A bill to be entitled

An act relating to revenue-neutral tax reform; providing legislative intent; replacing revenue from the required local effort school property tax and nonvoted discretionary property taxes with revenue from a state sales tax surtax; revising provisions for purposes relating to the Streamlined Sales and Use Tax Agreement; amending s. 212.02, F.S.; revising definitions; amending s. 212.03, F.S.; specifying certain facilities that are exempt from the transient rentals tax; amending ss. 212.0306 and 212.04, F.S.; deleting the application of brackets for the calculation of sales and use taxes; amending s. 212.05, F.S.; deleting criteria establishing circumstances under which taxes on the lease or rental of a motor vehicle are due; revising criteria establishing circumstances under which taxes on the sale of a prepaid calling arrangement are due; deleting the application of brackets for the calculation of sales and use taxes; conforming provisions to changes made by the act; creating s. 212.0502, F.S.; creating an education surtax on the sales and use tax base; providing for a method of determining such surtax; amending s. 212.0506, F.S.; deleting the application of brackets for the calculation of sales and use taxes; amending s. 212.054, F.S.; limiting the $5,000 cap on discretionary sales surtax to the sale of motor

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

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

sellers who register under the Streamlined Sales and Use Tax Agreement; providing exceptions to the amnesty; amending s. 213.256, F.S.; providing and revising definitions; providing for entry into agreements with other states to simplify and facilitate compliance with sales tax laws; providing for certification of compliance with agreements; creating s. 213.2562, F.S.; providing for the department to review software submitted to the governing board for certification as a certified automated system; creating s. 213.2567, F.S.; providing for the registration of sellers, the certification of a person as a certified service provider, and the certification of a software program as a certified automated system by the governing board under the Simplified Sales and Use Tax Agreement; declaring legislative intent; providing for the adoption of emergency rules; amending ss. 11.45, 196.012, 202.18, 203.01, 212.031, 212.052, 212.055, 212.13, 212.15, 213.015, 218.245, 218.65, 288.1045, 288.11621, 288.1169, 551.102, and 790.0655, F.S.; conforming cross-references; repealing s. 212.0596, F.S., relating to provisions pertaining to the taxation of mail-order sales; amending s. 1011.62, F.S.; conforming provisions for purposes relating to allocation of education surtax proceeds to replace revenue that would otherwise need to be raised by local property taxes; amending s. 1011.71, F.S.;

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

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

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

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

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

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

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

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

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

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

Section 1. Legislative intent.—

(1) The Legislature intends to stimulate growth, business expansion, and job creation through revenue-neutral tax reform. As a first step toward achieving those goals in a revenue-neutral manner, the Legislature intends by passage of this act to replace the required local effort school property tax through

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) The transaction includes food and food ingredients,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

consumed in this state.

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

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

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

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

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

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

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

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

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

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

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

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

employees.

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

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

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

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

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

4. Delivery charges; or

5. Installation charges.

(b) "Sales price" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7)

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

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

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

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

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

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

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or her record for as long as required by s. 213.35; and

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

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

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

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

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

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

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

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

(VIII) The department is hereby authorized to adopt

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The installation of telecommunication and telegraphic equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Each seller of services subject to sales tax pursuant

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

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

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

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

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

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

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

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

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

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

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

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

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

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

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

212.0502 Education surtax.—

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

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

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

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

1. Shall each year be calculated in the General

Appropriations Act;

2. Shall take effect on January 1 during the fiscal year to which that General Appropriations Act applies; and

3. Shall not exceed the rate in effect on the prior January 1.

(d) As used in this section:

1. The amount appropriated to replace school property taxes is the amount appropriated in the General Appropriations Act, pursuant to ss. 1011.62 and 1011.71, for the fiscal year containing the effective date of the new education surtax rate.

2. The estimated surtax collections are the education surtax collections estimated, as of the final passage of the General Appropriations Act, by the Consensus Revenue Estimating Conference for the fiscal year containing the effective date of the new education surtax rate, assuming there is no change in the tax rate in effect at the time the estimate is made.

(3) The proceeds from the education surtax shall be deposited in the State Schools Trust Fund and shall be used only for the purposes of replacing the required local effort and nonvoted discretionary millages as provided in ss. 1011.62 and 1011.71. Each fiscal year, appropriations for this purpose shall not exceed the estimated education surtax collections for the fiscal year.

(4) Notwithstanding subsection (3), unencumbered education surtax revenues in the State Schools Trust Fund at the end of each fiscal year in excess of 50 percent of education surtax collections during that fiscal year may be appropriated for supplemental, nonrecurring teacher pay-for-performance bonuses

in subsequent fiscal years.

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

212.0506 Taxation of service warranties.—

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

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

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

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

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

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

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

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

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

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

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

(b) However:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4.~~3.~~ This paragraph does not apply to the use or consumption of items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. The county's rate of surtax; and

c. The number of months the county has levied a surtax during the most recent distribution period;

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

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

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

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

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

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

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

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

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

February 1 immediately before the April 1 effective date.

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

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

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

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

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

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

2. Employing a state-certified database.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 10. Paragraph (c) of subsection (2) and subsections (3) and (5) of section 212.06, Florida Statutes, are amended, and subsection (17) is added to that section, to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(2)

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

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

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

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

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

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

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

5.~~2.~~ The Department of Revenue is authorized to adopt rules and forms to implement the provisions of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Taking possession of tangible personal property;

2. Making first use of services; or

3. Taking possession or making first use of digital goods, whichever occurs first.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a lease or rental in paragraph (d).

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

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

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

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

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

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

equipment" means:

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

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

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

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

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

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

(1)

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) EXEMPTIONS; GENERAL GROCERIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.~~6.~~ Food and food ingredients sold as prepared food. The term "prepared food" means:

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

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

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

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

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

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

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

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

3.~~10.~~ Food and food ingredients ~~products~~ sold through a vending machine~~, pushcart, motor vehicle, or any other form of vehicle~~.

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

5. To tobacco.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter:

1. Drugs.

2. Durable medical equipment, mobility-enhancing equipment, or prosthetic devices ~~any medical products and supplies or medicine~~ dispensed according to an individual prescription or prescriptions. ~~written by a prescriber authorized by law to prescribe medicinal drugs;~~

3. Hypodermic needles.~~; hypodermic syringes;~~

4. Chemical compounds and test kits used for the diagnosis or treatment of ~~human~~ disease, illness, or injury and intended for one-time use.~~;~~

5. Over-the-counter drugs ~~and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings~~, but not including grooming and hygiene products.

6. Band-aids, gauze, bandages, and adhesive tape.

7. Funerals. However, tangible personal property used by funeral directors in their business is taxable. ~~cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Artificially replace a missing portion of the body;

b. Prevent or correct physical deformity or malfunction; or

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

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

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

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

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

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

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

also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense the order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. ~~includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of his or her professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term also includes a pharmacist's order for a product selected from the formulary created pursuant to s. 465.186. A prescription may be retained in written form, or the pharmacist may cause it to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.~~

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

~~(d) Lithotripters are exempt.~~

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

~~(f) Sales of drugs to or by physicians, dentists, veterinarians, and hospitals in connection with medical treatment are exempt.~~

~~(g) Medical products and supplies used in the cure, mitigation, alleviation, prevention, or treatment of injury, disease, or incapacity which are temporarily or permanently incorporated into a patient or client by a practitioner of the healing arts licensed in the state are exempt.~~

~~(h) The purchase by a veterinarian of commonly recognized substances possessing curative or remedial properties which are ordered and dispensed as treatment for a diagnosed health disorder by or on the prescription of a duly licensed veterinarian, and which are applied to or consumed by animals for alleviation of pain or the cure or prevention of sickness, disease, or suffering are exempt. Also exempt are the purchase by a veterinarian of antiseptics, absorbent cotton, gauze for bandages, lotions, vitamins, and worm remedies.~~

~~(i) X-ray opaques, also known as opaque drugs and radiopaque, such as the various opaque dyes and barium sulphate, when used in connection with medical X rays for treatment of bodies of humans and animals, are exempt.~~

(e)~~(j)~~ Parts, special attachments, special lettering, and other like items that are added to or attached to tangible personal property so that a handicapped person can use them are exempt when such items are purchased by a person pursuant to an individual prescription.

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

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

(a) Also exempt are:

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

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

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

3. The transmission or wheeling of electricity.

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

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

(17) EXEMPTIONS; CERTAIN GOVERNMENT CONTRACTORS.—

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

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

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

212.094 Purchaser request for refund or credit from dealer.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The collection allowance and other credits or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. If the total amount of unreported or uncollected taxes or fees is less than $300, the first offense resulting in conviction is a misdemeanor of the second degree, the second offense resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction is a misdemeanor of the first degree, and the third and all subsequent offenses resulting in conviction are felonies of the third degree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

department or any of its duly authorized agents.

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

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

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

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

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

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

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

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

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

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

department.

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

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

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

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

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

~~format or otherwise the tax amounts and the following brackets applicable to all transactions taxable at the rate of 6 percent:~~

~~(a) On single sales of less than 10 cents, no tax shall be added.~~

~~(b) On single sales in amounts from 10 cents to 16 cents, both inclusive, 1 cent shall be added for taxes.~~

~~(c) On sales in amounts from 17 cents to 33 cents, both inclusive, 2 cents shall be added for taxes.~~

~~(d) On sales in amounts from 34 cents to 50 cents, both inclusive, 3 cents shall be added for taxes.~~

~~(e) On sales in amounts from 51 cents to 66 cents, both inclusive, 4 cents shall be added for taxes.~~

~~(f) On sales in amounts from 67 cents to 83 cents, both inclusive, 5 cents shall be added for taxes.~~

~~(g) On sales in amounts from 84 cents to $1, both inclusive, 6 cents shall be added for taxes.~~

~~(h) On sales in amounts of more than $1, 6 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.~~

~~(10) In counties which have adopted a discretionary sales surtax at the rate of 1 percent, the department shall make available in an electronic format or otherwise the tax amounts and the following brackets applicable to all taxable transactions that would otherwise have been transactions taxable at the rate of 6 percent:~~

~~(a) On single sales of less than 10 cents, no tax shall be added.~~

~~(b) On single sales in amounts from 10 cents to 14 cents,~~

~~both inclusive, 1 cent shall be added for taxes.~~

~~(c) On sales in amounts from 15 cents to 28 cents, both inclusive, 2 cents shall be added for taxes.~~

~~(d) On sales in amounts from 29 cents to 42 cents, both inclusive, 3 cents shall be added for taxes.~~

~~(e) On sales in amounts from 43 cents to 57 cents, both inclusive, 4 cents shall be added for taxes.~~

~~(f) On sales in amounts from 58 cents to 71 cents, both inclusive, 5 cents shall be added for taxes.~~

~~(g) On sales in amounts from 72 cents to 85 cents, both inclusive, 6 cents shall be added for taxes.~~

~~(h) On sales in amounts from 86 cents to $1, both inclusive, 7 cents shall be added for taxes.~~

~~(i) On sales in amounts from $1 up to, and including, the first $5,000 in price, 7 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.~~

~~(j) On sales in amounts of more than $5,000 in price, 7 percent shall be added upon the first $5,000 in price, and 6 percent shall be added upon each dollar of price in excess of the first $5,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (9).~~

~~(11) The department shall make available in an electronic format or otherwise the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department shall make available in an~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

212.20 Funds collected, disposition; additional powers of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Of the remaining proceeds:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Amnesty shall be provided for uncollected or unpaid

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

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

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

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

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

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

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

213.256 Simplified Sales and Use Tax Administration Act.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Uses a certified automated system;

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

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

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

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

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

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

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

and (4);

(b) Determines whether an item is exempt from tax;

(c) Determines the amount of tax to be remitted for each taxpayer for a reporting period; and

(d) Can generate reports and returns as required by the governing board.

(8) The department may by rule establish one or more sales tax performance standards for model 3 sellers.

(9) Disclosure of information necessary under this section must be made according to a written agreement between the executive director of the department or his or her designee and the certified service provider. The certified service provider is bound by the same requirements of confidentiality as the department employees. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 24. It is the intent of the Legislature to urge the United States Congress to consider adequate protections for small businesses engaging in both offline and online transactions from added costs, administrative burdens, and requirements imposed on intermediaries relating to the collection and remittance of sales and use tax.

Section 25. The executive director of the Department of Revenue may adopt emergency rules to implement this act. Notwithstanding any other law, the emergency rules shall remain effective for 6 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.

Section 26. Paragraph (a) of subsection (5) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.—

(a) The Legislative Auditing Committee shall direct the Auditor General to make an audit of any municipality whenever petitioned to do so by at least 20 percent of the registered electors in the last general election of that municipality pursuant to this subsection. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the registered electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the distribution pursuant to s. 212.20(5)(e)5. ~~212.20(6)(d)5.~~ which is distributable to such municipality, a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

Section 27. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context

clearly indicates otherwise:

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

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

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

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

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

this chapter shall be treated as follows:

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

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

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

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

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

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

(1)

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

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

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

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

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

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

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

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

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

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage

spaces under s. 212.03(6).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

212.052 Research or development costs; exemption.—

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

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

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

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

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

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

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

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

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

(3) SMALL COUNTY SURTAX.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

218.245 Revenue sharing; apportionment.—

(3) Revenues attributed to the increase in distribution to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 212.20(5)(e)5. ~~212.20(6)(d)5.~~ from 1.0715 percent to 1.3409 percent provided in chapter 2003-402, Laws of Florida, shall be distributed to each eligible municipality and any unit of local government that is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII, 1968 revised constitution, as follows: each eligible local government's allocation shall be based on the amount it received from the half-cent sales tax under s. 218.61 in the prior state fiscal year divided by the total receipts under s. 218.61 in the prior state fiscal year for all eligible local governments. However, for the purpose of calculating this distribution, the amount received from the half-cent sales tax under s. 218.61 in the prior state fiscal year by a unit of local government which is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as amended, and as preserved by s. 6(e), Art. VIII, of the Constitution as revised in 1968, shall be reduced by 50 percent for such local government and for the total receipts. For eligible municipalities that began participating in the allocation of half-cent sales tax under s. 218.61 in the previous state fiscal year, their annual receipts shall be calculated by dividing their actual receipts by the number of months they participated, and the result multiplied by 12.

Section 37. Subsections (5), (6), and (7) of section 218.65, Florida Statutes, are amended to read:

218.65 Emergency distribution.—

(5) At the beginning of each fiscal year, the Department of Revenue shall calculate a base allocation for each eligible county equal to the difference between the current per capita limitation times the county's population, minus prior year ordinary distributions to the county pursuant to ss. 212.20(5)(e)2. ~~212.20(6)(d)2.~~, 218.61, and 218.62. If moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(e)3. ~~212.20(6)(d)3.~~, excluding moneys appropriated for supplemental distributions pursuant to subsection (8), for the current year are less than or equal to the sum of the base allocations, each eligible county shall receive a share of the appropriated amount proportional to its base allocation. If the deposited amount exceeds the sum of the base allocations, each county shall receive its base allocation, and the excess appropriated amount, less any amounts distributed under subsection (6), shall be distributed equally on a per capita basis among the eligible counties.

(6) If moneys deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(5)(e)3. ~~212.20(6)(d)3.~~ exceed the amount necessary to provide the base allocation to each eligible county, the moneys in the trust fund may be used to provide a transitional distribution, as specified in this subsection, to certain counties whose population has increased. The transitional distribution shall be made available to each county that qualified for a distribution under subsection (2) in the prior year but does not, because of the

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

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

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

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

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

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

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

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

288.11621 Spring training baseball franchises.—

(3) USE OF FUNDS.—

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

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

2. Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

3. Assist in the relocation of a spring training franchise from one unit of local government to another only if the

governing board of the current host local government by a majority vote agrees to relocation.

(d)1. All certified applicants must place unexpended state funds received pursuant to s. 212.20(5)(e)6.b. ~~212.20(6)(d)6.b.~~ in a trust fund or separate account for use only as authorized in this section.

2. A certified applicant may request that the Department of Revenue suspend further distributions of state funds made available under s. 212.20(5)(e)6.b. ~~212.20(6)(d)6.b.~~ for 12 months after expiration of an existing agreement with a spring training franchise to provide the certified applicant with an opportunity to enter into a new agreement with a spring training franchise, at which time the distributions shall resume.

3. The expenditure of state funds distributed to an applicant certified before July 1, 2010, must begin within 48 months after the initial receipt of the state funds. In addition, the construction of, or capital improvements to, a spring training facility must be completed within 24 months after the project's commencement.

Section 40. Subsection (6) of section 288.1169, Florida Statutes, is amended to read:

288.1169 International Game Fish Association World Center facility.—

(6) The department must recertify every 10 years that the facility is open, that the International Game Fish Association World Center continues to be the only international administrative headquarters, fishing museum, and Hall of Fame in the United States recognized by the International Game Fish

Association, and that the project is meeting the minimum projections for attendance or sales tax revenues as required at the time of original certification. If the facility is not recertified during this 10-year review as meeting the minimum projections, then funding shall be abated until certification criteria are met. If the project fails to generate $1 million of annual revenues pursuant to paragraph (2)(e), the distribution of revenues pursuant to s. 212.20(5)(e)6.d. ~~212.20(6)(d)6.d.~~ shall be reduced to an amount equal to $83,333 multiplied by a fraction, the numerator of which is the actual revenues generated and the denominator of which is $1 million. Such reduction remains in effect until revenues generated by the project in a 12-month period equal or exceed $1 million.

Section 41. Subsection (8) of section 551.102, Florida Statutes, is amended to read:

551.102 Definitions.—As used in this chapter, the term:

(8) "Slot machine" means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be

exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both. A slot machine is not a "coin-operated amusement machine" as defined in s. 212.02~~(24)~~ or an amusement game or machine as described in s. 849.161, and slot machines are not subject to the tax imposed by s. 212.05(1)(h).

Section 42. Paragraph (a) of subsection (1) of section 790.0655, Florida Statutes, is amended to read:

790.0655 Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.—

(1)(a) There shall be a mandatory 3-day waiting period, which shall be 3 days, excluding weekends and legal holidays, between the purchase and the delivery at retail of any handgun. "Purchase" means the transfer of money or other valuable consideration to the retailer. "Handgun" means a firearm capable of being carried and used by one hand, such as a pistol or revolver. "Retailer" means and includes every person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in s. 212.02~~(13)~~.

Section 43. Section 212.0596, Florida Statutes, is repealed.

Section 44. Effective November 1, 2013, paragraphs (a), (b), (c), and (d) of subsection (4) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(4) COMPUTATION FOR ALLOCATING EDUCATION SURTAX PROCEEDS ~~OF DISTRICT REQUIRED LOCAL EFFORT~~.—The Legislature shall prescribe as an item in the General Appropriations Act for each fiscal year the aggregate amount of revenue from property taxes that would otherwise be required ~~local effort~~ for all school districts collectively ~~as an item in the General Appropriations Act for each fiscal year~~. The amount that shall be appropriated to each district shall be provided ~~provide~~ annually from the State Schools Trust Fund and shall replace revenue that would otherwise have to be raised by local property taxes, toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs using the following calculations ~~shall be calculated as follows~~:

(a) Estimated taxable value calculations.—

1.a. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of the taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. The value certified shall be the taxable value for school purposes for that year, and no further

adjustments shall be made, except those made pursuant to paragraphs (c) and (d), or an assessment roll change required by final judicial decisions as specified in paragraph (13)(b). Not later than July 19, the Commissioner of Education shall compute a millage rate, rounded to the next highest one one-thousandth of a mill, which, if ~~when~~ applied to 96 percent of the estimated state total taxable value for school purposes, would generate the prescribed aggregate amount of revenue from property taxes that would otherwise be required ~~local effort~~ for that year for all districts if proceeds of the education surtax were not available. ~~The Commissioner of Education shall certify to each district school board the millage rate, computed as prescribed in this subparagraph, as the minimum millage rate necessary to provide the district required local effort for that year.~~

b. The General Appropriations Act shall direct the computation of the statewide adjusted aggregate amount ~~for~~ required ~~local effort~~ for all school districts collectively ~~from ad valorem taxes~~ to ensure that no school district's allocation ~~revenue~~ from proceeds of the education surtax ~~required local effort millage~~ will produce more than 90 percent of the district's total Florida Education Finance Program calculation as calculated and adopted by the Legislature, and the estimated adjustment of the ~~required local effort~~ millage rate of each district that would produce ~~produces~~ more than 90 percent of its total Florida Education Finance Program entitlement to a level that would be required to ~~will~~ produce only 90 percent of its total Florida Education Finance Program entitlement in the July calculation if proceeds of the education surtax were not

available.

2. On the same date as the certification in sub-subparagraph 1.a., the Department of Revenue shall certify to the Commissioner of Education for each district:

a. Each year for which the property appraiser has certified the taxable value pursuant to s. 193.122(2) or (3), if applicable, since the prior certification under sub-subparagraph 1.a.

b. For each year identified in sub-subparagraph a., the taxable value certified by the appraiser pursuant to s. 193.122(2) or (3), if applicable, since the prior certification under sub-subparagraph 1.a. This is the certification that reflects all final administrative actions of the value adjustment board.

(b) Equalization of proceeds from the education surtax ~~required local effort~~.—

1. The Department of Revenue shall include with its certifications provided pursuant to paragraph (a) its most recent determination of the assessment level of the prior year's assessment roll for each county and for the state as a whole.

2. The Commissioner of Education shall adjust the estimated ~~required local effort~~ millage that would otherwise be required of each district for the current year if proceeds from the education surtax were not available, computed pursuant to paragraph (a), as follows:

a. The equalization factor for the prior year's assessment roll of each district shall be multiplied by 96 percent of the taxable value for school purposes shown on that roll and by the

prior year's estimate of ~~required local effort~~ millage under this subsection, exclusive of any equalization adjustment made pursuant to this paragraph. The dollar amount so computed shall be the additional amount required from the proceeds of the education surtax ~~required local effort~~ for equalization for the current year.

b. Such equalization factor shall be computed as the quotient of the prior year's assessment level of the state as a whole divided by the prior year's assessment level of the county, from which quotient shall be subtracted 1.

c. The dollar amount of additional proceeds required from the education surtax ~~local effort~~ for equalization for each district shall be converted to an estimated ~~a~~ millage rate that would otherwise be required if proceeds from the education surtax were not available, based on 96 percent of the current year's taxable value for that district, and added to the estimated ~~required local effort~~ millage determined pursuant to paragraph (a) that would otherwise be required if proceeds from the education surtax were not available.

3. ~~Notwithstanding the limitations imposed pursuant to s. 1011.71(1),~~ The total estimated ~~required local effort~~ millage, including additional proceeds required ~~local effort~~ for equalization, shall be an amount not to exceed 10 minus the maximum millage allowed as nonvoted discretionary millage, exclusive of millage authorized pursuant to s. 1011.71(2). Nothing herein shall be construed to allow a millage in excess of that authorized in s. 9, Art. VII of the State Constitution.

4. For the purposes of this chapter, the term "assessment

level" means the value-weighted mean assessment ratio for the county or state as a whole, as determined pursuant to s. 195.096, or as subsequently adjusted. However, for those parcels studied pursuant to s. 195.096(3)(a)1. which are receiving the assessment limitation set forth in s. 193.155, and for which the assessed value is less than the just value, the department shall use the assessed value in the numerator and the denominator of such assessment ratio. In the event a court has adjudicated that the department failed to establish an accurate estimate of an assessment level of a county and recomputation resulting in an accurate estimate based upon the evidence before the court was not possible, that county shall be presumed to have an assessment level equal to that of the state as a whole.

5. If, in the prior year, taxes were levied against an interim assessment roll pursuant to s. 193.1145, the assessment level and prior year's nonexempt assessed valuation used for the purposes of this paragraph shall be those of the interim assessment roll.

(c) Exclusion.—

1. In those instances in which:

a. There is litigation either attacking the authority of the property appraiser to include certain property on the tax assessment roll as taxable property or contesting the assessed value of certain property on the tax assessment roll, and

b. The assessed value of the property in contest involves more than 6 percent of the total nonexempt assessment roll, the plaintiff shall provide to the district school board of the county in which the property is located and to the Department of

Education a certified copy of the petition and receipt for the good faith payment at the time they are filed with the court.

2. For purposes of computing the amount of revenue from property taxes that would otherwise be required if proceeds from the education surtax were not available ~~local effort~~ for each district affected by such petition, the Department of Education shall exclude from the district's total nonexempt assessment roll the assessed value of the property in contest and shall add an appropriate ~~the~~ amount for allocation to the district from the proceeds of the education surtax ~~of the good faith payment to the district's required local effort~~.

(d) Recomputation.—Following final adjudication of any litigation on the basis of which an adjustment in taxable value was made pursuant to paragraph (c), the department shall recompute the amount of revenue from property taxes that would otherwise have been required from ~~local effort for~~ each district for each year affected by such adjustments, utilizing taxable values approved by the court, and shall adjust subsequent allocations from the proceeds of the education surtax to such districts accordingly.

Section 45. Effective November 1, 2013, subsections (1), (2), (3), (5), and (9) of section 1011.71, Florida Statutes, are amended to read:

1011.71 District school tax.—

(1) ~~If the district school tax is not provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, each district school board desiring to participate in the state allocation of funds for~~

~~current operation as prescribed by s. 1011.62(13) shall levy on the taxable value for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year, pursuant to s. 1011.62(4)(a)1. In addition to the required local effort millage levy,~~ Each district school board that levied ~~may levy~~ a nonvoted current operating discretionary millage as of January 1, 2011, shall be provided an amount equal to the revenue that would have been raised by that millage from the proceeds of the education surtax. These funds shall be provided through allocation in the annual General Appropriations Act from the State Schools Trust Fund and shall be in lieu of levying the millage. ~~The Legislature shall prescribe annually in the appropriations act the maximum amount of millage a district may levy.~~

(2) In addition to the revenue appropriated ~~maximum millage levy~~ as provided in subsection (1), each school board that levies ~~may levy~~ not more than 1.5 mills against the taxable value for school purposes for district schools as of January 1, 2011, for purposes authorized by this subsection, shall be provided an amount equal to the revenue that would have otherwise been raised by that millage in the annual General Appropriations Act from the State Schools Trust Fund, including charter schools at the discretion of the school board, to fund:

(a) New construction and remodeling projects, as set forth in s. 1013.64(3)(b) and (6)(b) and included in the district's

educational plant survey pursuant to s. 1013.31, without regard to prioritization, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.

(b) Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies pursuant to s. 1013.15(2).

(c) The purchase, lease-purchase, or lease of school buses.

(d) The purchase, lease-purchase, or lease of new and replacement equipment; computer hardware, including electronic hardware and other hardware devices necessary for gaining access to or enhancing the use of electronic content and resources or to facilitate the access to and the use of a school district's electronic learning management system pursuant to s. 1006.281, excluding software other than the operating system necessary to operate the hardware or device; and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support districtwide administration or state-mandated reporting requirements.

(e) Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not exceeding, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district school board pursuant to this subsection. For the 2009-2010 fiscal year, the

three-fourths limit is waived for lease-purchase agreements entered into before June 30, 2009, by a district school board pursuant to this paragraph.

(f) Payment of loans approved pursuant to ss. 1011.14 and 1011.15.

(g) Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.

(h) Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites pursuant to s. 1013.15(2), or of renting or leasing buildings or space within existing buildings pursuant to s. 1013.15(4).

(i) Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services if the district meets the requirements of this paragraph.

1. The district's contract must require that the private entity purchase, lease-purchase, or lease, and operate and maintain, one or more school buses of a specific type and size that meet the requirements of s. 1006.25.

2. Each such school bus must be used for the daily transportation of public school students in the manner required by the school district.

3. Annual payment for each such school bus may not exceed 10 percent of the purchase price of the state pool bid.

4. The proposed expenditure of the funds for this purpose must have been included in the district school board's notice of

proposed tax for school capital outlay as provided in s. 200.065(10).

(j) Payment of the cost of the opening day collection for the library media center of a new school.

(3)(a) Notwithstanding subsection (2), if the revenue that would have otherwise been raised by nonvoted discretionary millages levied as of January 1, 2012, ~~from 1.5 mills~~ is insufficient to meet the payments due under a lease-purchase agreement entered into before June 30, 2009, by a district school board pursuant to paragraph (2)(e), or to meet other critical district fixed capital outlay needs, the board~~, in addition to the 1.5 mills,~~ may levy up to 0.25 mills for fixed capital outlay ~~in lieu of levying an equivalent amount of the discretionary mills for operations as provided in the General Appropriations Act~~. Millage levied pursuant to this subsection is subject to the provisions of s. 200.065 ~~and, combined with the 1.5 mills authorized in subsection (2), may not exceed 1.75 mills~~. If the district chooses to use up to 0.25 mills for fixed capital outlay, the compression adjustment pursuant to s. 1011.62(5) shall be calculated for the standard discretionary millage that is not eligible for transfer to capital outlay.

(b) Local funds generated by the additional 0.25 mills authorized in paragraph (b) and state funds provided pursuant to s. 1011.62(5) may not be included in the calculation of the Florida Education Finance Program in 2011-2012 or any subsequent year and may not be incorporated in the calculation of any hold-harmless or other component of the Florida Education Finance Program in any year, except as provided in paragraph (d).

(c) For the 2011-2012 and 2012-2013 fiscal years, the 0.25 mills authorized in paragraph (b) may be levied by the districts in which it was authorized by the voters in the 2010 general election. If a district levies this voter-approved 0.25 mills for operations, a compression adjustment pursuant to s. 1011.62(5) may be calculated and added to the district's Florida Education Finance Program allocation, subject to determination in the General Appropriations Act.

(5) Effective July 1, 2008, a school district may expend, subject to the provisions of s. 200.065, up to $100 per unweighted full-time equivalent student from the revenue allocated from the State Schools Trust Fund to replace nonvoted discretionary millage levies ~~generated by the millage levy authorized by subsection (2)~~ to fund, in addition to expenditures authorized in paragraphs (2)(a)-(j), expenses for the following:

(a) The purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.

(b) Payment of the cost of premiums, as defined in s. 627.403, for property and casualty insurance necessary to insure school district educational and ancillary plants. As used in this paragraph, casualty insurance has the same meaning as in s. 624.605(1)(d), (f), (g), (h), and (m). Operating revenues that are made available through the payment of property and casualty insurance premiums from revenues generated under this subsection

may be expended only for nonrecurring operational expenditures of the school district.

(9) ~~In addition to the maximum millage levied under this section and the General Appropriations Act,~~ A school district may levy, by local referendum or in a general election, additional millage not to exceed 1 mill for school operational purposes ~~up to an amount that, when combined with nonvoted millage levied under this section, does not exceed the 10-mill limit established in s. 9(b), Art. VII of the State Constitution~~. Any such levy shall be for a maximum of 4 years and shall be counted as part of the 10-mill limit established in s. 9(b), Art. VII of the State Constitution. Millage elections conducted under the authority granted pursuant to this section are subject to s. 1011.73. Funds generated by such additional millage do not become a part of the calculation of the Florida Education Finance Program total potential funds in 2001-2002 or any subsequent year and must not be incorporated in the calculation of any hold-harmless or other component of the Florida Education Finance Program formula in any year. ~~If an increase in required local effort, when added to existing millage levied under the 10-mill limit, would result in a combined millage in excess of the 10-mill limit, any millage levied pursuant to this subsection shall be considered to be required local effort to the extent that the district millage would otherwise exceed the 10-mill limit.~~

Section 46. Effective November 1, 2013, paragraph (a) of subsection (9) of section 1002.32, Florida Statutes, is amended to read:

1002.32 Developmental research (laboratory) schools.—

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(a) Each lab school shall be allocated its proportional share of operating funds from the Florida Education Finance Program as provided in s. 1011.62 based on the county in which the lab school is located and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for lab schools shall be allocated from state funds. The required ~~local effort~~ funds calculated pursuant to s. 1011.62 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 1011.62. Each eligible lab school in operation as of September 1, 2002, shall also receive a proportional share of the sparsity supplement as calculated pursuant to s. 1011.62. In addition, each lab school shall receive its proportional share of all categorical funds, with the exception of s. 1011.68, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

Section 47. Effective November 1, 2013, subsection (3) of section 1011.02, Florida Statutes, is amended to read:

1011.02 District school boards to adopt tentative budget.—

(3) The proposed budget shall include the anticipated ~~an~~ amount of proceeds from the education surtax that the district

school board expects to receive allocated from the State Schools Trust Fund ~~for local required effort~~ for current operation, in accordance with the requirements of s. 1011.62(4).

Section 48. Subsection (2) of section 1011.69, Florida Statutes, is amended to read:

1011.69 Equity in School-Level Funding Act.—

(2) Beginning in the 2003-2004 fiscal year, district school boards shall allocate to schools within the district an average of 90 percent of the funds generated by all schools and guarantee that each school receives at least 80 percent of the funds generated by that school based upon the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds allocated from the State Schools Trust Fund to replace funds that would have otherwise been raised from the ~~school district's current~~ operating discretionary millage levy in effect as of January 1, 2011. Total funding for each school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the school during the full-time equivalent student survey periods designated by the Commissioner of Education. If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in the schools in the district shall be provided federal funds.

Section 49. Except as otherwise expressly provided in this act, and except for this section, which shall take effect upon

this act becoming a law, this act shall take effect January 1, 2013.