

By Senator Altman

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1 A bill to be entitled

2 An act relating to education funding tax reform;
3 providing legislative intent; replacing revenue from
4 the required local effort education property tax with
5 revenue from an education sales and use tax; amending
6 s. 212.05, F.S.; providing for levy of an education
7 sales and use tax; specifying the tax rate and use of
8 proceeds from the education sales and use tax;
9 exempting the retail sale of certain used tangible
10 personal property from the sales and use tax on a
11 specified date; providing effective dates.

12
13 WHEREAS, the required local effort education property tax
14 that the state requires local governments to levy in order to
15 fund public education is approximately \$8 billion annually, and

16 WHEREAS, total education property taxes are approximately
17 44 percent of the overall property tax levied in Florida, with
18 approximately 30 percent of that total being the required local
19 effort education property taxes and approximately 14 percent of
20 that total being local option education property taxes, and

21 WHEREAS, no provision of law requires public education to
22 be funded by education property taxes rather than by other
23 methods of taxation, NOW, THEREFORE,

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. (1) The Legislature intends to stimulate growth,
28 business expansion, and job creation through property tax
29 reform. As a first step toward achieving these goals, the
30 Legislature intends by passage of this act to replace the
31 required local effort education property tax with a 2 percent
32 education sales and use tax levied pursuant to chapter 212,

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33 Florida Statutes.

34 (a) The required local effort education property tax shall
35 be eliminated from the local property tax levy beginning with
36 the 2017-2018 fiscal year and a 2 percent education sales and
37 use tax shall become effective on January 1, 2017, to build up
38 funds for replacing the required local effort education funding
39 on a dollar-for-dollar basis.

40 (b) It is financially prudent to allow the buildup of a
41 revenue reserve from the education sales and use tax to shield
42 against any potential economic downturn and to ensure that
43 sufficient funds are available for replacing the currently
44 required local effort education property tax.

45 (2) The Legislature intends for the education sales and use
46 tax provided for in this act to replace the required local
47 effort education property tax and for the education sales and
48 use tax to be known and cited as the "education sales and use
49 tax."

50 Section 2. Effective January 1, 2017, paragraph (a) of
51 subsection (1) of section 212.05, Florida Statutes, is amended
52 to read:

53 212.05 Sales, storage, use tax.—It is hereby declared to be
54 the legislative intent that every person is exercising a taxable
55 privilege who engages in the business of selling tangible
56 personal property at retail in this state, including the
57 business of making mail order sales, or who rents or furnishes
58 any of the things or services taxable under this chapter, or who
59 stores for use or consumption in this state any item or article
60 of tangible personal property as defined herein and who leases
61 or rents such property within the state.

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

65 (a)1.a. At the rate of 6 percent of the sales price of each
66 item or article of tangible personal property when sold at
67 retail in this state, computed on each taxable sale for the
68 purpose of remitting the amount of tax due the state, and
69 including each and every retail sale. Additionally, a tax is
70 levied at the rate of 2 percent of the sales price of each item
71 or article, which shall be known and cited as the "education
72 sales and use tax" and used exclusively for the purposes set
73 forth in s. 1011.62.

74 b. Each occasional or isolated sale of an aircraft, boat,
75 mobile home, or motor vehicle of a class or type which is
76 required to be registered, licensed, titled, or documented in
77 this state or by the United States Government shall be subject
78 to tax at the rate provided in this paragraph. The department
79 shall by rule adopt any nationally recognized publication for
80 valuation of used motor vehicles as the reference price list for
81 any used motor vehicle which is required to be licensed pursuant
82 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
83 party to an occasional or isolated sale of such a vehicle
84 reports to the tax collector a sales price which is less than 80
85 percent of the average loan price for the specified model and
86 year of such vehicle as listed in the most recent reference
87 price list, the tax levied under this paragraph shall be
88 computed by the department on such average loan price unless the
89 parties to the sale have provided to the tax collector an
90 affidavit signed by each party, or other substantial proof,

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91 stating the actual sales price. Any party to such sale who
92 reports a sales price less than the actual sales price is guilty
93 of a misdemeanor of the first degree, punishable as provided in
94 s. 775.082 or s. 775.083. The department shall collect or
95 attempt to collect from such party any delinquent sales taxes.
96 In addition, such party shall pay any tax due and any penalty
97 and interest assessed plus a penalty equal to twice the amount
98 of the additional tax owed. Notwithstanding any other provision
99 of law, the Department of Revenue may waive or compromise any
100 penalty imposed pursuant to this subparagraph.

101 2. This paragraph does not apply to the sale of a boat or
102 aircraft by or through a registered dealer under this chapter to
103 a purchaser who, at the time of taking delivery, is a
104 nonresident of this state, does not make his or her permanent
105 place of abode in this state, and is not engaged in carrying on
106 in this state any employment, trade, business, or profession in
107 which the boat or aircraft will be used in this state, or is a
108 corporation none of the officers or directors of which is a
109 resident of, or makes his or her permanent place of abode in,
110 this state, or is a noncorporate entity that has no individual
111 vested with authority to participate in the management,
112 direction, or control of the entity's affairs who is a resident
113 of, or makes his or her permanent abode in, this state. For
114 purposes of this exemption, either a registered dealer acting on
115 his or her own behalf as seller, a registered dealer acting as
116 broker on behalf of a seller, or a registered dealer acting as
117 broker on behalf of the purchaser may be deemed to be the
118 selling dealer. This exemption shall not be allowed unless:

119 a. The purchaser removes a qualifying boat, as described in

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120 sub-subparagraph f., from the state within 90 days after the
121 date of purchase or extension, or the purchaser removes a
122 nonqualifying boat or an aircraft from this state within 10 days
123 after the date of purchase or, when the boat or aircraft is
124 repaired or altered, within 20 days after completion of the
125 repairs or alterations;

126 b. The purchaser, within 30 days from the date of
127 departure, shall provide the department with written proof that
128 the purchaser licensed, registered, titled, or documented the
129 boat or aircraft outside the state. If such written proof is
130 unavailable, within 30 days the purchaser shall provide proof
131 that the purchaser applied for such license, title,
132 registration, or documentation. The purchaser shall forward to
133 the department proof of title, license, registration, or
134 documentation upon receipt;

135 c. The purchaser, within 10 days of removing the boat or
136 aircraft from Florida, shall furnish the department with proof
137 of removal in the form of receipts for fuel, dockage, slippage,
138 tie-down, or hangaring from outside of Florida. The information
139 so provided must clearly and specifically identify the boat or
140 aircraft;

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

146 e. The seller makes a copy of the affidavit a part of his
147 or her record for as long as required by s. 213.35; and

148 f. Unless the nonresident purchaser of a boat of 5 net tons

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149 of admeasurement or larger intends to remove the boat from this
150 state within 10 days after the date of purchase or when the boat
151 is repaired or altered, within 20 days after completion of the
152 repairs or alterations, the nonresident purchaser shall apply to
153 the selling dealer for a decal which authorizes 90 days after
154 the date of purchase for removal of the boat. The nonresident
155 purchaser of a qualifying boat may apply to the selling dealer
156 within 60 days after the date of purchase for an extension decal
157 that authorizes the boat to remain in this state for an
158 additional 90 days, but not more than a total of 180 days,
159 before the nonresident purchaser is required to pay the tax
160 imposed by this chapter. The department is authorized to issue
161 decals in advance to dealers. The number of decals issued in
162 advance to a dealer shall be consistent with the volume of the
163 dealer's past sales of boats which qualify under this sub-
164 subparagraph. The selling dealer or his or her agent shall mark
165 and affix the decals to qualifying boats in the manner
166 prescribed by the department, prior to delivery of the boat.

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

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

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

175 (IV) The department is authorized to require dealers who
176 purchase decals to file reports with the department and may
177 prescribe all necessary records by rule. All such records are

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178 subject to inspection by the department.

179 (V) Any dealer or his or her agent who issues a decal
180 falsely, fails to affix a decal, mismarks the expiration date of
181 a decal, or fails to properly account for decals will be
182 considered prima facie to have committed a fraudulent act to
183 evade the tax and will be liable for payment of the tax plus a
184 mandatory penalty of 200 percent of the tax, and shall be liable
185 for fine and punishment as provided by law for a conviction of a
186 misdemeanor of the first degree, as provided in s. 775.082 or s.
187 775.083.

188 (VI) Any nonresident purchaser of a boat who removes a
189 decal prior to permanently removing the boat from the state, or
190 defaces, changes, modifies, or alters a decal in a manner
191 affecting its expiration date prior to its expiration, or who
192 causes or allows the same to be done by another, will be
193 considered prima facie to have committed a fraudulent act to
194 evade the tax and will be liable for payment of the tax plus a
195 mandatory penalty of 200 percent of the tax, and shall be liable
196 for fine and punishment as provided by law for a conviction of a
197 misdemeanor of the first degree, as provided in s. 775.082 or s.
198 775.083.

199 (VII) The department is authorized to adopt rules necessary
200 to administer and enforce this subparagraph and to publish the
201 necessary forms and instructions.

202 (VIII) The department is hereby authorized to adopt
203 emergency rules pursuant to s. 120.54(4) to administer and
204 enforce the provisions of this subparagraph.

205
206 If the purchaser fails to remove the qualifying boat from this

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207 state within the maximum 180 days after purchase or a
208 nonqualifying boat or an aircraft from this state within 10 days
209 after purchase or, when the boat or aircraft is repaired or
210 altered, within 20 days after completion of such repairs or
211 alterations, or permits the boat or aircraft to return to this
212 state within 6 months from the date of departure, except as
213 provided in s. 212.08(7)(fff), or if the purchaser fails to
214 furnish the department with any of the documentation required by
215 this subparagraph within the prescribed time period, the
216 purchaser shall be liable for use tax on the cost price of the
217 boat or aircraft and, in addition thereto, payment of a penalty
218 to the Department of Revenue equal to the tax payable. This
219 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
220 The maximum 180-day period following the sale of a qualifying
221 boat tax-exempt to a nonresident may not be tolled for any
222 reason.

223 Section 3. Effective January 1, 2017, the retail sale of
224 used tangible personal property with a sales price of \$250 or
225 less per item is exempt from the sales and use tax imposed by
226 chapter 212, Florida Statutes.

227 Section 4. Except as otherwise expressly provided in this
228 act, this act shall take effect July 1, 2016.