

By the Committee on Commerce and Tourism; and Senator Hukill

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1                                   A bill to be entitled  
2           An act relating to motorsports entertainment  
3           complexes; creating s. 212.094, F.S.; providing  
4           definitions; providing an exemption from the sales and  
5           use tax for building materials used in the  
6           construction, reconstruction, expansion, or renovation  
7           of certain certified motorsports entertainment  
8           complexes through a refund of previously paid taxes;  
9           providing procedures for applying for authority to  
10          earn a tax refund; providing procedures for certifying  
11          a refund for completed projects; providing procedures  
12          for applying for a refund; providing audit authority  
13          and procedures for recapturing refunds under specified  
14          circumstances; providing rulemaking authority;  
15          providing for specified reductions in certain local  
16          government half-cent sales tax distributions; creating  
17          s. 212.0943, F.S.; authorizing a motorsports  
18          entertainment complex to apply for a tax refund of  
19          sales and use taxes; limiting the expenditure of such  
20          funds provided to a certified applicant to specified  
21          public purposes; authorizing the Department of Revenue  
22          to audit the expenditure of such funds and to pursue  
23          recovery of improperly expended funds; creating s.  
24          212.0944, F.S.; providing that a master developer of a  
25          certified motorsports entertainment complex is  
26          eligible for a sales tax refund of a specified  
27          percentage of any increase in sales tax collections  
28          within the complex over a specified base year;  
29          providing procedures, requirements, and limitations

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30 with respect to the acquisition and use of such tax  
31 refunds; limiting the availability of such refunds to  
32 a specified period; defining the term "master  
33 developer"; authorizing the Department of Revenue to  
34 audit the expenditure of such funds and to pursue  
35 recovery of improperly expended funds; amending s.  
36 212.20, F.S.; providing for a monthly distribution of  
37 a specified amount of sales tax revenue to a facility  
38 certified by the Department of Economic Opportunity as  
39 a motorsports entertainment complex; providing that a  
40 certified motorsports entertainment complex applicant  
41 may not receive certain sales tax distributions in  
42 excess of the expenditures the applicant has made for  
43 specified public purposes; providing an effective  
44 date.

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. Section 212.094, Florida Statutes, is created to  
49 read:

50 212.094 Motorsports entertainment complex; tax exemption  
51 for building materials.-

52 (1) DEFINITIONS.-For the purposes of this section, the  
53 term:

54 (a) "Building materials" means materials, equipment, and  
55 tangible personal property that is used in or becomes a  
56 component part in the construction, reconstruction, expansion,  
57 or renovation of a motorsports entertainment complex.

58 (b) "Motorsports entertainment complex" means a complex

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59 that includes a closed-course racing facility with at least  
60 50,000 fixed seats, together with any themed, ancillary business  
61 establishments and related mixed-use commercial development  
62 under common beneficial ownership as of the date of application  
63 under subsection (3).

64 (c) "Owner" means the beneficial owner or the master  
65 developer, as defined in s. 212.0944(6), of the motorsports  
66 entertainment complex.

67 (d) "Project" means the construction, reconstruction,  
68 expansion, or renovation of a motorsports entertainment complex  
69 during a specified 48-month period for a total cost of at least  
70 \$250 million incurred during the 48-month period. However, total  
71 cost shall not include the cost of any property previously owned  
72 or leased by the motorsports entertainment complex. For the  
73 purposes of this paragraph, total cost shall include all  
74 expenses incurred by the owner of a motorsports entertainment  
75 complex in connection with the construction, reconstruction,  
76 expansion, or renovation of a motorsports entertainment complex,  
77 including, but not limited to:

78 1. The costs of constructing, installing, equipping, and  
79 financing, including all obligations incurred for labor and  
80 obligations to contractors, subcontractors, builders, and  
81 materialmen.

82 2. The costs of architectural and engineering services,  
83 including test borings, surveys, estimates, plans and  
84 specifications, preliminary investigations, environmental  
85 mitigation, and supervision of construction, as well as the  
86 performance of all duties required by or consequent to the  
87 construction, installation, and equipping.

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88       3. The costs associated with the installation of fixtures  
89 and equipment; surveys, including archaeological and  
90 environmental surveys; site tests and inspections; subsurface  
91 site work and excavation; filling, grading, paving, and  
92 provisions for drainage, stormwater retention, and installation  
93 of utilities, including water, sewer, sewage treatment, gas,  
94 electricity, communications, and similar facilities; and offsite  
95 construction of utility extensions to the boundaries of the  
96 property.

97       (e) "Substantially completed" has the same meaning as  
98 provided in s. 192.042(1).

99       (f) "Unit of local government" has the same meaning as  
100 provided in s. 218.369.

101       (2) EXEMPTIONS; ACCOUNT OF USE.-

102       (a) Building materials used in a project that has been  
103 certified by the Department of Economic Opportunity under  
104 subsection (4) for the construction, reconstruction, expansion,  
105 or renovation of a motorsports entertainment complex are exempt  
106 from the state tax imposed by this chapter upon an affirmative  
107 showing to the satisfaction of the Department of Economic  
108 Opportunity that the items have been used for the construction,  
109 reconstruction, expansion, or renovation of a motorsports  
110 entertainment complex. This exemption inures to the owner of the  
111 motorsports entertainment complex who applies for certification  
112 under subsection (4) through a refund of previously paid state  
113 tax. To receive a refund, the owner of the motorsports  
114 entertainment complex must follow the procedures in this  
115 section.

116       (b) If approved and certified under subsections (3) and

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117 (4), an owner of a motorsports entertainment complex may apply  
118 for a one-time nontransferable refund of sales tax paid for  
119 building materials used in that project.

120 (c) The refund is not available unless ordinances that  
121 recognize and commit to the funding provision in subsection (8)  
122 for a specified project are enacted by a majority of the members  
123 of the governing board of the county where the project is  
124 located and a majority of the members of the governing board of  
125 any municipality where the project is located. For purposes of  
126 the funding provision in subsection (8), such a recognition and  
127 commitment by ordinance is binding and irrevocable upon the  
128 county and any municipality enacting the ordinance.

129 (3) APPLICATION.—

130 (a) In order to earn a tax refund, an owner of a  
131 motorsports entertainment complex must first submit an  
132 application to the Department of Economic Opportunity for  
133 approval of a project before beginning construction,  
134 reconstruction, expansion, or renovation. The application must  
135 be filed by the date established by the Department of Economic  
136 Opportunity. In addition to any information that the Department  
137 of Economic Opportunity may require, the applicant must provide  
138 a complete description of the project that demonstrates to the  
139 Department of Economic Opportunity that the applicant is likely  
140 to complete the requirements in this section. The applicant must  
141 provide an affidavit certifying that all the information  
142 contained in the application is true and correct. The applicant  
143 must also provide the department with copies of the ordinances  
144 required under paragraph (2) (c).

145 (b) Within 60 days after receipt of a completed

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146 application, the Department of Economic Opportunity must issue a  
147 notice of intent to deny or approve the project.

148 (4) CERTIFICATION.—Upon completion of a project, the owner  
149 of the motorsports entertainment complex who received approval  
150 for the project may apply to the Department of Economic  
151 Opportunity for certification of a refund.

152 (a) The application must include:

153 1. The name and physical in-state address of the  
154 motorsports entertainment complex.

155 2. A copy of the application and approval for the project.

156 3. An address and the applicable assessment roll parcel  
157 numbers for the motorsports entertainment complex for which a  
158 refund of previously paid taxes is being sought.

159 4. A copy of a valid building permit issued by the county  
160 or municipal building department for construction,  
161 reconstruction, expansion, or renovation of the motorsports  
162 entertainment complex.

163 5. A sworn statement, under penalty of perjury, from the  
164 general contractor licensed in this state with whom the  
165 applicant contracted to construct, reconstruct, or renovate the  
166 motorsports entertainment complex, which lists the building  
167 materials used to construct, reconstruct, or renovate the  
168 motorsports entertainment complex, the actual cost of the  
169 building materials, and the amount of sales and use tax paid in  
170 this state on the building materials. If a general contractor  
171 was not used, the applicant, not a general contractor, must make  
172 the sworn statement required under this subparagraph. Copies of  
173 invoices that evidence the purchase of the building materials  
174 used in the construction, reconstruction, or renovation of the

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175 motorsports entertainment complex and the payment of sales and  
176 use tax on the building materials must be attached to the sworn  
177 statement provided by the general contractor or by the  
178 applicant.

179 6. A certification by the local building code inspector  
180 that the construction, reconstruction, expansion, or renovation  
181 of the motorsports entertainment complex is substantially  
182 complete.

183 7. A detailed accounting attested to by a certified public  
184 accountant licensed in this state that the total amount expended  
185 by the applicant towards the construction, reconstruction,  
186 expansion, or renovation of the motorsports entertainment  
187 complex during a 48-month period is greater than \$250 million.

188 (b) Within 90 working days after receipt of an application  
189 for certification, the Department of Economic Opportunity must  
190 review the application to determine if it includes all the  
191 information and meets all the criteria required under this  
192 section. The department shall certify all applications that  
193 contain the required information and are found to be eligible to  
194 receive a refund under this section.

195 (5) REFUND.—An application for a refund must be submitted  
196 to the department within 6 months after certification for the  
197 refund is obtained under subsection (4).

198 (6) AUDIT AUTHORITY; RECAPTURE OF REFUNDS.—

199 (a) In addition to its existing audit and investigative  
200 authority, the department may perform any additional financial  
201 and technical audits and investigations, including examining the  
202 accounts, books, and financial records of the tax refund  
203 applicant, which are necessary for verifying the accuracy of the

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204 refund request and to ensure compliance with this section. If  
205 requested by the department, the Department of Economic  
206 Opportunity must provide technical assistance for any technical  
207 audits or examinations performed under this subsection.

208 (b) Grounds for forfeiture of previously claimed refunds  
209 approved under this section exist if the department determines,  
210 as a result of an audit or examination, or from information  
211 received from the Department of Economic Opportunity, that a  
212 taxpayer received tax refunds for which the taxpayer was not  
213 entitled.

214 (c) The Department of Economic Opportunity may revoke or  
215 modify a certification granting eligibility for a tax refund if  
216 it finds that the taxpayer made a false statement or  
217 representation in any application, record, report, plan, or  
218 other document filed in an attempt to receive a tax refund under  
219 this section. The Department of Economic Opportunity shall  
220 immediately notify the department of any revoked or modified  
221 orders affecting previously granted tax refunds.

222 (d) The department may assess an additional tax, penalty,  
223 or interest pursuant to s. 95.091.

224 (7) RULES.—

225 (a) The Department of Economic Opportunity shall adopt  
226 rules to administer this section, including rules relating to  
227 application forms required under subsections (3) and (4), and  
228 the application and certification procedures, guidelines, and  
229 requirements necessary to administer this section.

230 (b) The department may adopt rules to administer this  
231 section, including rules relating to the forms required to claim  
232 a tax refund under this section, the requirements and basis for



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233 establishing an entitlement to a refund, and the examination and  
234 audit procedures required to administer this section.

235 (8) REDUCTIONS IN DISTRIBUTIONS.—The department shall  
236 reduce by an amount equal to 10 percent of each refund granted  
237 under this section the combined local government half-cent sales  
238 tax to be distributed, pursuant to s. 218.61, to each unit of  
239 local government that enacted ordinances pursuant to paragraph  
240 (2) (c), and such reductions shall be prorated over a 12-month  
241 period.

242 (a) For refunds issued pursuant to this section on or  
243 before June 30 of a given calendar year, the reductions required  
244 under this subsection shall begin in the first month of the  
245 local fiscal year that follows such refund being issued.

246 (b) For refunds issued pursuant to this section after June  
247 30 of a given calendar year, the reductions required under this  
248 subsection shall begin in the first month of the second local  
249 fiscal year that follows such refund being issued.

250 (c) An amount equal to the reductions required under this  
251 subsection shall be transferred monthly from the Local  
252 Government Half-cent Sales Tax Clearing Trust Fund to the  
253 General Revenue Fund. Each affected unit of local government's  
254 share of the reduction shall be in proportion to that unit of  
255 local government's respective local government half-cent sales  
256 tax distributions absent the provisions of this paragraph.

257 (d) Within 14 days after issuance of a refund pursuant to  
258 this section, the department shall provide written notice to  
259 each unit of local government subject to the reduced  
260 distribution provisions of this subsection with the amounts and  
261 timing of the forthcoming reductions in distributions.

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262 Section 2. Section 212.0943, Florida Statutes, is created  
263 to read:

264 212.0943 Motorsports entertainment complex; refund of  
265 taxes.-

266 (1) Beginning July 1, 2013, a motorsports entertainment  
267 complex as defined in s. 212.094(1) may apply for funds provided  
268 under s. 212.20(6)(d)6.b.

269 (2) An applicant certified as a motorsports entertainment  
270 complex under s. 212.094(4) may use funds provided under s.  
271 212.20(6)(d)6.b. only for the following public purposes:

272 (a) Paying for the construction, reconstruction, expansion,  
273 or renovation of a motorsports entertainment complex.

274 (b) Paying debt service reserve funds, arbitrage rebate  
275 obligations, or other amounts payable with respect to bonds  
276 issued for the construction, reconstruction, expansion, or  
277 renovation of the motorsports entertainment complex or for the  
278 reimbursement of such costs or the refinancing of bonds issued  
279 for such purposes.

280 (c) Paying for construction, reconstruction, expansion, or  
281 renovation of transportation or other infrastructure  
282 improvements related to, necessary for, or appurtenant to the  
283 motorsports entertainment complex, including, without  
284 limitation, paying debt service reserve funds, arbitrage rebate  
285 obligations, or other amounts payable with respect to bonds  
286 issued for the construction, reconstruction, expansion, or  
287 renovation of such transportation or other infrastructure  
288 improvements, and for the reimbursement of such costs or the  
289 refinancing of bonds issued for such purposes.

290 (d) Paying for programs of advertising and promotion of or

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291 related to the motorsports entertainment complex or the  
292 municipality in which the motorsports entertainment complex is  
293 located, and the county if the motorsports entertainment complex  
294 is located in an unincorporated area, if such programs of  
295 advertising and promotion are designed to increase paid  
296 attendance at the motorsports entertainment complex or increase  
297 tourism in or promote the economic development of the community  
298 in which the motorsports entertainment complex is located.

299 (3) As provided in s. 212.094(6), the department may audit  
300 to verify that distributions pursuant to this section have been  
301 expended as required. If the department determines that the  
302 distributions have not been expended as required, it may pursue  
303 recovery of such funds pursuant to the laws and rules governing  
304 the assessment of taxes.

305 Section 3. Section 212.0944, Florida Statutes, is created  
306 to read:

307 212.0944 Motorsports entertainment complex; escrow of  
308 taxes.-

309 (1) The master developer of a motorsports entertainment  
310 complex certified under s. 212.094(4) shall be eligible for a  
311 refund of 50 percent of sales taxes imposed by this chapter on  
312 any sales made within a certified motorsports entertainment  
313 complex, as defined in s. 212.094(1), the amount of which  
314 exceeds the total amount of sales tax collected and remitted by  
315 the motorsports entertainment complex during the 12-month period  
316 before the date of an application submitted under s. 212.094(3).  
317 For purposes of this section, such 12-month period shall be  
318 considered the base year.

319 (2) The measurement period shall be a 12-month period

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320 starting with the first full month after the submission of the  
321 application under s. 212.094(3). During the 12-month measurement  
322 period after the base year, any businesses within the  
323 motorsports entertainment complex that collect sales tax on any  
324 sales within the motorsports entertainment complex must file the  
325 appropriate sales and use tax returns and remit the tax due  
326 under applicable statutes. Within 60 days after the end of the  
327 12-month measurement period, the master developer shall submit a  
328 refund request, supported by the previously filed sales and use  
329 tax returns for any businesses within the motorsports  
330 entertainment complex, for the incremental sales tax collected  
331 and remitted related to any sales within the motorsports  
332 entertainment complex for the 12-month measurement period as  
333 compared to the base year, with such refund payment made within  
334 60 days to the master developer. The refund provided in this  
335 section shall be available only to the master developer and only  
336 by a refund of previously paid tax and shall be provided upon an  
337 affirmative showing to the satisfaction of the Department of  
338 Economic Opportunity that the requirements of this section have  
339 been met.

340 (3) The master developer shall require each tenant, lessee,  
341 or other third party within the motorsports entertainment  
342 complex to provide the master developer all documents, returns,  
343 or other information necessary to verify the amount of sales tax  
344 eligible for the sales tax refund under this section.

345 (4) The tax refund provided under this section shall renew  
346 each 12-month period for a total of 30 years and for each  
347 subsequent 12-month measurement period, the sales and use tax  
348 collected and remitted shall be compared to the sales and use

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349 tax collected and remitted during the original base year.

350 (5) An applicant certified as a motorsports entertainment  
351 complex may use funds provided under this section only for the  
352 public purposes defined in s. 212.0943(2).

353 (6) As used in this section, the term "master developer"  
354 means the primary developer of a motorsports entertainment  
355 complex.

356 (7) As provided in s. 212.094(6), the department may audit  
357 to verify that the distributions pursuant to this section have  
358 been expended as required. If the department determines that the  
359 distributions have not been expended as required, it may pursue  
360 recovery of such funds pursuant to the laws and rules governing  
361 the assessment of taxes.

362 Section 4. Paragraph (d) of subsection (6) of section  
363 212.20, Florida Statutes, is amended to read:

364 212.20 Funds collected, disposition; additional powers of  
365 department; operational expense; refund of taxes adjudicated  
366 unconstitutionally collected.—

367 (6) Distribution of all proceeds under this chapter and s.  
368 202.18(1)(b) and (2)(b) shall be as follows:

369 (d) The proceeds of all other taxes and fees imposed  
370 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
371 and (2)(b) shall be distributed as follows:

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

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378           2. After the distribution under subparagraph 1., 8.814  
379 percent of the amount remitted by a sales tax dealer located  
380 within a participating county pursuant to s. 218.61 shall be  
381 transferred into the Local Government Half-cent Sales Tax  
382 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
383 transferred shall be reduced by 0.1 percent, and the department  
384 shall distribute this amount to the Public Employees Relations  
385 Commission Trust Fund less \$5,000 each month, which shall be  
386 added to the amount calculated in subparagraph 3. and  
387 distributed accordingly.

388           3. After the distribution under subparagraphs 1. and 2.,  
389 0.095 percent shall be transferred to the Local Government Half-  
390 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
391 s. 218.65.

392           4. After the distributions under subparagraphs 1., 2., and  
393 3., 2.0440 percent of the available proceeds shall be  
394 transferred monthly to the Revenue Sharing Trust Fund for  
395 Counties pursuant to s. 218.215.

396           5. After the distributions under subparagraphs 1., 2., and  
397 3., 1.3409 percent of the available proceeds shall be  
398 transferred monthly to the Revenue Sharing Trust Fund for  
399 Municipalities pursuant to s. 218.215. If the total revenue to  
400 be distributed pursuant to this subparagraph is at least as  
401 great as the amount due from the Revenue Sharing Trust Fund for  
402 Municipalities and the former Municipal Financial Assistance  
403 Trust Fund in state fiscal year 1999-2000, no municipality shall  
404 receive less than the amount due from the Revenue Sharing Trust  
405 Fund for Municipalities and the former Municipal Financial  
406 Assistance Trust Fund in state fiscal year 1999-2000. If the

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407 total proceeds to be distributed are less than the amount  
408 received in combination from the Revenue Sharing Trust Fund for  
409 Municipalities and the former Municipal Financial Assistance  
410 Trust Fund in state fiscal year 1999-2000, each municipality  
411 shall receive an amount proportionate to the amount it was due  
412 in state fiscal year 1999-2000.

413 6. Of the remaining proceeds:

414 a. In each fiscal year, the sum of \$29,915,500 shall be  
415 divided into as many equal parts as there are counties in the  
416 state, and one part shall be distributed to each county. The  
417 distribution among the several counties must begin each fiscal  
418 year on or before January 5th and continue monthly for a total  
419 of 4 months. If a local or special law required that any moneys  
420 accruing to a county in fiscal year 1999-2000 under the then-  
421 existing provisions of s. 550.135 be paid directly to the  
422 district school board, special district, or a municipal  
423 government, such payment must continue until the local or  
424 special law is amended or repealed. The state covenants with  
425 holders of bonds or other instruments of indebtedness issued by  
426 local governments, special districts, or district school boards  
427 before July 1, 2000, that it is not the intent of this  
428 subparagraph to adversely affect the rights of those holders or  
429 relieve local governments, special districts, or district school  
430 boards of the duty to meet their obligations as a result of  
431 previous pledges or assignments or trusts entered into which  
432 obligated funds received from the distribution to county  
433 governments under then-existing s. 550.135. This distribution  
434 specifically is in lieu of funds distributed under s. 550.135  
435 before July 1, 2000.

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436           b. The department shall distribute \$166,667 monthly  
437 pursuant to s. 288.1162 to each applicant certified as a  
438 facility for a new or retained professional sports franchise  
439 pursuant to s. 288.1162. The department shall distribute  
440 \$166,667 monthly pursuant to s. 212.0943 to an applicant  
441 certified as a motorsports entertainment complex under s.  
442 212.094. Up to \$41,667 shall be distributed monthly by the  
443 department to each certified applicant as defined in s.  
444 288.11621 for a facility for a spring training franchise.  
445 However, not more than \$416,670 may be distributed monthly in  
446 the aggregate to all certified applicants for facilities for  
447 spring training franchises. Distributions begin 60 days after  
448 such certification and continue for not more than 30 years,  
449 except as otherwise provided in s. 288.11621. A certified  
450 applicant identified in this sub-subparagraph may not receive  
451 more in distributions than expended by the applicant for the  
452 public purposes provided for in s. 288.1162(5), ~~or~~ s.  
453 288.11621(3), or s. 212.0943.

454           c. Beginning 30 days after notice by the Department of  
455 Economic Opportunity to the Department of Revenue that an  
456 applicant has been certified as the professional golf hall of  
457 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
458 shall be distributed monthly, for up to 300 months, to the  
459 applicant.

460           d. Beginning 30 days after notice by the Department of  
461 Economic Opportunity to the Department of Revenue that the  
462 applicant has been certified as the International Game Fish  
463 Association World Center facility pursuant to s. 288.1169, and  
464 the facility is open to the public, \$83,333 shall be distributed



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465 monthly, for up to 168 months, to the applicant. This  
466 distribution is subject to reduction pursuant to s. 288.1169. A  
467 lump sum payment of \$999,996 shall be made, after certification  
468 and before July 1, 2000.

469         7. All other proceeds must remain in the General Revenue  
470 Fund.

471         Section 5. This act shall take effect July 1, 2013.