
 3225 ~~both inclusive, 1 cent shall be added for taxes.~~  
 3226 ~~(c) On sales in amounts from 17 cents to 33 cents, both~~  
 3227 ~~inclusive, 2 cents shall be added for taxes.~~  
 3228 ~~(d) On sales in amounts from 34 cents to 50 cents, both~~  
 3229 ~~inclusive, 3 cents shall be added for taxes.~~  
 3230 ~~(e) On sales in amounts from 51 cents to 66 cents, both~~  
 3231 ~~inclusive, 4 cents shall be added for taxes.~~  
 3232 ~~(f) On sales in amounts from 67 cents to 83 cents, both~~  
 3233 ~~inclusive, 5 cents shall be added for taxes.~~  
 3234 ~~(g) On sales in amounts from 84 cents to \$1, both~~  
 3235 ~~inclusive, 6 cents shall be added for taxes.~~  
 3236 ~~(h) On sales in amounts of more than \$1, 6 percent shall~~  
 3237 ~~be charged upon each dollar of price, plus the appropriate~~  
 3238 ~~bracket charge upon any fractional part of a dollar.~~  
 3239 ~~(10) In counties which have adopted a discretionary sales~~  
 3240 ~~surtax at the rate of 1 percent, the department shall make~~  
 3241 ~~available in an electronic format or otherwise the tax amounts~~  
 3242 ~~and the following brackets applicable to all taxable~~  
 3243 ~~transactions that would otherwise have been transactions taxable~~  
 3244 ~~at the rate of 6 percent:~~  
 3245 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 3246 ~~added.~~  
 3247 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~

3248 ~~both inclusive, 1 cent shall be added for taxes.~~  
 3249 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~  
 3250 ~~inclusive, 2 cents shall be added for taxes.~~  
 3251 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~  
 3252 ~~inclusive, 3 cents shall be added for taxes.~~  
 3253 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~  
 3254 ~~inclusive, 4 cents shall be added for taxes.~~  
 3255 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~  
 3256 ~~inclusive, 5 cents shall be added for taxes.~~  
 3257 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~  
 3258 ~~inclusive, 6 cents shall be added for taxes.~~  
 3259 ~~(h) On sales in amounts from 86 cents to \$1, both~~  
 3260 ~~inclusive, 7 cents shall be added for taxes.~~  
 3261 ~~(i) On sales in amounts from \$1 up to, and including, the~~  
 3262 ~~first \$5,000 in price, 7 percent shall be charged upon each~~  
 3263 ~~dollar of price, plus the appropriate bracket charge upon any~~  
 3264 ~~fractional part of a dollar.~~  
 3265 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~  
 3266 ~~percent shall be added upon the first \$5,000 in price, and 6~~  
 3267 ~~percent shall be added upon each dollar of price in excess of~~  
 3268 ~~the first \$5,000 in price, plus the bracket charges upon any~~  
 3269 ~~fractional part of a dollar as provided for in subsection (9).~~  
 3270 ~~(11) The department shall make available in an electronic~~  
 3271 ~~format or otherwise the tax amounts and brackets applicable to~~  
 3272 ~~all taxable transactions that occur in counties that have a~~  
 3273 ~~surtax at a rate other than 1 percent which transactions would~~  
 3274 ~~otherwise have been transactions taxable at the rate of 6~~  
 3275 ~~percent. Likewise, the department shall make available in an~~

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3276 ~~electronic format or otherwise the tax amounts and brackets~~  
 3277 ~~applicable to transactions taxable at 7 percent pursuant to s.~~  
 3278 ~~212.05(1)(c) and on transactions which would otherwise have been~~  
 3279 ~~so taxable in counties which have adopted a discretionary sales~~  
 3280 ~~surtax.~~

3281 (10)~~(12)~~ It is hereby declared to be the legislative  
 3282 intent that, whenever in the construction, administration, or  
 3283 enforcement of this chapter there may be any question respecting  
 3284 a duplication of the tax, the end consumer, or last retail sale,  
 3285 be the sale intended to be taxed and insofar as may be  
 3286 practicable there be no duplication or pyramiding of the tax.

3287 (11)~~(13)~~ In order to aid the administration and  
 3288 enforcement of the provisions of this chapter with respect to  
 3289 the rentals and license fees, each lessor or person granting the  
 3290 use of any hotel, apartment house, roominghouse, tourist or  
 3291 trailer camp, real property, or any interest therein, or any  
 3292 portion thereof, inclusive of owners; property managers;  
 3293 lessors; landlords; hotel, apartment house, and roominghouse  
 3294 operators; and all licensed real estate agents within the state  
 3295 leasing, granting the use of, or renting such property, shall be  
 3296 required to keep a record of each and every such lease, license,  
 3297 or rental transaction which is taxable under this chapter, in  
 3298 such a manner and upon such forms as the department may  
 3299 prescribe, and to report such transaction to the department or  
 3300 its designated agents, and to maintain such records as long as  
 3301 required by s. 213.35, subject to the inspection of the  
 3302 department and its agents. Upon the failure by such owner;  
 3303 property manager; lessor; landlord; hotel, apartment house,

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3304 roominghouse, tourist or trailer camp operator; or real estate  
 3305 agent to keep and maintain such records and to make such reports  
 3306 upon the forms and in the manner prescribed, such owner;  
 3307 property manager; lessor; landlord; hotel, apartment house,  
 3308 roominghouse, tourist or trailer camp operator; receiver of rent  
 3309 or license fees; or real estate agent is guilty of a misdemeanor  
 3310 of the second degree, punishable as provided in s. 775.082 or s.  
 3311 775.083, for the first offense; for subsequent offenses, they  
 3312 are each guilty of a misdemeanor of the first degree, punishable  
 3313 as provided in s. 775.082 or s. 775.083. If, however, any  
 3314 subsequent offense involves intentional destruction of such  
 3315 records with an intent to evade payment of or deprive the state  
 3316 of any tax revenues, such subsequent offense shall be a felony  
 3317 of the third degree, punishable as provided in s. 775.082 or s.  
 3318 775.083.

3319 ~~(14) If it is determined upon audit that a dealer has~~  
 3320 ~~collected and remitted taxes by applying the applicable tax rate~~  
 3321 ~~to each transaction as described in subsection (9) and rounding~~  
 3322 ~~the tax due to the nearest whole cent rather than applying the~~  
 3323 ~~appropriate bracket system provided by law or department rule,~~  
 3324 ~~the dealer shall not be held liable for additional tax, penalty,~~  
 3325 ~~and interest resulting from such failure if:~~

3326 ~~(a) The dealer acted in a good faith belief that rounding~~  
 3327 ~~to the nearest whole cent was the proper method of determining~~  
 3328 ~~the amount of tax due on each taxable transaction.~~

3329 ~~(b) The dealer timely reported and remitted all taxes~~  
 3330 ~~collected on each taxable transaction.~~

3331 ~~(c) The dealer agrees in writing to future compliance with~~

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3332 ~~the laws and rules concerning brackets applicable to the~~  
3333 ~~dealer's transactions.~~

3334 Section 15. Subsection (3) of section 212.17, Florida  
3335 Statutes, is amended to read:

3336 212.17 Credits for returned goods, rentals, or admissions;  
3337 goods acquired for dealer's own use and subsequently resold;  
3338 additional powers of department.—

3339 (3) A dealer who has paid the tax imposed by this chapter  
3340 on tangible personal property or services may take a credit or  
3341 obtain a refund for any tax paid by the dealer on the unpaid  
3342 balance due on worthless accounts within 12 months following the  
3343 month in which the bad debt has been charged off for federal  
3344 income tax purposes. A dealer that has paid the tax imposed by  
3345 this chapter on tangible personal property or services and that  
3346 is not required to file federal income tax returns may take a  
3347 credit against or obtain a refund for any tax paid by the dealer  
3348 on the unpaid balance due on worthless accounts within 12 months  
3349 after the month in which the bad debt is written off as  
3350 uncollectible in the dealer's books and records and would be  
3351 eligible for a bad-debt deduction for federal income tax  
3352 purposes if the dealer was required to file a federal income tax  
3353 return.

3354 (a) A dealer that is taking a credit against or obtaining  
3355 a refund on worthless accounts shall base the bad-debt-recovery  
3356 calculation in accordance with 26 U.S.C. s. 166.

3357 (b) When the amount of bad debt exceeds the amount of  
3358 taxable sales for the period during which the bad debt is  
3359 written off, a refund claim must be filed, notwithstanding s.



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3360 215.26(2), within 3 years after the due date of the return on  
 3361 which the bad debt could first be claimed.

3362 (c) If any accounts so charged off for which a credit or  
 3363 refund has been obtained are thereafter in whole or in part paid  
 3364 to the dealer, the amount so paid shall be included in the first  
 3365 return filed after such collection and the tax paid accordingly.

3366 (d) If filing responsibilities have been assumed by a  
 3367 certified service provider, the certified service provider shall  
 3368 claim, on behalf of the seller, any bad-debt allowance provided  
 3369 by this subsection. The certified service provider shall credit  
 3370 or refund to the seller the full amount of any bad-debt  
 3371 allowance or refund received.

3372 (e) For the purposes of reporting a payment received on a  
 3373 previously claimed bad debt, any payments made on a debt or  
 3374 account shall first be applied proportionally to the taxable  
 3375 price of the property or service and the sales tax on such  
 3376 property, and second to any interest, service charges, and any  
 3377 other charges.

3378 (f) In situations in which the books and records of the  
 3379 party claiming the bad-debt allowance support an allocation of  
 3380 the bad debts among states that are members of the Streamlined  
 3381 Sales and Use Tax Agreement, the allocation is permitted among  
 3382 those states.

3383 Section 16. Paragraphs (a) and (e) of subsection (3) of  
 3384 section 212.18, Florida Statutes, are amended to read:

3385 212.18 Administration of law; registration of dealers;  
 3386 rules.—

3387 (3) (a) Every person desiring to engage in or conduct

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3388 business in this state as a dealer, as defined in this chapter,  
 3389 or to lease, rent, or let or grant licenses in living quarters  
 3390 or sleeping or housekeeping accommodations in hotels, apartment  
 3391 houses, roominghouses, or tourist or trailer camps that are  
 3392 subject to tax under s. 212.03, or to lease, rent, or let or  
 3393 grant licenses in real property, as defined in this chapter, and  
 3394 every person who sells or receives anything of value by way of  
 3395 admissions, must file with the department an application for a  
 3396 certificate of registration for each place of business, showing  
 3397 the names of the persons who have interests in such business and  
 3398 their residences, the address of the business, and such other  
 3399 data as the department may reasonably require. However, owners  
 3400 and operators of vending machines or newspaper rack machines are  
 3401 required to obtain only one certificate of registration for each  
 3402 county in which such machines are located. The department, by  
 3403 rule, may authorize a dealer that uses independent sellers to  
 3404 sell its merchandise to remit tax on the retail sales price  
 3405 charged to the ultimate consumer in lieu of having the  
 3406 independent seller register as a dealer and remit the tax. The  
 3407 department may appoint the county tax collector as the  
 3408 department's agent to accept applications for registrations. The  
 3409 application must be made to the department before the person,  
 3410 firm, copartnership, or corporation may engage in such business,  
 3411 and it must be accompanied by a registration fee of \$5. ~~However,~~  
 3412 ~~a registration fee is not required to accompany an application~~  
 3413 ~~to engage in or conduct business to make mail order sales.~~ The  
 3414 department may waive the registration fee for applications  
 3415 submitted through the department's Internet registration process

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3416 or central electronic registration system provided by member  
 3417 states of the Streamlined Sales and Use Tax Agreement.

3418 (e) As used in this paragraph, the term "exhibitor" means  
 3419 a person who enters into an agreement authorizing the display of  
 3420 tangible personal property or services at a convention or a  
 3421 trade show. The following provisions apply to the registration  
 3422 of exhibitors as dealers under this chapter:

3423 1. An exhibitor whose agreement prohibits the sale of  
 3424 tangible personal property or services subject to the tax  
 3425 imposed in this chapter is not required to register as a dealer.

3426 2. An exhibitor whose agreement provides for the sale at  
 3427 wholesale only of tangible personal property or services subject  
 3428 to the tax imposed in this chapter must obtain a resale  
 3429 certificate from the purchasing dealer but is not required to  
 3430 register as a dealer.

3431 3. An exhibitor whose agreement authorizes the retail sale  
 3432 of tangible personal property or services subject to the tax  
 3433 imposed in this chapter must register as a dealer and collect  
 3434 the tax imposed under this chapter on such sales.

3435 ~~4. Any exhibitor who makes a mail order sale pursuant to~~  
 3436 ~~s. 212.0596 must register as a dealer.~~

3437  
 3438 Any person who conducts a convention or a trade show must make  
 3439 their exhibitor's agreements available to the department for  
 3440 inspection and copying.

3441 Section 17. Section 212.20, Florida Statutes, is amended  
 3442 to read:

3443 212.20 Funds collected, disposition; additional powers of

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3444 department; operational expense; refund of taxes adjudicated  
 3445 unconstitutionally collected.—

3446 (1) The department shall pay over to the Chief Financial  
 3447 Officer of the state all funds received and collected by it  
 3448 under the provisions of this chapter, to be credited to the  
 3449 account of the General Revenue Fund of the state.

3450 (2) The department is authorized to employ all necessary  
 3451 assistants to administer this chapter properly and is also  
 3452 authorized to purchase all necessary supplies and equipment  
 3453 which may be required for this purpose.

3454 (3) The estimated amount of money needed for the  
 3455 administration of this chapter shall be included by the  
 3456 department in its annual legislative budget request for the  
 3457 operation of its office.

3458 ~~(4) When there has been a final adjudication that any tax~~  
 3459 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~  
 3460 ~~to the Constitution of the United States or the State~~  
 3461 ~~Constitution, the department shall, in accordance with rules,~~  
 3462 ~~determine, based upon claims for refund and other evidence and~~  
 3463 ~~information, who paid such tax or taxes, and refund to each such~~  
 3464 ~~person the amount of tax paid. For purposes of this subsection,~~  
 3465 ~~a "final adjudication" is a decision of a court of competent~~  
 3466 ~~jurisdiction from which no appeal can be taken or from which the~~  
 3467 ~~official or officials of this state with authority to make such~~  
 3468 ~~decisions has or have decided not to appeal.~~

3469 (4)-(5) For the purposes of this section, the term:

3470 (a) "Proceeds" means all tax or fee revenue collected or  
 3471 received by the department, including interest and penalties.

3472 (b) "Reallocate" means reduction of the accounts of  
 3473 initial deposit and redeposit into the indicated account.

3474 ~~(5)-(6)~~ Distribution of all proceeds under this chapter and  
 3475 s. 202.18(1)(b) and (2)(b) shall be as follows:

3476 (a) Proceeds from the convention development taxes  
 3477 authorized under s. 212.0305 shall be reallocated to the  
 3478 Convention Development Tax Clearing Trust Fund.

3479 (b) Proceeds from discretionary sales surtaxes imposed  
 3480 pursuant to ss. 212.054 and 212.055 shall be reallocated to the  
 3481 Discretionary Sales Surtax Clearing Trust Fund.

3482 (c) Proceeds from the fees imposed under ss.  
 3483 212.05(1)(h)3. and 212.18(3) shall remain with the General  
 3484 Revenue Fund.

3485 (d) Proceeds from the education surtax imposed under s.  
 3486 212.0502 shall be reallocated to the State Schools Trust Fund.

3487 ~~(e)-(d)~~ The proceeds of all other taxes and fees imposed  
 3488 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
 3489 and (2)(b) shall be distributed as follows:

3490 1. In any fiscal year, the greater of \$500 million, minus  
 3491 an amount equal to 4.6 percent of the proceeds of the taxes  
 3492 collected pursuant to chapter 201, or 5.2 percent of all other  
 3493 taxes and fees imposed pursuant to this chapter or remitted  
 3494 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
 3495 monthly installments into the General Revenue Fund.

3496 2. After the distribution under subparagraph 1., 8.814  
 3497 percent of the amount remitted by a sales tax dealer located  
 3498 within a participating county pursuant to s. 218.61 shall be  
 3499 transferred into the Local Government Half-cent Sales Tax

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3500 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
 3501 transferred shall be reduced by 0.1 percent, and the department  
 3502 shall distribute this amount to the Public Employees Relations  
 3503 Commission Trust Fund less \$5,000 each month, which shall be  
 3504 added to the amount calculated in subparagraph 3. and  
 3505 distributed accordingly.

3506 3. After the distribution under subparagraphs 1. and 2.,  
 3507 0.095 percent shall be transferred to the Local Government Half-  
 3508 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
 3509 s. 218.65.

3510 4. After the distributions under subparagraphs 1., 2., and  
 3511 3., 2.0440 percent of the available proceeds shall be  
 3512 transferred monthly to the Revenue Sharing Trust Fund for  
 3513 Counties pursuant to s. 218.215.

3514 5. After the distributions under subparagraphs 1., 2., and  
 3515 3., 1.3409 percent of the available proceeds shall be  
 3516 transferred monthly to the Revenue Sharing Trust Fund for  
 3517 Municipalities pursuant to s. 218.215. If the total revenue to  
 3518 be distributed pursuant to this subparagraph is at least as  
 3519 great as the amount due from the Revenue Sharing Trust Fund for  
 3520 Municipalities and the former Municipal Financial Assistance  
 3521 Trust Fund in state fiscal year 1999-2000, no municipality shall  
 3522 receive less than the amount due from the Revenue Sharing Trust  
 3523 Fund for Municipalities and the former Municipal Financial  
 3524 Assistance Trust Fund in state fiscal year 1999-2000. If the  
 3525 total proceeds to be distributed are less than the amount  
 3526 received in combination from the Revenue Sharing Trust Fund for  
 3527 Municipalities and the former Municipal Financial Assistance

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3528 Trust Fund in state fiscal year 1999-2000, each municipality  
 3529 shall receive an amount proportionate to the amount it was due  
 3530 in state fiscal year 1999-2000.

3531 6. Of the remaining proceeds:

3532 a. In each fiscal year, the sum of \$29,915,500 shall be  
 3533 divided into as many equal parts as there are counties in the  
 3534 state, and one part shall be distributed to each county. The  
 3535 distribution among the several counties must begin each fiscal  
 3536 year on or before January 5th and continue monthly for a total  
 3537 of 4 months. If a local or special law required that any moneys  
 3538 accruing to a county in fiscal year 1999-2000 under the then-  
 3539 existing provisions of s. 550.135 be paid directly to the  
 3540 district school board, special district, or a municipal  
 3541 government, such payment must continue until the local or  
 3542 special law is amended or repealed. The state covenants with  
 3543 holders of bonds or other instruments of indebtedness issued by  
 3544 local governments, special districts, or district school boards  
 3545 before July 1, 2000, that it is not the intent of this  
 3546 subparagraph to adversely affect the rights of those holders or  
 3547 relieve local governments, special districts, or district school  
 3548 boards of the duty to meet their obligations as a result of  
 3549 previous pledges or assignments or trusts entered into which  
 3550 obligated funds received from the distribution to county  
 3551 governments under then-existing s. 550.135. This distribution  
 3552 specifically is in lieu of funds distributed under s. 550.135  
 3553 before July 1, 2000.

3554 b. The department shall distribute \$166,667 monthly  
 3555 pursuant to s. 288.1162 to each applicant certified as a

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3556 facility for a new or retained professional sports franchise  
3557 pursuant to s. 288.1162. Up to \$41,667 shall be distributed  
3558 monthly by the department to each certified applicant as defined  
3559 in s. 288.11621 for a facility for a spring training franchise.  
3560 However, not more than \$416,670 may be distributed monthly in  
3561 the aggregate to all certified applicants for facilities for  
3562 spring training franchises. Distributions begin 60 days after  
3563 such certification and continue for not more than 30 years,  
3564 except as otherwise provided in s. 288.11621. A certified  
3565 applicant identified in this sub-subparagraph may not receive  
3566 more in distributions than expended by the applicant for the  
3567 public purposes provided for in s. 288.1162(5) or s.  
3568 288.11621(3).

3569 c. Beginning 30 days after notice by the Department of  
3570 Economic Opportunity to the Department of Revenue that an  
3571 applicant has been certified as the professional golf hall of  
3572 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
3573 shall be distributed monthly, for up to 300 months, to the  
3574 applicant.

3575 d. Beginning 30 days after notice by the Department of  
3576 Economic Opportunity to the Department of Revenue that the  
3577 applicant has been certified as the International Game Fish  
3578 Association World Center facility pursuant to s. 288.1169, and  
3579 the facility is open to the public, \$83,333 shall be distributed  
3580 monthly, for up to 168 months, to the applicant. This  
3581 distribution is subject to reduction pursuant to s. 288.1169. A  
3582 lump sum payment of \$999,996 shall be made, after certification  
3583 and before July 1, 2000.



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3584 7. All other proceeds must remain in the General Revenue  
3585 Fund.

3586 Section 18. Section 213.052, Florida Statutes, is created  
3587 to read:

3588 213.052 Notice of state sales and use tax rate changes.—

3589 (1) A sales or use tax rate change imposed under chapter  
3590 212 is effective on January 1, April 1, July 1, or October 1.  
3591 The Department of Revenue shall provide notice of such rate  
3592 change to all affected sellers 60 days before the effective date  
3593 of the rate change.

3594 (2) Failure of a seller to receive notice does not relieve  
3595 the seller of its obligation to collect the sales or use tax or  
3596 the education surtax.

3597 Section 19. Section 213.0521, Florida Statutes, is created  
3598 to read:

3599 213.0521 Effective date of state sales and use tax rate  
3600 changes.—The effective date for services covering a period  
3601 starting before and ending after the effective date of a  
3602 legislative act is as follows:

3603 (1) For a rate increase, the new rate applies to the first  
3604 billing period starting on or after the effective date.

3605 (2) For a rate decrease, the new rate applies to bills  
3606 rendered on or after the effective date.

3607 Section 20. Section 213.215, Florida Statutes, is created  
3608 to read:

3609 213.215 Sales and use tax amnesty upon registration in  
3610 accordance with the Streamlined Sales and Use Tax Agreement.—

3611 (1) Amnesty shall be provided for uncollected or unpaid

3612 sales or use tax to a seller who registers to pay or to collect  
 3613 and remit applicable sales or use tax in accordance with the  
 3614 terms of the Streamlined Sales and Use Tax Agreement authorized  
 3615 under s. 213.256, if the seller was not registered with the  
 3616 Department of Revenue in the 12-month period preceding the  
 3617 effective date of participation in the agreement by this state.

3618 (2) The amnesty precludes assessment for uncollected or  
 3619 unpaid sales or use tax, together with penalty or interest for  
 3620 sales made during the period the seller was not registered with  
 3621 the Department of Revenue, if registration occurs within 12  
 3622 months after the effective date of this state's participation in  
 3623 the agreement.

3624 (3) The amnesty is not available to a seller with respect  
 3625 to any matter for which the seller received notice of the  
 3626 commencement of an audit if the audit is not yet finally  
 3627 resolved, including any related administrative and judicial  
 3628 processes.

3629 (4) The amnesty is not available for sales or use taxes  
 3630 already paid or remitted to the state or to taxes collected by  
 3631 the seller.

3632 (5) The amnesty is fully effective, absent the seller's  
 3633 fraud or intentional misrepresentation of a material fact, as  
 3634 long as the seller continues registration and continues payment  
 3635 or collection and remittance of applicable sales or use taxes  
 3636 for at least 36 months.

3637 (6) The amnesty applies only to sales or use taxes due  
 3638 from a seller in its capacity as a seller and not to sales or  
 3639 use taxes due from a seller in its capacity as a buyer.

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3640 Section 21. Subsections (1) and (2) of section 213.256,  
 3641 Florida Statutes, are amended to read:

3642 213.256 Simplified Sales and Use Tax Administration Act.—

3643 (1) As used in this section and ss. 213.2562 and 213.2567,  
 3644 the term:

3645 (a) "Agent" means, for purposes of carrying out the  
 3646 responsibilities placed on a dealer, a person appointed by the  
 3647 seller to represent the seller before the department.

3648 ~~"Department" means the Department of Revenue.~~

3649 (b) "Agreement" means the Streamlined Sales and Use Tax  
 3650 Agreement ~~as amended and adopted on January 27, 2001, by the~~  
 3651 ~~Executive Committee of the National Conference of State~~  
 3652 ~~Legislatures.~~

3653 (c) "Certified automated system" means software certified  
 3654 jointly by the state ~~states that are signatories to the~~  
 3655 ~~agreement~~ to calculate the tax imposed by each jurisdiction on a  
 3656 transaction, determine the amount of tax to remit to the  
 3657 appropriate state, and maintain a record of the transaction.

3658 (d) "Certified service provider" means an agent certified  
 3659 ~~jointly by the states that are signatories to the agreement to~~  
 3660 perform all of the seller's sales tax functions other than the  
 3661 seller's obligation to remit tax on its own purchases.

3662 (e) "Department" means the Department of Revenue.

3663 (f) "Governing board" means the governing board of the  
 3664 agreement.

3665 (g)1. "Model 1 seller" means a seller that has selected a  
 3666 certified service provider as the seller's agent to perform all  
 3667 of the seller's sales and use tax functions other than the

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3668 seller's obligation to remit tax on the seller's purchases.

3669 2. "Model 2 seller" means a seller that has selected a  
 3670 certified automated system to perform part of the seller's sales  
 3671 and use tax functions, but retains responsibility for remitting  
 3672 the tax.

3673 3. "Model 3 seller" means a seller that has sales in at  
 3674 least 5 member states, has total annual sales revenue of at  
 3675 least \$500 million, has a proprietary system that calculates the  
 3676 amount of tax due each jurisdiction, and has entered into a  
 3677 performance agreement with the member states which establishes a  
 3678 tax performance standard for the seller.

3679  
 3680 As used in this paragraph, a seller includes an affiliated group  
 3681 of sellers using the same proprietary system.

3682 (h)(e) "Person" means an individual, trust, estate,  
 3683 fiduciary, partnership, limited liability company, limited  
 3684 liability partnership, corporation, or any other legal entity.

3685 (i) "Registered under this agreement" means registration  
 3686 by a seller with the member states under the central  
 3687 registration system.

3688 (j)(f) "Sales tax" means the tax levied under chapter 212.

3689 (k)(g) "Seller" means any person making sales, leases, or  
 3690 rentals of personal property or services.

3691 (l)(h) "State" means any state of the United States and  
 3692 the District of Columbia.

3693 (m)(i) "Use tax" means the tax levied under chapter 212.

3694 (2) (a) The executive director of the department is  
 3695 authorized to shall enter into an agreement the Streamlined

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3696 ~~Sales and Use Tax Agreement~~ with one or more states to simplify  
 3697 and modernize sales and use tax administration in order to  
 3698 substantially reduce the burden of tax compliance for all  
 3699 sellers and for all types of commerce. In furtherance of the  
 3700 agreement, the executive director of the department or his or  
 3701 her designee shall act jointly with other states that are  
 3702 members of the agreement to establish standards for  
 3703 certification of a certified service provider and certified  
 3704 automated systems ~~system~~ and central registration systems  
 3705 ~~establish performance standards for multistate sellers.~~

3706 (b) The executive director of the department or his or her  
 3707 designee shall take other actions reasonably required to  
 3708 administer this section. Other actions authorized by this  
 3709 section include, but are not limited to, the adoption of rules  
 3710 and the joint procurement, with other member states, of goods  
 3711 and services in furtherance of the cooperative agreement.

3712 (c) The executive director of the department or his or her  
 3713 designee may represent this state before the other states that  
 3714 are signatories to the agreement.

3715 (d) The executive director of the department or his or her  
 3716 designee is authorized to prepare and submit from time to time  
 3717 such reports and certifications as may be determined necessary  
 3718 according to the terms of an agreement and to enter into such  
 3719 other agreements with the governing board, member states, and  
 3720 service providers as are determined by the executive director to  
 3721 facilitate the administration of the tax laws of this state.

3722 Section 22. Section 213.2562, Florida Statutes, is created  
 3723 to read:

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3724 213.2562 Approval of software to calculate tax.—The  
3725 department shall review software submitted to the governing  
3726 board for certification as a certified automated system. If the  
3727 software accurately reflects the taxability of product  
3728 categories included in the program, the department shall certify  
3729 the approval of the software to the governing board.

3730 Section 23. Section 213.2567, Florida Statutes, is created  
3731 to read:

3732 213.2567 Simplified Sales and Use Tax Agreement  
3733 registration, certification, liability, and audit.—

3734 (1) A seller that registers under the agreement agrees to  
3735 collect and remit sales and use taxes for all taxable sales into  
3736 the member states, including member states joining after the  
3737 seller's registration. Withdrawal or revocation of this state  
3738 does not relieve a seller of its responsibility to remit taxes  
3739 previously or subsequently collected on behalf of the state.

3740 (a) When registering, the seller may select a model 1,  
3741 model 2, or model 3 method of remittance or other method allowed  
3742 by state law to remit the taxes collected.

3743 (b) A seller may be registered by an agent. Such an  
3744 appointment must be in writing and submitted to a member state.

3745 (2) (a) A certified service provider is the agent of a  
3746 model 1 seller with whom the certified service provider has  
3747 contracted for the collection and remittance of sales and use  
3748 taxes. As the model 1 seller's agent, the certified service  
3749 provider is liable for sales and use tax due this state on all  
3750 sales transactions it processes for the model 1 seller, except  
3751 as set out in paragraph (b).

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3752 (b) A model 1 seller is not liable to the state for sales  
3753 or use tax due on transactions processed by the certified  
3754 service provider unless the model 1 seller has misrepresented  
3755 the type of items it sells or has committed fraud. In the  
3756 absence of probable cause to believe that the model 1 seller has  
3757 committed fraud or made a material misrepresentation, the model  
3758 1 seller is not subject to audit on the transactions processed  
3759 by the certified service provider. A model 1 seller is subject  
3760 to audit for transactions that have not been processed by the  
3761 certified service provider. The member states acting jointly may  
3762 perform a system check of the model 1 seller and review the  
3763 model 1 seller's procedures to determine if the certified  
3764 service provider's system is functioning properly and to  
3765 determine the extent to which the model 1 seller's transactions  
3766 are being processed by the certified service provider.

3767 (3) A model 2 seller that uses a certified automated  
3768 system remains responsible and is liable to this state for  
3769 reporting and remitting tax. However, a model 2 seller is not  
3770 responsible for errors in reliance on a certified automated  
3771 system.

3772 (4) A model 3 seller is liable for the failure of the  
3773 proprietary system to meet the performance standard.

3774 (5) A person that provides a certified automated system is  
3775 not liable for errors contained in software that was approved by  
3776 the department and certified to the governing board. However,  
3777 such person:

3778 (a) Is responsible for the proper functioning of that  
3779 system;

3780           (b) Is liable to this state for underpayments of tax  
 3781 attributable to errors in the functioning of the certified  
 3782 automated system; and

3783           (c) Is liable for the misclassification of an item or  
 3784 transaction that is not corrected within 10 days after the  
 3785 receipt of notice from the department.

3786           (6) The executive director of the department or his or her  
 3787 designee may certify a person as a certified service provider if  
 3788 the person meets all of the following requirements:

3789           (a) Uses a certified automated system;

3790           (b) Integrates its certified automated system with the  
 3791 system of a seller for whom the person collects tax so that the  
 3792 tax due on a sale is determined at the time of the sale;

3793           (c) Agrees to remit the taxes it collects at the time and  
 3794 in the manner specified by chapter 212;

3795           (d) Agrees to file returns on behalf of the sellers for  
 3796 whom it collects tax;

3797           (e) Agrees to protect the privacy of tax information it  
 3798 obtains in accordance with s. 213.053; and

3799           (f) Enters into a contract with the department and agrees  
 3800 to comply with the terms of the contract.

3801           (7) The department shall review software submitted to the  
 3802 governing board for certification as a certified automated  
 3803 system. The executive director of the department shall certify  
 3804 the approval of the software to the governing board if the  
 3805 software:

3806           (a) Determines the applicable state and local sales and  
 3807 use tax rate for a transaction in accordance with s. 212.06(3)



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3808 | and (4);  
 3809 |       (b) Determines whether an item is exempt from tax;  
 3810 |       (c) Determines the amount of tax to be remitted for each  
 3811 | taxpayer for a reporting period; and  
 3812 |       (d) Can generate reports and returns as required by the  
 3813 | governing board.  
 3814 |       (8) The department may by rule establish one or more sales  
 3815 | tax performance standards for model 3 sellers.  
 3816 |       (9) Disclosure of information necessary under this section  
 3817 | must be made according to a written agreement between the  
 3818 | executive director of the department or his or her designee and  
 3819 | the certified service provider. The certified service provider  
 3820 | is bound by the same requirements of confidentiality as the  
 3821 | department employees. Breach of confidentiality is a misdemeanor  
 3822 | of the first degree, punishable as provided in s. 775.082 or s.  
 3823 | 775.083.  
 3824 |       Section 24. It is the intent of the Legislature to urge  
 3825 | the United States Congress to consider adequate protections for  
 3826 | small businesses engaging in both offline and online  
 3827 | transactions from added costs, administrative burdens, and  
 3828 | requirements imposed on intermediaries relating to the  
 3829 | collection and remittance of sales and use tax.  
 3830 |       Section 25. The executive director of the Department of  
 3831 | Revenue may adopt emergency rules to implement this act.  
 3832 | Notwithstanding any other law, the emergency rules shall remain  
 3833 | effective for 6 months after the date of adoption and may be  
 3834 | renewed during the pendency of procedures to adopt rules  
 3835 | addressing the subject of the emergency rules.

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3836 Section 26. Paragraph (a) of subsection (5) of section  
 3837 11.45, Florida Statutes, is amended to read:  
 3838 11.45 Definitions; duties; authorities; reports; rules.—  
 3839 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—  
 3840 (a) The Legislative Auditing Committee shall direct the  
 3841 Auditor General to make an audit of any municipality whenever  
 3842 petitioned to do so by at least 20 percent of the registered  
 3843 electors in the last general election of that municipality  
 3844 pursuant to this subsection. The supervisor of elections of the  
 3845 county in which the municipality is located shall certify  
 3846 whether or not the petition contains the signatures of at least  
 3847 20 percent of the registered electors of the municipality. After  
 3848 the completion of the audit, the Auditor General shall determine  
 3849 whether the municipality has the fiscal resources necessary to  
 3850 pay the cost of the audit. The municipality shall pay the cost  
 3851 of the audit within 90 days after the Auditor General's  
 3852 determination that the municipality has the available resources.  
 3853 If the municipality fails to pay the cost of the audit, the  
 3854 Department of Revenue shall, upon certification of the Auditor  
 3855 General, withhold from that portion of the distribution pursuant  
 3856 to s. 212.20(5)(e)5. ~~212.20(6)(d)5.~~ which is distributable to  
 3857 such municipality, a sum sufficient to pay the cost of the audit  
 3858 and shall deposit that sum into the General Revenue Fund of the  
 3859 state.

3860 Section 27. Subsection (6) of section 196.012, Florida  
 3861 Statutes, is amended to read:  
 3862 196.012 Definitions.—For the purpose of this chapter, the  
 3863 following terms are defined as follows, except where the context

3864 clearly indicates otherwise:  
 3865 (6) Governmental, municipal, or public purpose or function  
 3866 shall be deemed to be served or performed when the lessee under  
 3867 any leasehold interest created in property of the United States,  
 3868 the state or any of its political subdivisions, or any  
 3869 municipality, agency, special district, authority, or other  
 3870 public body corporate of the state is demonstrated to perform a  
 3871 function or serve a governmental purpose which could properly be  
 3872 performed or served by an appropriate governmental unit or which  
 3873 is demonstrated to perform a function or serve a purpose which  
 3874 would otherwise be a valid subject for the allocation of public  
 3875 funds. For purposes of the preceding sentence, an activity  
 3876 undertaken by a lessee which is permitted under the terms of its  
 3877 lease of real property designated as an aviation area on an  
 3878 airport layout plan which has been approved by the Federal  
 3879 Aviation Administration and which real property is used for the  
 3880 administration, operation, business offices and activities  
 3881 related specifically thereto in connection with the conduct of  
 3882 an aircraft full service fixed base operation which provides  
 3883 goods and services to the general aviation public in the  
 3884 promotion of air commerce shall be deemed an activity which  
 3885 serves a governmental, municipal, or public purpose or function.  
 3886 Any activity undertaken by a lessee which is permitted under the  
 3887 terms of its lease of real property designated as a public  
 3888 airport as defined in s. 332.004(14) by municipalities,  
 3889 agencies, special districts, authorities, or other public bodies  
 3890 corporate and public bodies politic of the state, a spaceport as  
 3891 defined in s. 331.303, or which is located in a deepwater port

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3892 identified in s. 403.021(9)(b) and owned by one of the foregoing  
3893 governmental units, subject to a leasehold or other possessory  
3894 interest of a nongovernmental lessee that is deemed to perform  
3895 an aviation, airport, aerospace, maritime, or port purpose or  
3896 operation shall be deemed an activity that serves a  
3897 governmental, municipal, or public purpose. The use by a lessee,  
3898 licensee, or management company of real property or a portion  
3899 thereof as a convention center, visitor center, sports facility  
3900 with permanent seating, concert hall, arena, stadium, park, or  
3901 beach is deemed a use that serves a governmental, municipal, or  
3902 public purpose or function when access to the property is open  
3903 to the general public with or without a charge for admission. If  
3904 property deeded to a municipality by the United States is  
3905 subject to a requirement that the Federal Government, through a  
3906 schedule established by the Secretary of the Interior, determine  
3907 that the property is being maintained for public historic  
3908 preservation, park, or recreational purposes and if those  
3909 conditions are not met the property will revert back to the  
3910 Federal Government, then such property shall be deemed to serve  
3911 a municipal or public purpose. The term "governmental purpose"  
3912 also includes a direct use of property on federal lands in  
3913 connection with the Federal Government's Space Exploration  
3914 Program or spaceport activities as defined in s. 212.02~~(22)~~.  
3915 Real property and tangible personal property owned by the  
3916 Federal Government or Space Florida and used for defense and  
3917 space exploration purposes or which is put to a use in support  
3918 thereof shall be deemed to perform an essential national  
3919 governmental purpose and shall be exempt. "Owned by the lessee"

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3920 as used in this chapter does not include personal property,  
 3921 buildings, or other real property improvements used for the  
 3922 administration, operation, business offices and activities  
 3923 related specifically thereto in connection with the conduct of  
 3924 an aircraft full service fixed based operation which provides  
 3925 goods and services to the general aviation public in the  
 3926 promotion of air commerce provided that the real property is  
 3927 designated as an aviation area on an airport layout plan  
 3928 approved by the Federal Aviation Administration. For purposes of  
 3929 determination of "ownership," buildings and other real property  
 3930 improvements which will revert to the airport authority or other  
 3931 governmental unit upon expiration of the term of the lease shall  
 3932 be deemed "owned" by the governmental unit and not the lessee.  
 3933 Providing two-way telecommunications services to the public for  
 3934 hire by the use of a telecommunications facility, as defined in  
 3935 s. 364.02(14), and for which a certificate is required under  
 3936 chapter 364 does not constitute an exempt use for purposes of s.  
 3937 196.199, unless the telecommunications services are provided by  
 3938 the operator of a public-use airport, as defined in s. 332.004,  
 3939 for the operator's provision of telecommunications services for  
 3940 the airport or its tenants, concessionaires, or licensees, or  
 3941 unless the telecommunications services are provided by a public  
 3942 hospital.

3943 Section 28. Paragraph (b) of subsection (1) and paragraph  
 3944 (b) of subsection (2) of section 202.18, Florida Statutes, are  
 3945 amended to read:

3946 202.18 Allocation and disposition of tax proceeds.—The  
 3947 proceeds of the communications services taxes remitted under

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3948 | this chapter shall be treated as follows:

3949 |       (1) The proceeds of the taxes remitted under s.  
3950 | 202.12(1)(a) shall be divided as follows:

3951 |       (b) The remaining portion shall be distributed according  
3952 | to s. 212.20(5) ~~212.20(6)~~.

3953 |       (2) The proceeds of the taxes remitted under s.  
3954 | 202.12(1)(b) shall be divided as follows:

3955 |       (b) Sixty-three percent of the remainder shall be  
3956 | allocated to the state and distributed pursuant to s. 212.20(5)  
3957 | ~~212.20(6)~~, except that the proceeds allocated pursuant to s.  
3958 | 212.20(5)(e)2. ~~212.20(6)(d)2.~~ shall be prorated to the  
3959 | participating counties in the same proportion as that month's  
3960 | collection of the taxes and fees imposed pursuant to chapter 212  
3961 | and paragraph (1)(b).

3962 |       Section 29. Paragraphs (f), (g), (h), and (i) of  
3963 | subsection (1) of section 203.01, Florida Statutes, are amended  
3964 | to read:

3965 |       203.01 Tax on gross receipts for utility and  
3966 | communications services.—

3967 |       (1)

3968 |       (f) Any person who imports into this state electricity,  
3969 | natural gas, or manufactured gas, or severs natural gas, for  
3970 | that person's own use or consumption as a substitute for  
3971 | purchasing utility, transportation, or delivery services taxable  
3972 | under this chapter and who cannot demonstrate payment of the tax  
3973 | imposed by this chapter must register with the Department of  
3974 | Revenue and pay into the State Treasury each month an amount  
3975 | equal to the cost price of such electricity, natural gas, or

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3976 manufactured gas times the rate set forth in paragraph (b),  
 3977 reduced by the amount of any like tax lawfully imposed on and  
 3978 paid by the person from whom the electricity, natural gas, or  
 3979 manufactured gas was purchased or any person who provided  
 3980 delivery service or transportation service in connection with  
 3981 the electricity, natural gas, or manufactured gas. For purposes  
 3982 of this paragraph, the term "cost price" has the meaning  
 3983 ascribed in s. 212.02~~(4)~~. The methods of demonstrating proof of  
 3984 payment and the amount of such reductions in tax shall be made  
 3985 according to rules of the Department of Revenue.

3986 (g) Electricity produced by cogeneration or by small power  
 3987 producers which is transmitted and distributed by a public  
 3988 utility between two locations of a customer of the utility  
 3989 pursuant to s. 366.051 is subject to the tax imposed by this  
 3990 section. The tax shall be applied to the cost price of such  
 3991 electricity as provided in s. 212.02~~(4)~~ and shall be paid each  
 3992 month by the producer of such electricity.

3993 (h) Electricity produced by cogeneration or by small power  
 3994 producers during the 12-month period ending June 30 of each year  
 3995 which is in excess of nontaxable electricity produced during the  
 3996 12-month period ending June 30, 1990, is subject to the tax  
 3997 imposed by this section. The tax shall be applied to the cost  
 3998 price of such electricity as provided in s. 212.02~~(4)~~ and shall  
 3999 be paid each month, beginning with the month in which total  
 4000 production exceeds the production of nontaxable electricity for  
 4001 the 12-month period ending June 30, 1990. For purposes of this  
 4002 paragraph, "nontaxable electricity" means electricity produced  
 4003 by cogeneration or by small power producers which is not subject

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4004 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)  
 4005 may be credited against taxes due under this paragraph.  
 4006 Electricity generated as part of an industrial manufacturing  
 4007 process which manufactures products from phosphate rock, raw  
 4008 wood fiber, paper, citrus, or any agricultural product shall not  
 4009 be subject to the tax imposed by this paragraph. "Industrial  
 4010 manufacturing process" means the entire process conducted at the  
 4011 location where the process takes place.

4012 (i) Any person other than a cogenerator or small power  
 4013 producer described in paragraph (h) who produces for his or her  
 4014 own use electrical energy which is a substitute for electrical  
 4015 energy produced by an electric utility as defined in s. 366.02  
 4016 is subject to the tax imposed by this section. The tax shall be  
 4017 applied to the cost price of such electrical energy as provided  
 4018 in s. 212.02~~(4)~~ and shall be paid each month. The provisions of  
 4019 this paragraph do not apply to any electrical energy produced  
 4020 and used by an electric utility.

4021 Section 30. Paragraph (a) of subsection (1) of section  
 4022 212.031, Florida Statutes, is amended to read:

4023 212.031 Tax on rental or license fee for use of real  
 4024 property.—

4025 (1)(a) It is declared to be the legislative intent that  
 4026 every person is exercising a taxable privilege who engages in  
 4027 the business of renting, leasing, letting, or granting a license  
 4028 for the use of any real property unless such property is:

- 4029 1. Assessed as agricultural property under s. 193.461.
- 4030 2. Used exclusively as dwelling units.
- 4031 3. Property subject to tax on parking, docking, or storage



4032 spaces under s. 212.03(6).

4033 4. Recreational property or the common elements of a  
 4034 condominium when subject to a lease between the developer or  
 4035 owner thereof and the condominium association in its own right  
 4036 or as agent for the owners of individual condominium units or  
 4037 the owners of individual condominium units. However, only the  
 4038 lease payments on such property shall be exempt from the tax  
 4039 imposed by this chapter, and any other use made by the owner or  
 4040 the condominium association shall be fully taxable under this  
 4041 chapter.

4042 5. A public or private street or right-of-way and poles,  
 4043 conduits, fixtures, and similar improvements located on such  
 4044 streets or rights-of-way, occupied or used by a utility or  
 4045 provider of communications services, as defined by s. 202.11,  
 4046 for utility or communications or television purposes. For  
 4047 purposes of this subparagraph, the term "utility" means any  
 4048 person providing utility services as defined in s. 203.012. This  
 4049 exception also applies to property, wherever located, on which  
 4050 the following are placed: towers, antennas, cables, accessory  
 4051 structures, or equipment, not including switching equipment,  
 4052 used in the provision of mobile communications services as  
 4053 defined in s. 202.11. For purposes of this chapter, towers used  
 4054 in the provision of mobile communications services, as defined  
 4055 in s. 202.11, are considered to be fixtures.

4056 6. A public street or road which is used for  
 4057 transportation purposes.

4058 7. Property used at an airport exclusively for the purpose  
 4059 of aircraft landing or aircraft taxiing or property used by an

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4060 | airline for the purpose of loading or unloading passengers or  
 4061 | property onto or from aircraft or for fueling aircraft.

4062 |       8.a. Property used at a port authority, as defined in s.  
 4063 | 315.02(2), exclusively for the purpose of oceangoing vessels or  
 4064 | tugs docking, or such vessels mooring on property used by a port  
 4065 | authority for the purpose of loading or unloading passengers or  
 4066 | cargo onto or from such a vessel, or property used at a port  
 4067 | authority for fueling such vessels, or to the extent that the  
 4068 | amount paid for the use of any property at the port is based on  
 4069 | the charge for the amount of tonnage actually imported or  
 4070 | exported through the port by a tenant.

4071 |       b. The amount charged for the use of any property at the  
 4072 | port in excess of the amount charged for tonnage actually  
 4073 | imported or exported shall remain subject to tax except as  
 4074 | provided in sub-subparagraph a.

4075 |       9. Property used as an integral part of the performance of  
 4076 | qualified production services. As used in this subparagraph, the  
 4077 | term "qualified production services" means any activity or  
 4078 | service performed directly in connection with the production of  
 4079 | a qualified motion picture, as defined in s. 212.06(1)(b), and  
 4080 | includes:

4081 |       a. Photography, sound and recording, casting, location  
 4082 | managing and scouting, shooting, creation of special and optical  
 4083 | effects, animation, adaptation (language, media, electronic, or  
 4084 | otherwise), technological modifications, computer graphics, set  
 4085 | and stage support (such as electricians, lighting designers and  
 4086 | operators, greensmen, prop managers and assistants, and grips),  
 4087 | wardrobe (design, preparation, and management), hair and makeup

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4088 (design, production, and application), performing (such as  
 4089 acting, dancing, and playing), designing and executing stunts,  
 4090 coaching, consulting, writing, scoring, composing,  
 4091 choreographing, script supervising, directing, producing,  
 4092 transmitting dailies, dubbing, mixing, editing, cutting,  
 4093 looping, printing, processing, duplicating, storing, and  
 4094 distributing;

4095 b. The design, planning, engineering, construction,  
 4096 alteration, repair, and maintenance of real or personal property  
 4097 including stages, sets, props, models, paintings, and facilities  
 4098 principally required for the performance of those services  
 4099 listed in sub-subparagraph a.; and

4100 c. Property management services directly related to  
 4101 property used in connection with the services described in sub-  
 4102 subparagraphs a. and b.

4103  
 4104 This exemption will inure to the taxpayer upon presentation of  
 4105 the certificate of exemption issued to the taxpayer under the  
 4106 provisions of s. 288.1258.

4107 10. Leased, subleased, licensed, or rented to a person  
 4108 providing food and drink concessionaire services within the  
 4109 premises of a convention hall, exhibition hall, auditorium,  
 4110 stadium, theater, arena, civic center, performing arts center,  
 4111 publicly owned recreational facility, or any business operated  
 4112 under a permit issued pursuant to chapter 550. A person  
 4113 providing retail concessionaire services involving the sale of  
 4114 food and drink or other tangible personal property within the  
 4115 premises of an airport shall be subject to tax on the rental of

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4116 | real property used for that purpose, but shall not be subject to  
 4117 | the tax on any license to use the property. For purposes of this  
 4118 | subparagraph, the term "sale" shall not include the leasing of  
 4119 | tangible personal property.

4120 |       11. Property occupied pursuant to an instrument calling  
 4121 | for payments which the department has declared, in a Technical  
 4122 | Assistance Advisement issued on or before March 15, 1993, to be  
 4123 | nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
 4124 | Administrative Code; provided that this subparagraph shall only  
 4125 | apply to property occupied by the same person before and after  
 4126 | the execution of the subject instrument and only to those  
 4127 | payments made pursuant to such instrument, exclusive of renewals  
 4128 | and extensions thereof occurring after March 15, 1993.

4129 |       12. Property used or occupied predominantly for space  
 4130 | flight business purposes. As used in this subparagraph, "space  
 4131 | flight business" means the manufacturing, processing, or  
 4132 | assembly of a space facility, space propulsion system, space  
 4133 | vehicle, satellite, or station of any kind possessing the  
 4134 | capacity for space flight, as defined by s. 212.02~~(23)~~, or  
 4135 | components thereof, and also means the following activities  
 4136 | supporting space flight: vehicle launch activities, flight  
 4137 | operations, ground control or ground support, and all  
 4138 | administrative activities directly related thereto. Property  
 4139 | shall be deemed to be used or occupied predominantly for space  
 4140 | flight business purposes if more than 50 percent of the  
 4141 | property, or improvements thereon, is used for one or more space  
 4142 | flight business purposes. Possession by a landlord, lessor, or  
 4143 | licensor of a signed written statement from the tenant, lessee,

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4144 or licensee claiming the exemption shall relieve the landlord,  
 4145 lessor, or licensor from the responsibility of collecting the  
 4146 tax, and the department shall look solely to the tenant, lessee,  
 4147 or licensee for recovery of such tax if it determines that the  
 4148 exemption was not applicable.

4149 13. Rented, leased, subleased, or licensed to a person  
 4150 providing telecommunications, data systems management, or  
 4151 Internet services at a publicly or privately owned convention  
 4152 hall, civic center, or meeting space at a public lodging  
 4153 establishment as defined in s. 509.013. This subparagraph  
 4154 applies only to that portion of the rental, lease, or license  
 4155 payment that is based upon a percentage of sales, revenue  
 4156 sharing, or royalty payments and not based upon a fixed price.  
 4157 This subparagraph is intended to be clarifying and remedial in  
 4158 nature and shall apply retroactively. This subparagraph does not  
 4159 provide a basis for an assessment of any tax not paid, or create  
 4160 a right to a refund of any tax paid, pursuant to this section  
 4161 before July 1, 2010.

4162 Section 31. Paragraph (b) of subsection (1) of section  
 4163 212.052, Florida Statutes, is amended to read:

4164 212.052 Research or development costs; exemption.—

4165 (1) For the purposes of the exemption provided in this  
 4166 section:

4167 (b) The term "costs" means cost price as defined in s.  
 4168 212.02~~(4)~~.

4169 Section 32. Paragraph (c) of subsection (2), paragraph (c)  
 4170 of subsection (3), and paragraphs (c) and (i) of subsection (8)  
 4171 of section 212.055, Florida Statutes, are amended to read:

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4172           212.055 Discretionary sales surtaxes; legislative intent;  
 4173 authorization and use of proceeds.—It is the legislative intent  
 4174 that any authorization for imposition of a discretionary sales  
 4175 surtax shall be published in the Florida Statutes as a  
 4176 subsection of this section, irrespective of the duration of the  
 4177 levy. Each enactment shall specify the types of counties  
 4178 authorized to levy; the rate or rates which may be imposed; the  
 4179 maximum length of time the surtax may be imposed, if any; the  
 4180 procedure which must be followed to secure voter approval, if  
 4181 required; the purpose for which the proceeds may be expended;  
 4182 and such other requirements as the Legislature may provide.  
 4183 Taxable transactions and administrative procedures shall be as  
 4184 provided in s. 212.054.

4185           (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

4186           (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
 4187 levied under this subsection shall be distributed to the county  
 4188 and the municipalities within such county in which the surtax  
 4189 was collected, according to:

4190           1. An interlocal agreement between the county governing  
 4191 authority and the governing bodies of the municipalities  
 4192 representing a majority of the county's municipal population,  
 4193 which agreement may include a school district with the consent  
 4194 of the county governing authority and the governing bodies of  
 4195 the municipalities representing a majority of the county's  
 4196 municipal population; or

4197           2. If there is no interlocal agreement, according to the  
 4198 formula provided in s. 218.62.

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4200 Any change in the distribution formula must take effect on the  
 4201 first day of any month that begins at least 60 days after  
 4202 written notification of that change has been made to the  
 4203 department.

4204 (3) SMALL COUNTY SURTAX.—

4205 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the surtax  
 4206 levied under this subsection shall be distributed to the county  
 4207 and the municipalities within the county in which the surtax was  
 4208 collected, according to:

4209 1. An interlocal agreement between the county governing  
 4210 authority and the governing bodies of the municipalities  
 4211 representing a majority of the county's municipal population,  
 4212 which agreement may include a school district with the consent  
 4213 of the county governing authority and the governing bodies of  
 4214 the municipalities representing a majority of the county's  
 4215 municipal population; or

4216 2. If there is no interlocal agreement, according to the  
 4217 formula provided in s. 218.62.

4218  
 4219 Any change in the distribution formula shall take effect on the  
 4220 first day of any month that begins at least 60 days after  
 4221 written notification of that change has been made to the  
 4222 department.

4223 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

4224 (c) Pursuant to s. 212.054~~(4)~~, the proceeds of the  
 4225 discretionary sales surtax collected under this subsection, less  
 4226 an administrative fee that may be retained by the Department of  
 4227 Revenue, shall be distributed by the department to the county.

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4228 The county shall distribute the proceeds it receives from the  
4229 department to the participating jurisdictions that have entered  
4230 into an interlocal agreement with the county under this  
4231 subsection. The county may also charge an administrative fee for  
4232 receiving and distributing the surtax in the amount of the  
4233 actual costs incurred, not to exceed 2 percent of the surtax  
4234 collected.

4235 (i) Surtax collections shall be initiated on January 1 of  
4236 the year following a successful referendum ~~in order to coincide~~  
4237 ~~with s. 212.054(5)~~.

4238 Section 33. Subsection (3) of section 212.13, Florida  
4239 Statutes, is amended to read:

4240 212.13 Records required to be kept; power to inspect;  
4241 audit procedure.—

4242 (3) For the purpose of enforcement of this chapter, every  
4243 manufacturer and seller of tangible personal property or  
4244 services licensed within this state is required to permit the  
4245 department to examine his or her books and records at all  
4246 reasonable hours, and, upon his or her refusal, the department  
4247 may require him or her to permit such examination by resort to  
4248 the circuit courts of this state, subject however to the right  
4249 of removal of the cause to the judicial circuit wherein such  
4250 person's business is located or wherein such person's books and  
4251 records are kept, provided further that such person's books and  
4252 records are kept within the state. When the dealer has made an  
4253 allocation or attribution pursuant to the definition of sales  
4254 price in s. 212.02~~(16)~~, the department may prescribe by rule the  
4255 books and records that must be made available during an audit of



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4256 the dealer's books and records and examples of methods for  
4257 determining the reasonableness thereof. Books and records kept  
4258 in the regular course of business include, but are not limited  
4259 to, general ledgers, price lists, cost records, customer  
4260 billings, billing system reports, tariffs, and other regulatory  
4261 filings and rules of regulatory authorities. Such record may be  
4262 required to be made available to the department in an electronic  
4263 format when so kept by the dealer. The dealer may support the  
4264 allocation of charges with books and records kept in the regular  
4265 course of business covering the dealer's entire service area,  
4266 including territories outside this state. During an audit, the  
4267 department may reasonably require production of any additional  
4268 books and records found necessary to assist in its  
4269 determination.

4270 Section 34. Subsection (1) of section 212.15, Florida  
4271 Statutes, is amended to read:

4272 212.15 Taxes declared state funds; penalties for failure  
4273 to remit taxes; due and delinquent dates; judicial review.—

4274 (1) The taxes imposed by this chapter shall, ~~except as~~  
4275 ~~provided in s. 212.06(5)(a)2.e.,~~ become state funds at the  
4276 moment of collection and shall for each month be due to the  
4277 department on the first day of the succeeding month and be  
4278 delinquent on the 21st day of such month. All returns postmarked  
4279 after the 20th day of such month are delinquent.

4280 Section 35. Subsection (3) of section 213.015, Florida  
4281 Statutes, is amended to read:

4282 213.015 Taxpayer rights.—There is created a Florida  
4283 Taxpayer's Bill of Rights to guarantee that the rights, privacy,

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4284 and property of Florida taxpayers are adequately safeguarded and  
 4285 protected during tax assessment, collection, and enforcement  
 4286 processes administered under the revenue laws of this state. The  
 4287 Taxpayer's Bill of Rights compiles, in one document, brief but  
 4288 comprehensive statements which explain, in simple, nontechnical  
 4289 terms, the rights and obligations of the Department of Revenue  
 4290 and taxpayers. Section 192.0105 provides additional rights  
 4291 afforded to payors of property taxes and assessments. The rights  
 4292 afforded taxpayers to ensure that their privacy and property are  
 4293 safeguarded and protected during tax assessment and collection  
 4294 are available only insofar as they are implemented in other  
 4295 parts of the Florida Statutes or rules of the Department of  
 4296 Revenue. The rights so guaranteed Florida taxpayers in the  
 4297 Florida Statutes and the departmental rules are:

4298 (3) The right to be represented or advised by counsel or  
 4299 other qualified representatives at any time in administrative  
 4300 interactions with the department, the right to procedural  
 4301 safeguards with respect to recording of interviews during tax  
 4302 determination or collection processes conducted by the  
 4303 department, the right to be treated in a professional manner by  
 4304 department personnel, and the right to have audits, inspections  
 4305 of records, and interviews conducted at a reasonable time and  
 4306 place except in criminal and internal investigations (see ss.  
 4307 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3),  
 4308 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (11)~~(13)~~,  
 4309 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

4310 Section 36. Subsection (3) of section 218.245, Florida  
 4311 Statutes, is amended to read:

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4312           218.245 Revenue sharing; apportionment.—  
 4313           (3) Revenues attributed to the increase in distribution to  
 4314 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
 4315 212.20(5)(e)5. ~~212.20(6)(d)5.~~ from 1.0715 percent to 1.3409  
 4316 percent provided in chapter 2003-402, Laws of Florida, shall be  
 4317 distributed to each eligible municipality and any unit of local  
 4318 government that is consolidated as provided by s. 9, Art. VIII  
 4319 of the State Constitution of 1885, as preserved by s. 6(e), Art.  
 4320 VIII, 1968 revised constitution, as follows: each eligible local  
 4321 government's allocation shall be based on the amount it received  
 4322 from the half-cent sales tax under s. 218.61 in the prior state  
 4323 fiscal year divided by the total receipts under s. 218.61 in the  
 4324 prior state fiscal year for all eligible local governments.  
 4325 However, for the purpose of calculating this distribution, the  
 4326 amount received from the half-cent sales tax under s. 218.61 in  
 4327 the prior state fiscal year by a unit of local government which  
 4328 is consolidated as provided by s. 9, Art. VIII of the State  
 4329 Constitution of 1885, as amended, and as preserved by s. 6(e),  
 4330 Art. VIII, of the Constitution as revised in 1968, shall be  
 4331 reduced by 50 percent for such local government and for the  
 4332 total receipts. For eligible municipalities that began  
 4333 participating in the allocation of half-cent sales tax under s.  
 4334 218.61 in the previous state fiscal year, their annual receipts  
 4335 shall be calculated by dividing their actual receipts by the  
 4336 number of months they participated, and the result multiplied by  
 4337 12.  
 4338           Section 37. Subsections (5), (6), and (7) of section  
 4339 218.65, Florida Statutes, are amended to read:

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4340           218.65   Emergency distribution.—  
 4341           (5)   At the beginning of each fiscal year, the Department  
 4342 of Revenue shall calculate a base allocation for each eligible  
 4343 county equal to the difference between the current per capita  
 4344 limitation times the county's population, minus prior year  
 4345 ordinary distributions to the county pursuant to ss.  
 4346 212.20(5)(e)2. ~~212.20(6)(d)2.~~, 218.61, and 218.62. If moneys  
 4347 deposited into the Local Government Half-cent Sales Tax Clearing  
 4348 Trust Fund pursuant to s. 212.20(5)(e)3. ~~212.20(6)(d)3.~~,  
 4349 excluding moneys appropriated for supplemental distributions  
 4350 pursuant to subsection (8), for the current year are less than  
 4351 or equal to the sum of the base allocations, each eligible  
 4352 county shall receive a share of the appropriated amount  
 4353 proportional to its base allocation. If the deposited amount  
 4354 exceeds the sum of the base allocations, each county shall  
 4355 receive its base allocation, and the excess appropriated amount,  
 4356 less any amounts distributed under subsection (6), shall be  
 4357 distributed equally on a per capita basis among the eligible  
 4358 counties.  
 4359           (6)   If moneys deposited in the Local Government Half-cent  
 4360 Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(e)3.  
 4361 ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base  
 4362 allocation to each eligible county, the moneys in the trust fund  
 4363 may be used to provide a transitional distribution, as specified  
 4364 in this subsection, to certain counties whose population has  
 4365 increased. The transitional distribution shall be made available  
 4366 to each county that qualified for a distribution under  
 4367 subsection (2) in the prior year but does not, because of the

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4368 requirements of paragraph (2)(a), qualify for a distribution in  
 4369 the current year. Beginning on July 1 of the year following the  
 4370 year in which the county no longer qualifies for a distribution  
 4371 under subsection (2), the county shall receive two-thirds of the  
 4372 amount received in the prior year, and beginning July 1 of the  
 4373 second year following the year in which the county no longer  
 4374 qualifies for a distribution under subsection (2), the county  
 4375 shall receive one-third of the amount it received in the last  
 4376 year it qualified for the distribution under subsection (2). If  
 4377 insufficient moneys are available in the Local Government Half-  
 4378 cent Sales Tax Clearing Trust Fund to fully provide such a  
 4379 transitional distribution to each county that meets the  
 4380 eligibility criteria in this section, each eligible county shall  
 4381 receive a share of the available moneys proportional to the  
 4382 amount it would have received had moneys been sufficient to  
 4383 fully provide such a transitional distribution to each eligible  
 4384 county.

4385 (7) There is hereby annually appropriated from the Local  
 4386 Government Half-cent Sales Tax Clearing Trust Fund the  
 4387 distribution provided in s. 212.20(5)(e)3. ~~212.20(6)(d)3.~~ to be  
 4388 used for emergency and supplemental distributions pursuant to  
 4389 this section.

4390 Section 38. Paragraph (q) of subsection (1) of section  
 4391 288.1045, Florida Statutes, is amended to read:

4392 288.1045 Qualified defense contractor and space flight  
 4393 business tax refund program.—

4394 (1) DEFINITIONS.—As used in this section:

4395 (q) "Space flight business" means the manufacturing,

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4396 processing, or assembly of space flight technology products,  
 4397 space flight facilities, space flight propulsion systems, or  
 4398 space vehicles, satellites, or stations of any kind possessing  
 4399 the capability for space flight, as defined by s. 212.02~~(23)~~, or  
 4400 components thereof, and includes, in supporting space flight,  
 4401 vehicle launch activities, flight operations, ground control or  
 4402 ground support, and all administrative activities directly  
 4403 related to such activities. The term does not include products  
 4404 that are designed or manufactured for general commercial  
 4405 aviation or other uses even if those products may also serve an  
 4406 incidental use in space flight applications.

4407 Section 39. Paragraphs (a) and (d) of subsection (3) of  
 4408 section 288.11621, Florida Statutes, are amended to read:

4409 288.11621 Spring training baseball franchises.—

4410 (3) USE OF FUNDS.—

4411 (a) A certified applicant may use funds provided under s.  
 4412 212.20(5)(e)6.b. ~~212.20(6)(d)6.b.~~ only to:

4413 1. Serve the public purpose of acquiring, constructing,  
 4414 reconstructing, or renovating a facility for a spring training  
 4415 franchise.

4416 2. Pay or pledge for the payment of debt service on, or to  
 4417 fund debt service reserve funds, arbitrage rebate obligations,  
 4418 or other amounts payable with respect thereto, bonds issued for  
 4419 the acquisition, construction, reconstruction, or renovation of  
 4420 such facility, or for the reimbursement of such costs or the  
 4421 refinancing of bonds issued for such purposes.

4422 3. Assist in the relocation of a spring training franchise  
 4423 from one unit of local government to another only if the

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4424 governing board of the current host local government by a  
 4425 majority vote agrees to relocation.

4426 (d)1. All certified applicants must place unexpended state  
 4427 funds received pursuant to s. 212.20(5)(e)6.b. ~~212.20(6)(d)6.b.~~  
 4428 in a trust fund or separate account for use only as authorized  
 4429 in this section.

4430 2. A certified applicant may request that the Department  
 4431 of Revenue suspend further distributions of state funds made  
 4432 available under s. 212.20(5)(e)6.b. ~~212.20(6)(d)6.b.~~ for 12  
 4433 months after expiration of an existing agreement with a spring  
 4434 training franchise to provide the certified applicant with an  
 4435 opportunity to enter into a new agreement with a spring training  
 4436 franchise, at which time the distributions shall resume.

4437 3. The expenditure of state funds distributed to an  
 4438 applicant certified before July 1, 2010, must begin within 48  
 4439 months after the initial receipt of the state funds. In  
 4440 addition, the construction of, or capital improvements to, a  
 4441 spring training facility must be completed within 24 months  
 4442 after the project's commencement.

4443 Section 40. Subsection (6) of section 288.1169, Florida  
 4444 Statutes, is amended to read:

4445 288.1169 International Game Fish Association World Center  
 4446 facility.—

4447 (6) The department must recertify every 10 years that the  
 4448 facility is open, that the International Game Fish Association  
 4449 World Center continues to be the only international  
 4450 administrative headquarters, fishing museum, and Hall of Fame in  
 4451 the United States recognized by the International Game Fish

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4452 Association, and that the project is meeting the minimum  
 4453 projections for attendance or sales tax revenues as required at  
 4454 the time of original certification. If the facility is not  
 4455 recertified during this 10-year review as meeting the minimum  
 4456 projections, then funding shall be abated until certification  
 4457 criteria are met. If the project fails to generate \$1 million of  
 4458 annual revenues pursuant to paragraph (2)(e), the distribution  
 4459 of revenues pursuant to s. 212.20(5)(e)6.d. ~~212.20(6)(d)6.d.~~  
 4460 shall be reduced to an amount equal to \$83,333 multiplied by a  
 4461 fraction, the numerator of which is the actual revenues  
 4462 generated and the denominator of which is \$1 million. Such  
 4463 reduction remains in effect until revenues generated by the  
 4464 project in a 12-month period equal or exceed \$1 million.

4465 Section 41. Subsection (8) of section 551.102, Florida  
 4466 Statutes, is amended to read:

4467 551.102 Definitions.—As used in this chapter, the term:

4468 (8) "Slot machine" means any mechanical or electrical  
 4469 contrivance, terminal that may or may not be capable of  
 4470 downloading slot games from a central server system, machine, or  
 4471 other device that, upon insertion of a coin, bill, ticket,  
 4472 token, or similar object or upon payment of any consideration  
 4473 whatsoever, including the use of any electronic payment system  
 4474 except a credit card or debit card, is available to play or  
 4475 operate, the play or operation of which, whether by reason of  
 4476 skill or application of the element of chance or both, may  
 4477 deliver or entitle the person or persons playing or operating  
 4478 the contrivance, terminal, machine, or other device to receive  
 4479 cash, billets, tickets, tokens, or electronic credits to be



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4480 exchanged for cash or to receive merchandise or anything of  
4481 value whatsoever, whether the payoff is made automatically from  
4482 the machine or manually. The term includes associated equipment  
4483 necessary to conduct the operation of the contrivance, terminal,  
4484 machine, or other device. Slot machines may use spinning reels,  
4485 video displays, or both. A slot machine is not a "coin-operated  
4486 amusement machine" as defined in s. 212.02~~(24)~~ or an amusement  
4487 game or machine as described in s. 849.161, and slot machines  
4488 are not subject to the tax imposed by s. 212.05(1)(h).

4489 Section 42. Paragraph (a) of subsection (1) of section  
4490 790.0655, Florida Statutes, is amended to read:

4491 790.0655 Purchase and delivery of handguns; mandatory  
4492 waiting period; exceptions; penalties.—

4493 (1)(a) There shall be a mandatory 3-day waiting period,  
4494 which shall be 3 days, excluding weekends and legal holidays,  
4495 between the purchase and the delivery at retail of any handgun.  
4496 "Purchase" means the transfer of money or other valuable  
4497 consideration to the retailer. "Handgun" means a firearm capable  
4498 of being carried and used by one hand, such as a pistol or  
4499 revolver. "Retailer" means and includes every person engaged in  
4500 the business of making sales at retail or for distribution, or  
4501 use, or consumption, or storage to be used or consumed in this  
4502 state, as defined in s. 212.02~~(13)~~.

4503 Section 43. Section 212.0596, Florida Statutes, is  
4504 repealed.

4505 Section 44. Effective November 1, 2013, paragraphs (a),  
4506 (b), (c), and (d) of subsection (4) of section 1011.62, Florida  
4507 Statutes, are amended to read:

4508           1011.62 Funds for operation of schools.—If the annual  
 4509 allocation from the Florida Education Finance Program to each  
 4510 district for operation of schools is not determined in the  
 4511 annual appropriations act or the substantive bill implementing  
 4512 the annual appropriations act, it shall be determined as  
 4513 follows:

4514           (4) COMPUTATION FOR ALLOCATING EDUCATION SURTAX PROCEEDS  
 4515 ~~OF DISTRICT REQUIRED LOCAL EFFORT.~~—The Legislature shall  
 4516 prescribe as an item in the General Appropriations Act for each  
 4517 fiscal year the aggregate amount of revenue from property taxes  
 4518 that would otherwise be required local effort for all school  
 4519 districts collectively ~~as an item in the General Appropriations~~  
 4520 ~~Act for each fiscal year.~~ The amount that shall be appropriated  
 4521 to each district shall be provided ~~provide~~ annually from the  
 4522 State Schools Trust Fund and shall replace revenue that would  
 4523 otherwise have to be raised by local property taxes, toward the  
 4524 cost of the Florida Education Finance Program for kindergarten  
 4525 through grade 12 programs using the following calculations ~~shall~~  
 4526 ~~be calculated as follows:~~

4527           (a) Estimated taxable value calculations.—  
 4528           1.a. Not later than 2 working days prior to July 19, the  
 4529 Department of Revenue shall certify to the Commissioner of  
 4530 Education its most recent estimate of the taxable value for  
 4531 school purposes in each school district and the total for all  
 4532 school districts in the state for the current calendar year  
 4533 based on the latest available data obtained from the local  
 4534 property appraisers. The value certified shall be the taxable  
 4535 value for school purposes for that year, and no further

4536 adjustments shall be made, except those made pursuant to  
 4537 paragraphs (c) and (d), or an assessment roll change required by  
 4538 final judicial decisions as specified in paragraph (13) (b). Not  
 4539 later than July 19, the Commissioner of Education shall compute  
 4540 a millage rate, rounded to the next highest one one-thousandth  
 4541 of a mill, which, if ~~when~~ applied to 96 percent of the estimated  
 4542 state total taxable value for school purposes, would generate  
 4543 the prescribed aggregate amount of revenue from property taxes  
 4544 that would otherwise be required local effort for that year for  
 4545 all districts if proceeds of the education surtax were not  
 4546 available. ~~The Commissioner of Education shall certify to each~~  
 4547 ~~district school board the millage rate, computed as prescribed~~  
 4548 ~~in this subparagraph, as the minimum millage rate necessary to~~  
 4549 ~~provide the district required local effort for that year.~~

4550 b. The General Appropriations Act shall direct the  
 4551 computation of the statewide adjusted aggregate amount ~~for~~  
 4552 required ~~local effort~~ for all school districts collectively ~~from~~  
 4553 ~~ad valorem taxes~~ to ensure that no school district's allocation  
 4554 revenue from proceeds of the education surtax ~~required local~~  
 4555 ~~effort millage~~ will produce more than 90 percent of the  
 4556 district's total Florida Education Finance Program calculation  
 4557 as calculated and adopted by the Legislature, and the estimated  
 4558 adjustment of the ~~required local effort~~ millage rate of each  
 4559 district that would produce ~~produces~~ more than 90 percent of its  
 4560 total Florida Education Finance Program entitlement to a level  
 4561 that would be required to ~~will~~ produce only 90 percent of its  
 4562 total Florida Education Finance Program entitlement in the July  
 4563 calculation if proceeds of the education surtax were not

4564 available.

4565 2. On the same date as the certification in sub-  
 4566 subparagraph 1.a., the Department of Revenue shall certify to  
 4567 the Commissioner of Education for each district:

4568 a. Each year for which the property appraiser has  
 4569 certified the taxable value pursuant to s. 193.122(2) or (3), if  
 4570 applicable, since the prior certification under sub-subparagraph  
 4571 1.a.

4572 b. For each year identified in sub-subparagraph a., the  
 4573 taxable value certified by the appraiser pursuant to s.  
 4574 193.122(2) or (3), if applicable, since the prior certification  
 4575 under sub-subparagraph 1.a. This is the certification that  
 4576 reflects all final administrative actions of the value  
 4577 adjustment board.

4578 (b) Equalization of proceeds from the education surtax  
 4579 ~~required local effort.~~

4580 1. The Department of Revenue shall include with its  
 4581 certifications provided pursuant to paragraph (a) its most  
 4582 recent determination of the assessment level of the prior year's  
 4583 assessment roll for each county and for the state as a whole.

4584 2. The Commissioner of Education shall adjust the  
 4585 estimated ~~required local effort~~ millage that would otherwise be  
 4586 required of each district for the current year if proceeds from  
 4587 the education surtax were not available, computed pursuant to  
 4588 paragraph (a), as follows:

4589 a. The equalization factor for the prior year's assessment  
 4590 roll of each district shall be multiplied by 96 percent of the  
 4591 taxable value for school purposes shown on that roll and by the

4592 prior year's estimate of ~~required local effort~~ millage under  
 4593 this subsection, exclusive of any equalization adjustment made  
 4594 pursuant to this paragraph. The dollar amount so computed shall  
 4595 be the additional amount required from the proceeds of the  
 4596 education surtax ~~required local effort~~ for equalization for the  
 4597 current year.

4598 b. Such equalization factor shall be computed as the  
 4599 quotient of the prior year's assessment level of the state as a  
 4600 whole divided by the prior year's assessment level of the  
 4601 county, from which quotient shall be subtracted 1.

4602 c. The dollar amount of additional proceeds required from  
 4603 the education surtax ~~local effort~~ for equalization for each  
 4604 district shall be converted to an estimated ~~a~~ millage rate that  
 4605 would otherwise be required if proceeds from the education  
 4606 surtax were not available, based on 96 percent of the current  
 4607 year's taxable value for that district, and added to the  
 4608 estimated ~~required local effort~~ millage determined pursuant to  
 4609 paragraph (a) that would otherwise be required if proceeds from  
 4610 the education surtax were not available.

4611 3. ~~Notwithstanding the limitations imposed pursuant to s.~~  
 4612 ~~1011.71(1)~~, The total estimated ~~required local effort~~ millage,  
 4613 including additional proceeds required ~~local effort~~ for  
 4614 equalization, shall be an amount not to exceed 10 minus the  
 4615 maximum millage allowed as nonvoted discretionary millage,  
 4616 exclusive of millage authorized pursuant to s. 1011.71(2).  
 4617 Nothing herein shall be construed to allow a millage in excess  
 4618 of that authorized in s. 9, Art. VII of the State Constitution.

4619 4. For the purposes of this chapter, the term "assessment

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4620 level" means the value-weighted mean assessment ratio for the  
4621 county or state as a whole, as determined pursuant to s.  
4622 195.096, or as subsequently adjusted. However, for those parcels  
4623 studied pursuant to s. 195.096(3)(a)1. which are receiving the  
4624 assessment limitation set forth in s. 193.155, and for which the  
4625 assessed value is less than the just value, the department shall  
4626 use the assessed value in the numerator and the denominator of  
4627 such assessment ratio. In the event a court has adjudicated that  
4628 the department failed to establish an accurate estimate of an  
4629 assessment level of a county and recomputation resulting in an  
4630 accurate estimate based upon the evidence before the court was  
4631 not possible, that county shall be presumed to have an  
4632 assessment level equal to that of the state as a whole.

4633 5. If, in the prior year, taxes were levied against an  
4634 interim assessment roll pursuant to s. 193.1145, the assessment  
4635 level and prior year's nonexempt assessed valuation used for the  
4636 purposes of this paragraph shall be those of the interim  
4637 assessment roll.

4638 (c) Exclusion.—

4639 1. In those instances in which:

4640 a. There is litigation either attacking the authority of  
4641 the property appraiser to include certain property on the tax  
4642 assessment roll as taxable property or contesting the assessed  
4643 value of certain property on the tax assessment roll, and

4644 b. The assessed value of the property in contest involves  
4645 more than 6 percent of the total nonexempt assessment roll, the  
4646 plaintiff shall provide to the district school board of the  
4647 county in which the property is located and to the Department of

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4648 Education a certified copy of the petition and receipt for the  
 4649 good faith payment at the time they are filed with the court.

4650 2. For purposes of computing the amount of revenue from  
 4651 property taxes that would otherwise be required if proceeds from  
 4652 the education surtax were not available ~~local effort~~ for each  
 4653 district affected by such petition, the Department of Education  
 4654 shall exclude from the district's total nonexempt assessment  
 4655 roll the assessed value of the property in contest and shall add  
 4656 an appropriate ~~the~~ amount for allocation to the district from  
 4657 the proceeds of the education surtax ~~of the good faith payment~~  
 4658 ~~to the district's required local effort.~~

4659 (d) Recomputation.—Following final adjudication of any  
 4660 litigation on the basis of which an adjustment in taxable value  
 4661 was made pursuant to paragraph (c), the department shall  
 4662 recompute the amount of revenue from property taxes that would  
 4663 otherwise have been required from ~~local effort for~~ each district  
 4664 for each year affected by such adjustments, utilizing taxable  
 4665 values approved by the court, and shall adjust subsequent  
 4666 allocations from the proceeds of the education surtax to such  
 4667 districts accordingly.

4668 Section 45. Effective November 1, 2013, subsections (1),  
 4669 (2), (3), (5), and (9) of section 1011.71, Florida Statutes, are  
 4670 amended to read:

4671 1011.71 District school tax.—

4672 (1) ~~If the district school tax is not provided in the~~  
 4673 ~~General Appropriations Act or the substantive bill implementing~~  
 4674 ~~the General Appropriations Act, each district school board~~  
 4675 ~~desiring to participate in the state allocation of funds for~~

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4676 ~~current operation as prescribed by s. 1011.62(13) shall levy on~~  
4677 ~~the taxable value for school purposes of the district, exclusive~~  
4678 ~~of millage voted under the provisions of s. 9(b) or s. 12, Art.~~  
4679 ~~VII of the State Constitution, a millage rate not to exceed the~~  
4680 ~~amount certified by the commissioner as the minimum millage rate~~  
4681 ~~necessary to provide the district required local effort for the~~  
4682 ~~current year, pursuant to s. 1011.62(4)(a)1. In addition to the~~  
4683 ~~required local effort millage levy, Each district school board~~  
4684 that levied may levy a nonvoted current operating discretionary  
4685 millage as of January 1, 2011, shall be provided an amount equal  
4686 to the revenue that would have been raised by that millage from  
4687 the proceeds of the education surtax. These funds shall be  
4688 provided through allocation in the annual General Appropriations  
4689 Act from the State Schools Trust Fund and shall be in lieu of  
4690 levying the millage. The Legislature shall prescribe annually in  
4691 the appropriations act the maximum amount of millage a district  
4692 may levy.

4693 (2) In addition to the revenue appropriated ~~maximum~~  
4694 ~~millage levy~~ as provided in subsection (1), each school board  
4695 that levies may levy not more than 1.5 mills against the taxable  
4696 value for school purposes for district schools as of January 1,  
4697 2011, for purposes authorized by this subsection, shall be  
4698 provided an amount equal to the revenue that would have  
4699 otherwise been raised by that millage in the annual General  
4700 Appropriations Act from the State Schools Trust Fund, including  
4701 charter schools at the discretion of the school board, to fund:

4702 (a) New construction and remodeling projects, as set forth  
4703 in s. 1013.64(3)(b) and (6)(b) and included in the district's



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4704 educational plant survey pursuant to s. 1013.31, without regard  
4705 to prioritization, sites and site improvement or expansion to  
4706 new sites, existing sites, auxiliary facilities, athletic  
4707 facilities, or ancillary facilities.

4708 (b) Maintenance, renovation, and repair of existing school  
4709 plants or of leased facilities to correct deficiencies pursuant  
4710 to s. 1013.15(2).

4711 (c) The purchase, lease-purchase, or lease of school  
4712 buses.

4713 (d) The purchase, lease-purchase, or lease of new and  
4714 replacement equipment; computer hardware, including electronic  
4715 hardware and other hardware devices necessary for gaining access  
4716 to or enhancing the use of electronic content and resources or  
4717 to facilitate the access to and the use of a school district's  
4718 electronic learning management system pursuant to s. 1006.281,  
4719 excluding software other than the operating system necessary to  
4720 operate the hardware or device; and enterprise resource software  
4721 applications that are classified as capital assets in accordance  
4722 with definitions of the Governmental Accounting Standards Board,  
4723 have a useful life of at least 5 years, and are used to support  
4724 districtwide administration or state-mandated reporting  
4725 requirements.

4726 (e) Payments for educational facilities and sites due  
4727 under a lease-purchase agreement entered into by a district  
4728 school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not  
4729 exceeding, in the aggregate, an amount equal to three-fourths of  
4730 the proceeds from the millage levied by a district school board  
4731 pursuant to this subsection. For the 2009-2010 fiscal year, the

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4732 three-fourths limit is waived for lease-purchase agreements  
 4733 entered into before June 30, 2009, by a district school board  
 4734 pursuant to this paragraph.

4735 (f) Payment of loans approved pursuant to ss. 1011.14 and  
 4736 1011.15.

4737 (g) Payment of costs directly related to complying with  
 4738 state and federal environmental statutes, rules, and regulations  
 4739 governing school facilities.

4740 (h) Payment of costs of leasing relocatable educational  
 4741 facilities, of renting or leasing educational facilities and  
 4742 sites pursuant to s. 1013.15(2), or of renting or leasing  
 4743 buildings or space within existing buildings pursuant to s.  
 4744 1013.15(4).

4745 (i) Payment of the cost of school buses when a school  
 4746 district contracts with a private entity to provide student  
 4747 transportation services if the district meets the requirements  
 4748 of this paragraph.

4749 1. The district's contract must require that the private  
 4750 entity purchase, lease-purchase, or lease, and operate and  
 4751 maintain, one or more school buses of a specific type and size  
 4752 that meet the requirements of s. 1006.25.

4753 2. Each such school bus must be used for the daily  
 4754 transportation of public school students in the manner required  
 4755 by the school district.

4756 3. Annual payment for each such school bus may not exceed  
 4757 10 percent of the purchase price of the state pool bid.

4758 4. The proposed expenditure of the funds for this purpose  
 4759 must have been included in the district school board's notice of

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4760 proposed tax for school capital outlay as provided in s.  
 4761 200.065(10).

4762 (j) Payment of the cost of the opening day collection for  
 4763 the library media center of a new school.

4764 (3)(a) Notwithstanding subsection (2), if the revenue that  
 4765 would have otherwise been raised by nonvoted discretionary  
 4766 millages levied as of January 1, 2012, from 1.5 mills is  
 4767 insufficient to meet the payments due under a lease-purchase  
 4768 agreement entered into before June 30, 2009, by a district  
 4769 school board pursuant to paragraph (2)(e), or to meet other  
 4770 critical district fixed capital outlay needs, the board, ~~in~~  
 4771 ~~addition to the 1.5 mills,~~ may levy up to 0.25 mills for fixed  
 4772 capital outlay ~~in lieu of levying an equivalent amount of the~~  
 4773 ~~discretionary mills for operations as provided in the General~~  
 4774 ~~Appropriations Act.~~ Millage levied pursuant to this subsection  
 4775 is subject to the provisions of s. 200.065 ~~and, combined with~~  
 4776 ~~the 1.5 mills authorized in subsection (2), may not exceed 1.75~~  
 4777 ~~mills.~~ If the district chooses to use up to 0.25 mills for fixed  
 4778 capital outlay, the compression adjustment pursuant to s.  
 4779 1011.62(5) shall be calculated for the standard discretionary  
 4780 millage that is not eligible for transfer to capital outlay.

4781 (b) Local funds generated by the additional 0.25 mills  
 4782 authorized in paragraph (b) and state funds provided pursuant to  
 4783 s. 1011.62(5) may not be included in the calculation of the  
 4784 Florida Education Finance Program in 2011-2012 or any subsequent  
 4785 year and may not be incorporated in the calculation of any hold-  
 4786 harmless or other component of the Florida Education Finance  
 4787 Program in any year, except as provided in paragraph (d).

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4788 (c) For the 2011-2012 and 2012-2013 fiscal years, the 0.25  
 4789 mills authorized in paragraph (b) may be levied by the districts  
 4790 in which it was authorized by the voters in the 2010 general  
 4791 election. If a district levies this voter-approved 0.25 mills  
 4792 for operations, a compression adjustment pursuant to s.  
 4793 1011.62(5) may be calculated and added to the district's Florida  
 4794 Education Finance Program allocation, subject to determination  
 4795 in the General Appropriations Act.

4796 (5) Effective July 1, 2008, a school district may expend,  
 4797 subject to the provisions of s. 200.065, up to \$100 per  
 4798 unweighted full-time equivalent student from the revenue  
 4799 allocated from the State Schools Trust Fund to replace nonvoted  
 4800 discretionary millage levies ~~generated by the millage levy~~  
 4801 ~~authorized by subsection (2)~~ to fund, in addition to  
 4802 expenditures authorized in paragraphs (2)(a)-(j), expenses for  
 4803 the following:

4804 (a) The purchase, lease-purchase, or lease of driver's  
 4805 education vehicles; motor vehicles used for the maintenance or  
 4806 operation of plants and equipment; security vehicles; or  
 4807 vehicles used in storing or distributing materials and  
 4808 equipment.

4809 (b) Payment of the cost of premiums, as defined in s.  
 4810 627.403, for property and casualty insurance necessary to insure  
 4811 school district educational and ancillary plants. As used in  
 4812 this paragraph, casualty insurance has the same meaning as in s.  
 4813 624.605(1)(d), (f), (g), (h), and (m). Operating revenues that  
 4814 are made available through the payment of property and casualty  
 4815 insurance premiums from revenues generated under this subsection

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4816 may be expended only for nonrecurring operational expenditures  
4817 of the school district.

4818       (9) ~~In addition to the maximum millage levied under this~~  
4819 ~~section and the General Appropriations Act,~~ A school district  
4820 may levy, by local referendum or in a general election,  
4821 additional millage not to exceed 1 mill for school operational  
4822 purposes ~~up to an amount that, when combined with nonvoted~~  
4823 ~~millage levied under this section, does not exceed the 10-mill~~  
4824 ~~limit established in s. 9(b), Art. VII of the State~~  
4825 ~~Constitution.~~ Any such levy shall be for a maximum of 4 years  
4826 and shall be counted as part of the 10-mill limit established in  
4827 s. 9(b), Art. VII of the State Constitution. Millage elections  
4828 conducted under the authority granted pursuant to this section  
4829 are subject to s. 1011.73. Funds generated by such additional  
4830 millage do not become a part of the calculation of the Florida  
4831 Education Finance Program total potential funds in 2001-2002 or  
4832 any subsequent year and must not be incorporated in the  
4833 calculation of any hold-harmless or other component of the  
4834 Florida Education Finance Program formula in any year. ~~If an~~  
4835 ~~increase in required local effort, when added to existing~~  
4836 ~~millage levied under the 10-mill limit, would result in a~~  
4837 ~~combined millage in excess of the 10-mill limit, any millage~~  
4838 ~~levied pursuant to this subsection shall be considered to be~~  
4839 ~~required local effort to the extent that the district millage~~  
4840 ~~would otherwise exceed the 10-mill limit.~~

4841       Section 46. Effective November 1, 2013, paragraph (a) of  
4842 subsection (9) of section 1002.32, Florida Statutes, is amended  
4843 to read:

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4844 1002.32 Developmental research (laboratory) schools.—

4845 (9) FUNDING.—Funding for a lab school, including a charter  
4846 lab school, shall be provided as follows:

4847 (a) Each lab school shall be allocated its proportional  
4848 share of operating funds from the Florida Education Finance  
4849 Program as provided in s. 1011.62 based on the county in which  
4850 the lab school is located and the General Appropriations Act.  
4851 The nonvoted ad valorem millage that would otherwise be required  
4852 for lab schools shall be allocated from state funds. The  
4853 required ~~local effort~~ funds calculated pursuant to s. 1011.62  
4854 shall be allocated from state funds to the schools as a part of  
4855 the allocation of operating funds pursuant to s. 1011.62. Each  
4856 eligible lab school in operation as of September 1, 2002, shall  
4857 also receive a proportional share of the sparsity supplement as  
4858 calculated pursuant to s. 1011.62. In addition, each lab school  
4859 shall receive its proportional share of all categorical funds,  
4860 with the exception of s. 1011.68, and new categorical funds  
4861 enacted after July 1, 1994, for the purpose of elementary or  
4862 secondary academic program enhancement. The sum of funds  
4863 available as provided in this paragraph shall be included  
4864 annually in the Florida Education Finance Program and  
4865 appropriate categorical programs funded in the General  
4866 Appropriations Act.

4867 Section 47. Effective November 1, 2013, subsection (3) of  
4868 section 1011.02, Florida Statutes, is amended to read:

4869 1011.02 District school boards to adopt tentative budget.—

4870 (3) The proposed budget shall include the anticipated an  
4871 amount of proceeds from the education surtax that the district

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4872 school board expects to receive allocated from the State Schools  
 4873 Trust Fund ~~for local required effort~~ for current operation, in  
 4874 accordance with the requirements of s. 1011.62(4).

4875 Section 48. Subsection (2) of section 1011.69, Florida  
 4876 Statutes, is amended to read:

4877 1011.69 Equity in School-Level Funding Act.—

4878 (2) Beginning in the 2003-2004 fiscal year, district  
 4879 school boards shall allocate to schools within the district an  
 4880 average of 90 percent of the funds generated by all schools and  
 4881 guarantee that each school receives at least 80 percent of the  
 4882 funds generated by that school based upon the Florida Education  
 4883 Finance Program as provided in s. 1011.62 and the General  
 4884 Appropriations Act, including gross state and local funds,  
 4885 discretionary lottery funds, and funds allocated from the State  
 4886 Schools Trust Fund to replace funds that would have otherwise  
 4887 been raised from the ~~school district's current~~ operating  
 4888 discretionary millage levy in effect as of January 1, 2011.

4889 Total funding for each school shall be recalculated during the  
 4890 year to reflect the revised calculations under the Florida  
 4891 Education Finance Program by the state and the actual weighted  
 4892 full-time equivalent students reported by the school during the  
 4893 full-time equivalent student survey periods designated by the  
 4894 Commissioner of Education. If the district school board is  
 4895 providing programs or services to students funded by federal  
 4896 funds, any eligible students enrolled in the schools in the  
 4897 district shall be provided federal funds.

4898 Section 49. Except as otherwise expressly provided in this  
 4899 act, and except for this section, which shall take effect upon

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4900 | this act becoming a law, this act shall take effect January 1,  
4901 | 2013.