



Appropriations Committee

Thursday, February 22, 2018
1:00 PM – 4:00 PM
212 Knott Building

Meeting Packet

Volume II



The Florida House of Representatives

Appropriations Committee

Richard Corcoran
Speaker

Carlos Trujillo
Chair

AGENDA

Thursday, February 22, 2018



212 Knott Building

1:00 PM – 4:00 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Trujillo
- III. **Consideration of the following committee bills:**
 - CS/HB 7063** Natural Resources by Agriculture & Natural Resources Appropriations Subcommittee, Government Accountability Committee, Caldwell
 - HB 7083** Emergency Management by Government Accountability Committee, Raschein
 - HB 7085** Health Care Disaster Preparedness and Response by Health & Human Services Committee, Massullo
 - HB 7089** Public Safety by Judiciary Committee, Byrd
- IV. **Consideration of the following bill(s) with proposed committee substitute:**
 - PCS for HB 7087** – Taxation
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 7087 Taxation
SPONSOR(S): Appropriations Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Hawkins 	Leznoff 

SUMMARY ANALYSIS

The bill provides for a wide range of tax reductions designed to directly impact both families and businesses.

The bill contains several provisions related to sales tax:

- Tax rate reduction for tax on commercial rentals (business rent tax).
- Includes new, extended, or expanded sales tax exemptions for:
 - Sales tax credits for contributions to the Gardiner Scholarship and Florida Tax Credit Scholarship programs;
 - Certain generators for nursing homes and assisted living facilities;
 - Certain purchases of agriculture related fencing materials and building materials for repair of storm damage from Hurricane Irma;
- Sales tax holidays:
 - A ten-day “back-to-school” holiday for clothing, footwear, school supplies, and computers;
 - Three seven-day “disaster preparedness” holiday for sales of specified items related to disaster preparedness.

For property tax purposes, the bill provides property tax relief for certain homestead property damaged by hurricanes or tropical storms; for certain citrus processing equipment idled due to citrus greening or Hurricane Irma; for certain surviving spouses of disabled ex-servicemembers; updates the list of military operations for which deployed servicemembers may receive property tax relief; clarifies the tax exempt status of certain entities created under the Florida Interlocal Cooperation Act of 1969; clarifies representation of condominium owners in certain property tax challenges, and clarifies the property tax treatment of multiple parcel buildings.

For corporate income tax purposes, the bill provides an additional \$13 million for tax credits for fiscal year 2018-19 for voluntary brownfields clean-up and an additional \$6.5 million for community contribution tax credits in fiscal year 2019-20 (also may be taken against sales tax and insurance premiums tax).

Further changes include: an 18 percent reduction in certain traffic fines if the driver attends a driver improvement course; exemptions from documentary stamp taxes for certain transfers of property between spouses and for certain notes and mortgages given for loans made in connection with local housing finance authorities; reduction in the tax rate on certain aviation fuel uses; exemption from fuel taxes certain purchases of fuel for export and certain purchases of fuel for agricultural related uses; several changes adding flexibility to the use of tax credits under the Florida Scholarship Tax Credit Program; a requirement for reporting of certain financial information by certain recipients of sales tax and cigarette tax distributions; preemption of local government prohibitions of the sale of tangible personal property subject to sales tax, and a clarification to the uses for which the local infrastructure sales surtax may be used.

The total impact of the bill in fiscal year 2018-19 is -\$331.3 million (-\$273.9 million recurring). See FISCAL COMMENTS section for details.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals,¹ unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (77.1 percent for FY 2017-18)² and is administered by the Department of Revenue (DOR) under ch. 212, F.S.

Sales Tax on Rental of Commercial Real Estate (Business Rent Tax)

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.³ Sales tax is due at the rate of 5.8 percent on the total rent paid for the right to use or occupy commercial real property and county sales surtax can also be levied on total rent.⁴ If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the business rent tax in 2014.⁵

Proposed Changes

The bill reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 5.8 percent to 5.5 percent, beginning January 1, 2019.

¹ The Legislature reduced the sales tax rate on commercial rentals to 5.8% effective January 1, 2018. See s. 21, ch. 2017-36, Laws of Fla.

² FLORIDA REVENUE ESTIMATING CONFERENCE (REC), 2018 FLORIDA TAX HANDBOOK (2018).

³ ch. 1969-222, Laws of Fla.

⁴ s. 212.031, F.S., and Rule 12A-1.070, F.A.C.

⁵ Office of Economic and Demographic Research (EDR), Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014).

Generators for Nursing Homes and Assisted Living Facilities

Current Situation

In response to electrical outages caused by Hurricane Irma, the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) published Emergency Rules in September 2017 to require nursing homes and assisted living facilities to comply with an emergency power plan.⁶ The emergency rules require nursing homes and assisted living facilities to:

- Provide a detailed plan which includes the acquisition of a sufficient generator or generators that ensure ambient temperatures at facilities will be maintained at 80 degrees or less for a minimum of 96 hours in the event of a loss of power.
- Acquire and maintain sufficient fuel to ensure that in an emergency the generators can function as required.
- Acquire services necessary to install, maintain, and test the equipment to ensure the safe and sufficient operation of the generator system.

Facilities must have implemented their plan within 60 days of September 16, 2017. Additional Emergency Rules were subsequently published to provide for exceptions for the implementation timeline.⁷ Under the Additional Emergency Rules, a nursing home or assisted living facility may qualify for an exception to the 60 day timeline if the facility requests a variance from AHCA, which demonstrates to AHCA that:

- the facility has made all feasible efforts to implement the detailed plan within the 60 day period,
- circumstances beyond the control of the facility have made full and timely implementation impossible, and
- that satisfactory arrangements have been made to ensure the residents and patients will not be exposed to ambient temperature above 80 degrees Fahrenheit in the event the facility is without electric power.

AHCA may grant the variance of the 60 day period under the 'principles of fairness' standard in s. 120.542, F.S., for a period no longer than 180 days, subject to such conditions AHCA determines are appropriate under the circumstances.

The emergency rules will remain in effect until the permanent rulemaking process is complete; AHCA and DOEA initiated rulemaking to create permanent rules on November 14, 2017.⁸ The proposed permanent rules are generally similar to the emergency rules, except the proposed permanent rules:

- Instead of requiring the acquisition of a generator, require facilities to have ready access to an alternative power source, such as a generator, in the event of a loss of power.
- Clarify that if there is a conflicting local ordinance restricting the maximum amount of fuel storage allowed, then the facility shall maintain the maximum amount allowable by the local ordinance or code.
- Clarify the area within the facility where the required temperatures are to be maintained.
- Clarifies that piped natural gas is an allowable fuel source under this rule.
- Requires that facilities notify families and legal representatives of patients once they submit their emergency plans to local emergency management agencies.⁹

⁶ Florida Emergency Rules 58AER17-1 and 59AER17-1.

⁷ Florida Emergency Rules 58AER17-2 and 59AER17-2.

⁸ See Florida Administrative Register, Volume 43, Number 220, November 14, 2017, pp. 5169-5174, available at: <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2017/43220/43220doc.pdf> See also AHCA, *AHCA and DOEA Announce New Permanent Generator Rules Have Been Filed*, November 13, 2017, available at: https://ahca.myflorida.com/Executive/Communications/Press_Releases/pdf/AHCAandDOEAAnnouncetheNewPermanentGeneratorRulesHaveBeenFiled.pdf

⁹ Proposed Rules Rule 59A-4.1265 and 58A-5.036, F.A.C.

According to AHCA, as of December 1, 2017:¹⁰

- 104 nursing homes have reported that they are now in compliance with the emergency generator rule;
- 2,365 nursing homes and assisted living facilities have submitted plans or reported being in compliance, and
- 563 assisted living facilities have still not responded to the requirements in the rule, and will continue to be subject to fines following the November 15 deadline, unless granted a variance.

If a facility has not responded to the Governor's Emergency Rule in any form, AHCA's next step is to issue a Notice of Apparent Violation, informing the facility of the fines and possible license revocation. The notice will demand a response in 10 days. During this time, each facility not in compliance will continue to be fined \$1,000 per day.¹¹

There is currently no sales tax exemption for the purchase of generators for nursing homes or assisted living facilities.¹²

Proposed Changes

The bill provides an exemption from the sales and use tax for the purchase of generators used to generate emergency electric energy at nursing homes or assisted living facilities. The exemption is available at the time of purchase or through a refund of previously paid taxes and applies to purchases made between July 1, 2017 and December 31, 2018. The exemption is limited to a maximum of \$15,000 in tax for the purchase of generators for any one facility.

A purchaser must provide an affidavit to a seller certifying that the equipment will only be used for the above purposes. A similar requirement is made when applying to DOR for a refund.

Fencing Materials used in Agriculture

Current Situation

Current law exempts from the sales and use tax certain items used for agricultural purposes and nets used by commercial fisheries.¹³ The exemption is not allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated in s. 212.08(5)(a), F.S.

Hurricane Irma's path coincided with some of Florida's most productive agricultural landscapes, and consequently it caused major losses to all segments of agriculture production, including crop losses and damaged infrastructure (such as destroyed fences, shade structures, and ground cover for row crops). Preliminary estimates for total losses (crops and infrastructure) reported by the Department of Agriculture and Consumer Services (DACCS) to Florida's agricultural sectors are over \$2 billion.¹⁴

¹⁰ AHCA, *104 Nursing Homes Have Reported Compliance with the Nursing Home Emergency Generator Rule*, December 1, 2017, available at: http://ahca.myflorida.com/Executive/Communications/Press_Releases/pdf/AHCA_NHandALFrelease12.1.2017.pdf

¹¹ AHCA, *104 Nursing Homes Have Reported Compliance with the Nursing Home Emergency Generator Rule*, December 1, 2017, available at: http://ahca.myflorida.com/Executive/Communications/Press_Releases/pdf/AHCA_NHandALFrelease12.1.2017.pdf

¹² However, generators used farms are exempt. See s. 212.08(5)(a), F.S., and Rule 12A-1.087(6), F.A.C.

¹³ s. 212.08(5)(a), F.S.

¹⁴ Florida Department of Agriculture and Consumer Services (DACCS), *Hurricane Irma's Damage to Florida Agriculture*, October 7, 2017, available at:

<https://www.freshfromflorida.com/content/download/77515/2223098/FDACCS+Irma+Agriculture+Assessment.pdf>

Proposed Changes

The bill provides an exemption from the sales and use tax for the purchase of certain fencing materials used to repair agricultural fencing that was damaged as a direct result of Hurricane Irma. The exemption is available through a refund of previously paid taxes and applies to purchases made between September 10, 2017, and May 31, 2018. For purposes of this exemption, “fencing materials” means hog wire and nylon mesh netting used on a farm for protection from predatory or destructive animals; and barbed wire fencing, including gates and materials used to construct or repair such fencing, used on a beef or dairy cattle farm.

To receive a refund, the owner of the fencing materials must apply to DOR by December 31, 2018 and include the following information:

- The name and address of the person claiming the refund.
- An address and assessment roll parcel number of the agricultural land where the fencing materials will be used.
- The sales invoice or other proof of purchase of the fencing materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased.
- An affidavit executed by the owner of the fencing materials including a statement that the fencing materials were or will be used to repair fencing damaged as a direct result of the impact of Hurricane Irma.

Building Materials for Nonresidential Farm Buildings

Current Situation

Current law defines a “nonresidential farm building” as any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, F.S., and is not intended to be used as a residential dwelling.¹⁵ The term includes barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses.

Generally, sales and use tax are currently levied on the purchase of tangible personal property that is used in the construction or repair of buildings and other projects, unless specifically exempted under current law.¹⁶ There is currently no general sales tax exemption for the purchase of tangible personal property used in the construction or repair of nonresidential farm buildings.

Similar to the discussion above regarding fencing materials used in agriculture, Hurricane Irma caused major losses to Florida’s agricultural landscapes, and damage to nonresidential farm building is a part of the agricultural infrastructure losses.¹⁷

Proposed Changes

The bill provides an exemption from the sales and use tax for the purchase of certain building materials used to repair nonresidential farm buildings that were damaged as a direct result of Hurricane Irma. The exemption is available through a refund of previously paid taxes and applies to purchases made

¹⁵ s. 604.50, F.S.

¹⁶ For example, s. 212.08(7)(r), F.S., exempts the sale of building materials that are used in new construction located in a rural area of opportunity.

¹⁷ DACS, Hurricane Irma’s Damage to Florida Agriculture, October 7, 2017, available at:

<https://www.freshfromflorida.com/content/download/77515/2223098/FDACS+Irma+Agriculture+Assessment.pdf>

between September 10, 2017, and May 31, 2018. The exempt building materials are broadly defined as tangible personal property that becomes a component part of a nonresidential farm building.

To receive a refund, the owner of the building materials must apply to DOR by December 31, 2018 and include the following information:

- The name and address of the person claiming the refund.
- An address and assessment roll parcel number of the real property where the building materials will be used.
- The sales invoice or other proof of purchase of the building materials, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the materials were purchased.
- An affidavit executed by the owner of the building materials including a statement that the building materials were or will be used to repair the nonresidential farm building damaged as a direct result of the impact of Hurricane Irma.

Local Government Infrastructure Sales Surtax

Current Situation

Discretionary Sales Surtaxes

There are nine discretionary sales surtaxes that serve as potential revenue sources for county and municipal governments and school districts.¹⁸ They are:

- The charter county and regional transportation system surtax;¹⁹
- The local government infrastructure surtax;²⁰
- The small county surtax;²¹
- The indigent care and trauma center surtax;²²
- The county public hospital surtax;²³
- The school capital outlay surtax;²⁴
- The voter-approved indigent care surtax;²⁵
- The emergency fire rescue services and facilities surtax;²⁶ and
- The pension liability surtax.²⁷

The Local Government Infrastructure Surtax

A county may levy a discretionary sales surtax of 0.5 percent or one percent pursuant to ordinance enacted by a majority of the members of the county and approved by a majority of the electors of the county voting in a referendum on the surtax.²⁸ Surtax proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's

¹⁸ s. 212.055, F.S.

¹⁹ s. 212.055(1), F.S.

²⁰ s. 212.055(2), F.S.

²¹ s. 212.055(3), F.S.

²² s. 212.055(4), F.S.

²³ s. 212.055(5), F.S.

²⁴ s. 212.055(6), F.S.

²⁵ s. 212.055(7), F.S.

²⁶ s. 212.055(8), F.S.

²⁷ s. 212.055(9), F.S.

²⁸ s. 212.055(2)(a)1., F.S.

municipal population. If there is no interlocal agreement, the proceeds are distributed according to the formula in s. 218.62, F.S.²⁹

The proceeds of the surtax and any accrued interest must be expended only to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally owned solid waste landfills that are closed or are required to be closed by order of the Department of Environmental Protection.³⁰

The term “infrastructure” includes any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of five or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service³¹.

In 2016, the Legislature amended the local government infrastructure surtax by, among other things, establishing a definition of “public facilities,”³² which was previously undefined in that section of law. The 2016 law change defined the term “public facilities” to mean facilities as defined in three other sections of law (ss. 163.3164(38), 163.3221(13), and 189.012(5), F.S.), regardless of whether the facilities are owned by the local taxing authority or another governmental entity. Generally, the three incorporated sections define “public facilities” as major capital improvements, including transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational facilities (two of the three sections also include health system facilities). However, under a narrow interpretation of the 2016 law change, the incorporation of the specific statutory definitions into the definition of “public facilities” may have the unintended consequence of limiting the authorized use of the surtax revenues to only the listed facilities.

Proposed Changes

The bill amends s. 212.055(2), F.S., regarding the local government infrastructure surtax to clarify that the definition of “public facilities” means facilities that are necessary to carry out governmental purposes, including but not limited to fire stations, general governmental office buildings, animal shelters, or facilities defined in ss. 163.3164(38), 163.3221(13), and 189.012(5), F.S.

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 22 temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday sixteen times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently \$60. Books valued at \$50 or less were exempted in six periods. School

²⁹ s. 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

³⁰ s. 212.055(2)(d), F.S.

³¹ s. 212.055(2)(d)1.a., F.S.

³² ch. 2016-225, Laws of Fla (CS/CS/HB 447 (2016)).

supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013 and 2017, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014 and 2015, the first \$750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back-to-school sales tax holidays in Florida.

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	Wallets/ Bags	Books	Computers	School Supplies
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	N/A	\$10 or less
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 13-15, 2010	3 days	\$50 or less	\$50 or less	\$50 or less	N/A	\$10 or less
August 12-14, 2011	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 3-5, 2012	3 days	\$75 or less	\$75 or less	N/A	N/A	\$15 or less
August 2-4, 2013	3 days	\$75 or less	\$75 or less	N/A	\$750 or less	\$15 or less
August 1-3, 2014	3 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 7-16, 2015	10 days	\$100 or less	\$100 or less	N/A	First \$750 of the sales price	\$15 or less
August 5-7, 2016	3 days	\$60 or less	\$60 or less	N/A	N/A	\$15 or less
August 4-6, 2017	3 days	\$60 or less	\$60 or less	N/A	\$750 or less	\$15 or less

For the 2017-18 school year, 41 (61 percent) of Florida school districts held their opening day for students during the first week of August (Aug. 7 – 11). Another 23 districts (34 percent) had opening days during the second week of August.

Hurricanes and Disasters in Florida--In 2017, the Florida Office of Insurance Regulation estimated a gross probable loss of over \$7 billion due to Hurricane Irma in 2017, \$1 billion due to hurricanes Hermine and Mathew in 2016,³³ \$25 billion due to four hurricanes in 2004, and \$10.8 billion due to four hurricanes in 2005.³⁴ Tropical Storm Fay was estimated to have resulted in \$242 million of damage in 2008.³⁵ The Florida Division of Emergency Management recommends having a disaster supply kit with items such as a battery operated radio, flashlight, batteries, and first-aid kit.³⁶

³³ Florida Office of Insurance Regulation, Catastrophe Report, available at:

<https://www.florir.com/Office/HurricaneSeason/HurricaneIrmaClaimsData.aspx> (last visited Feb. 15, 2018).

³⁴ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at:

<http://www.florir.com/siteDocuments/HurricaneSummary20042005.pdf>

³⁵ Florida Office of Insurance Regulation, *Florida Office of Insurance Regulation Hurricane Summary Data*, available at:

<http://www.florir.com/siteDocuments/HurricaneSummary2008.pdf>.

³⁶ Florida Division of Emergency Management, *Disaster Supply Kit*, <https://www.floridadisaster.org/plan--prepare/disaster-supply-kit/> (last visited Feb. 15, 2018).

Proposed Changes

The bill establishes three temporary disaster preparedness sales tax holidays in 2018 and a temporary back-to-school sales tax holiday in fiscal year 2018-19.

Back-to-School Holiday--The bill provides for a 10-day sales tax holiday from August 3, 2018, through August 12, 2018. During the holiday, the following items that cost \$60 or less are exempt from the state sales tax and county discretionary sales surtaxes:

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

The bill also exempts "school supplies" that cost \$15 or less per item during the holiday.

The bill also exempts the first \$1,000 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

Disaster Preparedness Sales Tax Holiday-- The bill provides for three seven-day sales tax holidays from May 4, 2018, through May 10, 2018; from June 1, 2018, through June 7, 2018; and from July 6, 2018 through July 12, 2018 for specified items related to disaster preparedness. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- A portable self-powered light source selling for \$20 or less;
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less;
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less;
- A ground anchor system or tie-down kit selling for \$50 or less;
- A gas or diesel fuel tank selling for \$25 or less;
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less;
- A nonelectric food storage cooler selling for \$30 or less;
- A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less; and
- Reusable ice selling for \$10 or less.

The sales tax holidays in the bill do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

The bill allows the "back to school" sales tax holiday to apply at the option of the dealer if less than five percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under the holiday. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2018, the dealer must notify DOR in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business. The bill authorizes DOR to adopt emergency rules to implement the provisions of the holidays.

Sales Tax Distribution Reporting

Current Situation

Section 212.20, F.S., provides for the distribution of all tax or fee revenue collected or received by DOR under ch. 212, F.S., as well as certain communication service taxes and gross receipt taxes. Depending on the specific tax or fee source, distributions are made first to various state trust funds, then to the local government in which the tax or fee was collected, and then any remaining distributions are made to certain applicants that qualify under economic development programs created by the Legislature. For example, after the distributions under ss. 212.20(6)(a)-(d)6.a., F.S., are made, the remaining tax and fee revenues are distributed as follows:

- \$166,667 monthly to professional sports franchise facilities certified pursuant to s. 288.1162, F.S., and \$41,667 monthly to spring training franchise facilities certified pursuant to s. 288.11621, F.S.³⁷
- \$166,667 monthly to the professional golf hall of fame certified pursuant to s. 288.1168, F.S.³⁸
- \$83,333 monthly to certain spring training franchise facilities certified pursuant to s. 288.11631, F.S.³⁹
- Monthly distributions of an amount to be determined by DEO to each local government that is certified pursuant to s. 288.11625, F.S., for the public purpose of constructing, reconstructing, renovating, or improving a sports facility.⁴⁰

While DEO must certify the persons that receive a distribution described above prior to receiving the distributions, current law does not require annual reporting of the manner in which the distributions are spent or whether, and to what extent, the distributions are pledged for debt service.

Proposed Changes

The bill creates reporting requirements for persons that receive a distribution pursuant to ss. 212.20(6)(d)6.b.-f., F.S. By March 15 of each year, such persons receiving distributions in the prior calendar year shall report to the Office of Economic and Demographic Research the following information:

- An itemized accounting of all expenditures of the funds distributed in the prior calendar, including amounts spent on debt service.
- A statement indicating what portion of the distributed funds have been pledged for debt service.
- The original principal amount, and current debt service schedule of any bonds or other borrowing for which the distributed funds have been pledged for debt service.

Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.⁴¹ The calculation of Florida corporate income tax starts with a corporation's federal taxable income.⁴² After certain addbacks and subtractions to federal taxable income required by ch. 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.⁴³ The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate

³⁷ s. 212.20(6)(d)6.b., F.S.

³⁸ s. 212.20(6)(d)6.c., F.S.

³⁹ s. 212.20(6)(d)6.e., F.S.

⁴⁰ s. 212.20(6)(d)6.f., F.S.

⁴¹ s. 220.11, F.S.

⁴² s. 220.12, F.S.

⁴³ s. 220.15, F.S.

corporation's business activities attributable to Florida.⁴⁴ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt.⁴⁵

Sales/Corporate/Ins. Premiums Tax - Community Contribution Tax Credit Program

Current Situation

In 1980, the Legislature established the Community Contribution Tax Credit Program ("CCTCP") to encourage private sector participation in community revitalization and housing projects.⁴⁶ Broadly, the CCTCP offers tax credits to businesses or persons ("taxpayers") anywhere in Florida that contribute⁴⁷ to certain projects undertaken by approved CCTCP sponsors.⁴⁸

Eligible sponsors under the CCTCP include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.⁴⁹ As of February 2018, the CCTCP had 124 approved sponsors.⁵⁰

Eligible projects include activities undertaken by an eligible sponsor that are designed to accomplish one of the following purposes:

- To construct, improve, or substantially rehabilitate housing that is affordable to low-income households or very-low-income households as those terms are defined in s. 420.9071;
- To provide commercial, industrial, or public resources and facilities; or
- To improve entrepreneurial and job-development opportunities for low-income persons.⁵¹

In addition, eligible projects must be located in an area that was designated as an enterprise zone as of May 1, 2015⁵² or a Front Porch Florida Community, with two exceptions. First, any project designed to construct or rehabilitate housing for low-income households or very-low-income households as those terms are defined in s. 420.9071, F.S., is exempt from the area requirement. Second, any project designed to provide increased access to high-speed broadband capabilities that includes coverage in a rural community that had an enterprise zone designation as of May 1, 2015, may locate the project's infrastructure in any area of a rural county (inside or outside of the zone).

The Department of Economic Opportunity (DEO) administers the CCTCP, and its responsibilities include reviewing sponsor project proposals and tax credit applications, periodically monitoring projects, and marketing the CCTCP in consultation with the Florida Housing Finance Corporation and other statewide and regional housing and financial intermediaries.⁵³ Once approved by the DEO, the taxpayer must claim the community contribution tax credit from the DOR.

The credit is calculated as 50 percent of the taxpayer's annual contribution, but a taxpayer may not receive more than \$200,000 in credits in any one year.⁵⁴ The taxpayer may use the credit against corporate income tax, insurance premiums tax, or as a refund against sales tax.⁵⁵ Unused credits

⁴⁴ s. 220.15, F.S.

⁴⁵ s. 220.14, F.S.

⁴⁶ Ch. 80-249, Laws of Fla. The CCTCP is one of the state incentives available under the Florida Enterprise Zone Act, which was partially repealed on December 31, 2015. Sections 290.007(3) and 290.016, F.S.

⁴⁷ ss. 212.08(5)(p)2.a., 220.183(2)(a), and 624.5105(5)(a), F.S., require community contributions to be in the form of cash or other liquid assets, real property, goods or inventory, or other physical resources.

⁴⁸ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

⁴⁹ See ss. 212.08(5)(p)2.c.; 220.183(2)(c); and 624.5105(2)(c), F.S.

⁵⁰ Email correspondence with DEO staff, Feb. 8, 2018, on file with the House Ways & Means Committee.

⁵¹ ss. 212.08(5)(p)2.b.; 220.183(2)(d); 624.5105(2)(b); and 220.03(1)(t), F.S.

⁵² The Florida Enterprise Zone Act was partially repealed as of December 31, 2015- see ch. 2015-221, Laws of Fla.; s. 290.016, F.S.

⁵³ ss. 212.08(5)(p)4.; 220.183(4); and 624.5105(4), F.S.

⁵⁴ ss. 212.08(5)(p)1.; 220.183 (1)(a) and (b); and 624.5105(1), F.S.

⁵⁵ See ss. 212.08(5)(p); 220.183; and 624.5105, F.S.

against corporate income taxes and insurance premium taxes may be carried forward for five years.⁵⁶ Unused credits against sales taxes may be carried forward for three years.⁵⁷

DOR may approve \$10.5 million in annual funding for projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs and \$3.5 million for all other projects. "Persons with special needs" is defined in current statute to include adults requiring independent living services, young adults formerly in foster care, survivors of domestic violence, and people receiving Social Security Disability Insurance, Supplemental Security Income, or veterans' disability benefits.⁵⁸ During FY 2016-2017, DEO approved 444 tax credit applications submitted by 63 eligible sponsors for eligible projects located in 34 counties. For fiscal year 2017-18, as of February 8, 2018, DEO has approved 358 tax credit applications.⁵⁹

The Legislature extended the CCTCP in 1984, 1994, 2005, 2014, and 2015,⁶⁰ and made the program permanent in 2017.⁶¹ It has also amended the annual tax credit allocation of the CCTCP on numerous occasions.⁶² The CCTCP cap, which started at \$3 million annually, is currently set at \$21.4 million for fiscal year 2017-18; for fiscal years after 2017-18, the cap is set at \$14 million. The cap has been reached every year since fiscal year 2001-02, except for a few years when 95.9 percent (fiscal year 2014-15) and 99.9 percent of the cap was reached (fiscal years 2011-12, 2012-13, and 2016-17).⁶³

Proposed Changes

The bill provides a one-time additional tax credit authorization of \$6.5 million for FY 2019-20 for projects that provide homeownership opportunities for low-income and very-low-income households or housing opportunities for persons with special needs. The annual credit authorization for all other projects will remain at \$3.5 million. Thus, the tax credit authorization for all projects in FY 2019-20 is \$20.5 million.

Voluntary Cleanup Tax Credit Program - Brownfields Tax Credit

Current Situation

In 1998, the Legislature provided the Department of Environmental Protection (DEP) the direction and authority to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program;⁶⁴
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.⁶⁵

Eligible tax credit applicants may receive up to \$500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, current law also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and

⁵⁶ ss. 220.183(1)(e) and (g); and 624.5105, F.S.

⁵⁷ ss. 212.08(5)(p)1.b. and f., F.S.

⁵⁸ s. 420.0004(13), F.S.

⁵⁹ Email correspondence with DEO staff, March 22, 2017, on file with House Ways & Means Committee.

⁶⁰ Chs. 84-356, 94-136, 2005-282, 2014-38, and 2015-221, Laws of Fla.

⁶¹ Ch. 2017-36, Laws of Fla.

⁶² See Chs. 94-136, 98-219, 99-265, 2005-282, 2006-78, 2008-153, 2015-221, and 2017-36, Laws of Fla.

⁶³ Email correspondence with DEO staff, Feb. 8, 2018, on file with House Ways & Means Committee.

⁶⁴ s. 376.30781, F.S.

⁶⁵ s. 220.1845, F.S.

received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a \$500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to \$500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to \$500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by DEP is \$10 million annually. In the event that approved tax credit applications exceed the \$10 million annual authorization, the statute provides for remaining applications to roll over into the next FY to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

Since 1998, the VCTC Program has approved \$81.7 million in VCTCs⁶⁶. Total requests for tax credits have met or exceeded the annual authorization since 2007.⁶⁷ Since 2012, the approved tax credits have averaged more than \$8.3 million per year. In 2015, the Legislature approved a one-time tax credit authorization of \$21.6 million, which allowed the DEP to issue certificates for all tax credits that were approved but had not received funding. In 2016, DEP received 99 tax credit applications and approved \$10.8 million in VCTCs for site rehabilitation work completed in 2015. As of July 1, 2016, there were \$10.8 million in approved tax credits; after the authorization was used to issue certificates, \$5.8 million was carried over as the backlog. Effective July 1, 2017⁶⁸, the Legislature again increased the annual authorization to \$10 million. DEP received 136 VCTC applications for 2016 calendar year expenses, and the approved tax credits totaled \$14.4 million. Of this total, \$14 million—approximately 97 percent—was allocated for tax credits for 119 brownfield sites.⁶⁹ DEP received 139 VCTC applications for 2017 calendar year expenses totaling \$12.8 million.⁷⁰ As of February 1, 2018, DEP had a backlog of \$10.2 million in approved tax credits that have not been funded⁷¹. On July 1, 2018, the \$10 million annual authorization for FY 2018-19 becomes available which will reduce the current backlog to \$200,000. However, the \$12.8 million in tax credits applied for 2017 costs when added to the \$200,000 tax credits outstanding will create a backlog of approximately \$13 million⁷² that will be partially funded when the \$10 million annually authorized credit amount becomes available on July 1, 2019.

Proposed Changes

The bill provides a one-time additional tax credit authorization of \$13 million for FY 2018-19.

Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional authority to levy ad valorem taxes. Special districts may also be given this authority by law.⁷³ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

⁶⁶ Florida Brownfields Redevelopment Program, 2016-17 Annual Report, on file with House Ways & Means staff. Unavailable online as of Feb. 1, 2018.

⁶⁷ DEP, Florida Brownfields Redevelopment Program, 2016 Annual Report, no longer available at: http://www.dep.state.fl.us/Waste/quick_topics/publications/wc/brownfields/AnnualReport/2016/2015-16_FDEP_Annual.pdf (last visited March 22, 2017).

⁶⁸ See ss. 32 and 41, ch. 2017-36, Laws of Fla. (HB 7109).

⁶⁹ Florida Brownfields Redevelopment Program, 2016-17 Annual Report, on file with House Ways & Means staff. Unavailable online as of Feb. 1, 2018.

⁷⁰ Email correspondence with DEP staff, Feb. 1, 2018, on file with House Ways and Means Committee.

⁷¹ Email correspondence with DEP staff, Feb. 1, 2018, on file with House Ways and Means Committee.

⁷² Note that, for various reasons, not all of the \$12.8 million in tax credits applied for will be approved.

⁷³ FLA. CONST. art VII, s. 9.

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁷⁴ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁷⁵

Federal, state, and county governments are immune from taxation but municipalities are not subdivisions of the state and may be subject to taxation absent an express exemption.⁷⁶ The Florida Constitution grants property tax relief in the form of certain valuation differentials,⁷⁷ assessment limitations,⁷⁸ and exemptions,⁷⁹ including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

Assessment of Citrus Packing and Processing Equipment

Current Situation

Taxation of Tangible Personal Property

“Tangible personal property” means all goods, chattels, and other articles of value (not including vehicles) capable of manual possession and whose chief value is intrinsic to the article itself.⁸⁰ All tangible personal property is subject to ad valorem taxation unless expressly exempted.⁸¹ Household goods and personal effects,⁸² items of inventory,⁸³ and up to \$25,000 of assessed value for each tangible personal property tax return⁸⁴ are exempt from ad valorem taxation.

Anyone who owns tangible personal property on January 1 of each year and who has a proprietorship, partnership, or corporation, or is a self-employed agent or a contractor, must file a tangible personal property return to the property appraiser by April 1 each year.⁸⁵ Property owners who lease, lend, or rent property must also file a return. Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to \$25,000 of assessed value.⁸⁶

⁷⁴ FLA. CONST. art VII, s. 2.

⁷⁵ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. 4th DCA 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁷⁶ “Exemption” presupposes the existence of a power to tax, while “immunity” implies the absence of it. See *Turner v. Florida State Fair Authority*, 974 So. 2d 470 (Fla. 2d DCA 2008); *Dept. of Revenue v. Gainesville*, 918 So. 2d 250, 257-59 (Fla. 2005).

⁷⁷ FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

⁷⁸ FLA. CONST. art VII, s. 4(c), authorizes the “Save Our Homes” property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3% or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the “Granny Flats” assessment limitation.

⁷⁹ FLA. CONST. art VII, s. 3, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

⁸⁰ s. 192.001(11)(d), F.S.

⁸¹ s. 196.001(1), F.S.

⁸² s. 196.181, F.S.

⁸³ s. 196.185, F.S.

⁸⁴ s. 196.183, F.S.

⁸⁵ s. 193.062, F.S.; see also DOR, Tangible Personal Property, <http://dor.myflorida.com/dor/property/tpp/> (last visited Feb. 15, 2018).

⁸⁶ Fla. Const. art. VII, s. 3.

Taxation of Agricultural Property

Section 193.461, F.S., allows properties classified as bona fide agricultural operations to be taxed according to the “use” value of the agricultural operation, rather than the development value. Generally, tax assessments for qualifying lands are lower than tax assessments for other uses. Lands classified as agricultural for assessment purposes retain their agricultural classification if the land is taken out of production by a state or federal eradication or quarantine program, including the Citrus Health Response Program, for a period of five years. If these agricultural lands are converted to fallow or are otherwise nonincome producing, property tax collectors may only assess a de minimis value up to \$50 per acre on a single-year assessment.⁸⁷

For purposes of ad valorem property taxation, agricultural equipment that is located on property classified as agricultural under s. 193.461, F.S., and is obsolete and no longer usable for its intended purpose is deemed to have a market value no greater than its value for salvage.⁸⁸

Citrus Greening

Citrus Huanglongbing, more commonly known as citrus greening disease, is an endemic citrus disease that impairs a tree’s ability to properly mature, resulting in the production of small, bitter, and economically useless fruit. The disease is incurable and causes trees to become more susceptible to other diseases. Citrus greening was discovered in Miami-Dade County in 2005 and has since spread to all citrus producing counties in Florida.

Over a five year period from 2006-2011, it is estimated that citrus greening disease has resulted in an economic loss of \$4.54 billion and the loss of 8,257 jobs. From 1999-2010, 56 packing houses and 33 processing plants were shut down, partially as a result of decreased production due to citrus greening.⁸⁹ The U.S. Department of Agriculture forecasted that Florida’s citrus production for the 2017-2018 season will be 33 percent less than last season and a decline of more than 80 percent since peak citrus production during the 1997-1998 season. The 2017-2018 forecasted citrus production is also expected to be the smallest production since the 1944-1945 season.⁹⁰

Proposed Changes

The bill creates s. 193.4516, F.S. to provide for purposes of ad valorem taxation, tangible personal property owned and operated by a citrus fruit packing or processing facility shall be deemed to have a market value no greater than its salvage value, provided the tangible personal property is no longer used in the operation of the facility due to the effects of Hurricane Irma or citrus greening. This valuation will be effective only for the 2018 tax year. The bill will apply retroactively to January 1, 2018.

The bill also creates s. 218.135, F.S., to direct the legislature to provide fiscally constrained counties⁹¹ an appropriation to offset the reduction in ad valorem tax revenue which occur as a direct result of the implementation of s. 193.4516, F.S. The affected counties must apply to DOR and provide supporting documentation to receive the appropriation. The appropriations will be distributed to the affected counties in January of each fiscal year in proportion of the total reduction in ad valorem tax revenue resulting from the implementation of s. 193.4516, F.S.

⁸⁷ s. 193.461(7)(a), F.S.

⁸⁸ s. 193.4615, F.S.

⁸⁹ Economic Impacts of Citrus Greening in Florida, 2006/07-2010/11, FE903. UF IFAS Extension. January 2012.

⁹⁰ USDA National Agriculture Statistics Service December Forecast, Citrus Maturity Test Results and Fruit Size, available at: https://www.nass.usda.gov/Statistics_by_State/Florida/Publications/Citrus/Citrus_Forecast/2017-18/cit1217.pdf

⁹¹ See s. 218.67(1), F.S. for a definition of “fiscally constrained counties.”

Homestead Property Damaged or Destroyed by Natural Disaster in 2017

Current Situation

Tax Relief for Natural Disasters

The Legislature has provided tax relief for the victims of natural disasters on at least four occasions.⁹² Chapter 88-101, L.O.F., created s. 196.295(3), F.S., which provided an abatement of taxes for properties damaged by windstorms or tornadoes.⁹³ To receive the abatement, the property owner was required to file an application with the property appraiser by March 1 of the year following the year in which the windstorm or tornado occurred.⁹⁴ After making a determination on the validity of the application, the property appraiser was directed to issue an official statement to the tax collector containing the number of the months the property was uninhabitable due to the damage or destruction, the value of the property prior to the damage or destruction, the total taxes due on the property as reduced by the number of months the property was uninhabitable, and the amount of the reduction in taxes.⁹⁵

Upon receipt of the official statement, the tax collector reduced the amount of taxes due on the property on the tax collection roll and informed the board of county commissioners and DOR of the total reduction in taxes for all property in the county receiving the abatement.⁹⁶ The law was applied retroactively to January 1, 1988 and included a repeal effective of July 1, 1989.⁹⁷ The language was removed from statute in 1992.⁹⁸

Natural Disaster Provisions

Current law provides that the Governor shall issue an executive order declaring a state of emergency if he finds an emergency has occurred or a threat is imminent.⁹⁹ Depending on the severity of the emergency, the declaration may result in a military mobilization or allow out-of-state healthcare professionals to provide services in the disaster area.¹⁰⁰

Proposed Changes

The bill creates s. 197.318, F.S., providing a relief credit¹⁰¹ for homestead parcels on which the defined residential improvements were damaged or destroyed by a hurricane that occurred in 2016 or 2017, namely hurricanes Hermine, Matthew, and Irma. If the residential improvement is rendered uninhabitable for at least 30 days due to a hurricane that occurred during the 2016 or 2017 calendar year, taxes initially levied in 2019 may be abated.

The tax credit is in the form of a credit against property taxes levied in 2019. The amount of the credit reflects the value of the homestead structure for the portion of 2016 or 2017 that it was uninhabitable as a consequence of hurricane damage.

To receive the tax abatement, the property owner must submit an application to the property appraiser by March 1, 2019. A property owner who fails to submit the application by March 1, 2019, waives a claim for abatement of taxes from the natural disaster. The application must identify the residential parcel on which the residential improvement was damaged or destroyed, the hurricane that caused the

⁹² Chs. 88-101, 98-185, 2004-474, and 2007-106, Laws of Fla.

⁹³ s. 196.295(3), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

⁹⁴ s. 196.295(3)(a), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

⁹⁵ s. 196.295(3)(d), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

⁹⁶ s. 196.295(3)(e)-(f), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

⁹⁷ s. 196.295(3)(h), F.S, repealed by ch. 92-173, s. 8, Laws of Fla.

⁹⁸ Ch. 92-173, s. 8, Laws of Fla.

⁹⁹ s. 252.36, F.S.

¹⁰⁰ s. 252.36(3)(c)1. and 2., F.S.

¹⁰¹ The bill defines "disaster relief credit" as the product arrived at by multiplying the damage differential by the amount of timely paid taxes that were initially levied in the year the natural disaster occurred.

damage or destruction, the date the damage or destruction occurred, and the number of days the property was uninhabitable during either the 2016 or 2017 calendar year.

Upon receipt of the application, the property appraiser investigates the statements contained therein and determines if the property owner qualifies for the disaster relief credit. If the property appraiser determines that the property owner is not entitled to the tax abatement, the property owner may file a petition with the value adjustment board. If the property owner qualifies the property appraiser shall issue an official written statement to the tax collector by April 1, 2019 containing:

- The number of days during the calendar year in which the natural disaster occurred that the residential improvement was uninhabitable.¹⁰²
- The just value of the residential parcel on January 1, 2016 or 2017.
- The post-disaster just value of the residential parcel, as determined by the property appraiser.
- The percent change in value applicable to the residential parcel.¹⁰³

The tax collector uses the property appraiser's written statement to calculate the value of the damage differential and disaster relief credit and applies the credit to reduce the taxes initially levied on the residential parcel by the amount of the credit.¹⁰⁴ If the value of the credit exceeds the taxes levied in 2019, the remaining value of the credit shall be applied to taxes due in subsequent years until the value of the credit is exhausted.

The tax collector must notify DOR and the governing board of each affected local government of the total reduction in taxes of all property receiving a credit pursuant to this section. The bill applies retroactively to January 1, 2016, and expires January 1, 2021.

The bill also amends s. 194.032, F.S., to provide that value adjustment boards may hear appeals pertaining to tax abatements under the newly created s. 197.318, F.S.

The bill also creates s. 218.135, F.S., requiring the legislature to appropriate funds to offset the reduction in ad valorem tax revenue in taxing jurisdictions in fiscally constrained counties which occur as a direct result of the implementation of s. 197.318, F.S. The affected taxing jurisdictions must apply to DOR and provide supporting documentation to receive the appropriation. The appropriations will be distributed to the affected taxing jurisdictions in January 2020 in proportion of the total reduction in ad valorem tax revenue resulting from the implementation of s. 197.318, F.S.

Save Our Homes Portability Affected by Storm Damage

Current Situation

The "Save Our Homes" amendment to the Florida Constitution was approved by voters in 1992.¹⁰⁵ This amendment limits annual assessment increases to the lower of: 3% of the assessment for the prior year or the change in the Consumer Price Index (CPI) for all urban consumers. See Fla. Const., art. VII, s. 4(d)(1). The operation of this provision over time results in the market value of a homestead property exceeding its assessed value for property tax purposes if the property owner does not sell the property.

Section 193.155(8), F.S., allows a homestead to be assessed at less than just value when the person who establishes a new homestead has received a homestead exemption as of January 1 of either of the two immediately preceding years. Property owners who relocate to a new homestead may also

¹⁰² To qualify for the disaster relief credit, the residential improvement must be uninhabitable for at least 30 days.

¹⁰³ The bill defines the "percent change in value" as the difference between the residential parcels just value as of Jan. 1, 2017, and its postdisaster just value expressed as a percentage of the parcel's just value as of Jan. 1, 2017.

¹⁰⁴ The bill defines "damage differential" as the product arrived at by multiplying the percent change in value by a ratio, the numerator of which is the number of days the residential improvement was rendered uninhabitable, the denominator of which is 365.

¹⁰⁵ s. 193.155(1), F.S.

transfer or “port” up to \$500,000 of their accrued benefit, also known as the Save our Home (SOH) benefit, to the new homestead.

Section 193.155(8)(g), F.S., provides for purposes of receiving an assessment reduction pursuant to this subsection, a person entitled to assessment under this section may abandon his or her property even though it remains his or her primary residence by notifying the property appraiser of the county where the homestead is located. The notification must be in writing and delivered at the same time as or before timely filing a new application for homestead exemption on the property.

Proposed Changes

The bill amends s. 193.155(8), F.S., and creates a new paragraph to allow owners of homestead property that was significantly damaged or destroyed as a result of a named tropical storm or hurricane to elect to have the property deemed abandoned if the owner establishes a new homestead by January 1 of the second year immediately following the storm or hurricane. This will allow the owner of the homestead property to keep their SOH benefit if they move from the significantly damaged or destroyed property to establish a new homestead by the end of the year following the storm.

Ad Valorem Exemption for Unmarried Surviving Spouse of a Disabled Ex-Servicemember

Current Situation

Current law provides a \$5,000 property tax exemption to any resident ex-servicemember who was honorably discharged and has been disabled to a degree of 10 percent or more by misfortune or while serving during a period of wartime service. This exemption is also extended to the surviving spouse of the disabled ex-servicemember if, at the time of the disabled ex-servicemember’s death, the unremarried surviving spouse was married to the ex-servicemember for at least 5 years.¹⁰⁶

Proposed Change

The bill removes the requirement that the unremarried surviving spouse of a disabled ex-servicemember be married for at least 5 years on the date of the ex-servicemember’s death in order to be entitled to the \$5,000 property tax exemption.

Ad Valorem Exemption for Deployed Servicemembers¹⁰⁷

Current Situation

The Florida Constitution grants an exemption for military servicemembers that have Florida homesteads and are deployed on active duty outside the continental United States, Alaska or Hawaii in support of military operations designated by the Legislature.¹⁰⁸ The exemption is equal to the taxable value of the qualifying servicemember’s homestead on January 1 of the year in which the exemption is sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year.¹⁰⁹

Eligible Military Operations

The Legislature has designated the following military operations as eligible for the exemption:

¹⁰⁶ s. 196.24, F.S.

¹⁰⁷ Section 196.173(7), F.S., defines the term “servicemember” for purposes of this exemption to mean a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

¹⁰⁸ Fla. Const. art. VII, s. 3(g). See also s. 196.173, F.S.

¹⁰⁹ s. 196.173(4), F.S.

- Operation Joint Task Force Bravo, which began in 1995;
- Operation Joint Guardian, which began on June 12, 1999;
- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001;
- Operations in the Balkans, which began in 2004;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Copper Dune, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation New Dawn, which began on September 1, 2010, and ended on December 15, 2011;
- Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011;
- Operation Spartan Shield, which began in June 2011;
- Operation Observant Compass, which began in October 2011;
- Operation Inherent Resolve, which began on August 8, 2014;
- Operation Atlantic Resolve, which began in April 2014;
- Operation Freedom's Sentinel, which began on January 1, 2015;
- Operation Resolute Support, which began in January 2015.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs (DMA) must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.¹¹⁰

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.¹¹¹

DMA submitted the required report in January 2018, providing the names, dates, locations and general purposes of all known and unclassified military operations that occurred outside the continental United States, Alaska, and Hawaii in calendar year 2017.¹¹²

Proposed Changes

The bill updates the statutory list of military operations eligible for the exemption by specifying that Operation Enduring Freedom ended on December 31, 2014 and by removing from the list Operations New Dawn and Odyssey Dawn that ended on December 15, 2011, and October 31, 2011, respectively, which are no longer relevant for purposes of the tax exemption.

Ad Valorem for Water and Wastewater Utilities

Current Situation

Section 163.01, F.S., also known as the Florida Interlocal Cooperation Act of 1969, enables local governments to cooperate with other localities on a basis of mutual advantage to provide services and

¹¹⁰ s. 196.173(3), F.S.

¹¹¹ s. 196.173(3), F.S.

¹¹² DMA, Office of the Adjutant General, *Named Operations 2017 Report*, on file with the House Ways & Means Committee.

facilities that will best address the geographic, economic, population, and other factors that affect the needs and development of local communities. The act authorizes public agencies to exercise jointly, by contract in the form of an interlocal agreement, any power, privilege, or authority shared by those agencies in order to more efficiently provide services and facilities.

An interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement, which may be a commission, board, or council constituted pursuant to the agreement. Section 163.01(7), F.S. provides a separate legal entity may acquire, own, construct, improve, operate, and manage public facilities, or finance facilities on behalf of any person, relating to a governmental function or purpose, including, but not limited to, wastewater facilities, water or alternative water supply facilities, and water reuse facilities, which may serve populations within or outside of the members of the entity. Since the legal entities created under the Florida Interlocal Act of 1969 perform essential governmental functions they are not required to pay any taxes or assessments of any kind on property acquired to perform such functions.

In a recent circuit court case, the court concluded that water and wastewater facilities owned by an entity created under ch. 163 were not exempt from ad valorem taxes, despite the exemption provided in s. 163.01(7), F.S.¹¹³ The court reasoned that the facilities did not serve a governmental function or purpose for members located within the entity when the facilities only served members located outside the entity. The court also declined to interpret the exemption provided in s. 163.01(7) as an ad valorem exemption because the language in the statute does not specifically mention ad valorem taxation. Lastly, the court reasoned that the facilities were subject to taxation when the entity contracted a private entity to perform the water treatment services because that private entity would be subject to tax had it owned the property,

Proposed Changes

This bill amends s. 163.01, F.S., to clarify that any separate legal entity created under the Florida Interlocal Cooperation Act of 1969 is not required to pay any taxes or assessments, including ad valorem tax, on property acquired or used by the entity to perform essential governmental functions regardless of whether the property is located within or outside of the jurisdiction of the members of the entity. The bill also clarifies that the entity, in performance of its authorized purposes, provides essential governmental functions for the public health, safety and welfare of the people of the state and not just the members located within the entity. Further, the bill clarifies that the exemption is not affected by the entity entering into agreements with private entities for services related to utilities owned by the separate legal entity.

Condominium Owners Contesting a Tax Assessment

Current Situation

Current law permits condominium associations to file a single joint petition to the Value Adjustment Board ("VAB") contesting the tax assessment of all units within the condominium.¹¹⁴ The association must provide each unit owner notice of the petition and their right to opt out of the appeal, if desired. This allows all unit owners the efficiency and benefit of working together to reduce their taxes if they are over-assessed.

A decision by the VAB may be appealed to the circuit court. While current law is clear that an association is authorized to act on behalf of all unit owners when filing a petition to the VAB, it is unclear whether the association may defend an appeal on behalf of all unit owners when a county property appraiser appeals a VAB decision. The Eleventh Judicial Circuit Court in Miami-Dade County

¹¹³ Florida Governmental Utility Authority v. Tim Parker and Linda Myers, Case Number 2014-CA-000472, Fla. 7th Judicial Circuit (December 8, 2016), per curiam affirmed, Florida Governmental Utility Authority v. Tim Parker and Linda Myers, Case No. 5D17-93, Slip Opinion 2017 WL 6624263, (Fla. 5th DCA Dec. 26, 2017)

¹¹⁴ SS. 194.011 and 718.111, F.S.

recently issued an order stating that current law does not allow an association to act on behalf of unit owners on appeal where a VAB decision is appealed by a county tax appraiser.¹¹⁵ The decision is currently on appeal in the Third District Court of Appeal.¹¹⁶

Proposed Changes

The bill amends current law to clarify that where an association has filed a single joint petition to the VAB, the association may continue to represent the unit owners through a related subsequent proceeding.

Ad Valorem Tax on Multiple Parcel Buildings

Current Situation

Currently, owners of entities in a mixed use multiple parcel building all share the same tax folio number of the property upon which the building is located. The owners of the entities within the multiple parcel building are collectively responsible for paying the property taxes on the land, and each owner pays a portion of the assessed taxes. However, because the land value is not allocated separately among the owners within the building, if one owner fails to pay his or her portion of the property taxes the tax for the entire property becomes delinquent and subject to liens and auction of the property pursuant to s. 197, F.S.

Section 197.3631, F.S., provides general provisions for methods of collecting non-ad valorem assessments. Section 197.572, F.S., provides that when any lands are sold for nonpayment of taxes, or any tax certificate is issued thereon by a governmental unit or agency or pursuant to any tax lien foreclosure proceeding, the title to the land shall continue to be subject to any easement or telephone, telegraph, pipeline, power transmission, or other public service purpose and shall continue to be subject to any easement for the purposes of drainage or of ingress and egress to and from other land.

Section 197.573, F.S., allows for the survival of restrictions and covenants after tax sales. The statute provides when a deed in the chain of title contains restrictions and covenants running with the land, the restrictions and covenants shall survive and be enforceable after the issuance of a tax deed or master's deed, or a clerk's certificate of title upon foreclosure of a tax deed, tax certificate, or tax lien, to the same extent that it would be enforceable against a voluntary grantee of the owner of the title immediately before the delivery of the tax deed, master's deed, or clerk's certificate of title.

Proposed Changes

The bill creates s. 193.0237, F.S., providing for the assessment of multiple parcel buildings. This section applies to any land on which a multiple parcel building is substantially completed as of January 1 of the respective assessment year. The bill defines a multiple parcel building as a building, other than one consisting entirely of a single condominium, timeshare, or cooperative, which contains separate parcels that are vertically located, in whole or in part, on or over the same land.

The bill prohibits separate ad valorem or non-ad valorem assessments against the land upon which the multiple parcel building is located. The property appraiser is required to allocate all of the just value of the land among the parcels in the multiple parcel building in the same proportion that the just value of the improvements in each parcel bears to the total just value of all the improvements in the entire multiple parcel building. Each parcel in a multiple parcel building must also be assigned a separate tax folio number.

¹¹⁵ Amended Order Denying Condominium Association's Motion for Class Certification, *Pedro J. Garcia v. Central Carillon Beach Condominium Association, Inc., et. al*, No. 16-26521-CA-02 (Fla. 11th Cir. Cr. April 27, 2017).

¹¹⁶ Case No.: 3D17-1198

The bill provides that a condominium, timeshare, or cooperative may be created within a parcel in the multiple parcel building. However, any land value allocated to the just value of a parcel containing a condominium or cooperative must be further allocated among the units pursuant to ss. 193.023(5) and 719.114, F.S., respectively. If a condominium or cooperative is created within a parcel, a separate tax folio number must be assigned to each unit.

The bill defines recorded instrument and provides that all provisions of a recorded instrument affecting a parcel in a multiple parcel building, which parcel has been sold for taxes or special assessments, survive and are enforceable to the same extent that they would be enforceable against a voluntary grantee of the title immediately before the delivery of the tax deed, master's deed, or clerk's certificate of title as provided in s. 197.573, F.S.

The bill amends s. 197.3631, F.S., adding a subsection providing that non-ad valorem special assessments based on the size of the area of the land containing a multiple parcel building, regardless of ownership, must be levied on and allocated among all parcels in the multiple parcel building on the same basis that the land value is allocated among parcels in s. 193.0237(3), F.S. For non-ad valorem assessments not based on the size or area of the land, each parcel in the multiple parcel building is subject to a separate assessment.

The bill amends s. 197.572, F.S., to add "support of certain improvements" to the statute title. The bill also adds language to the statute providing that when lands are sold for nonpayment of taxes, the issuance of a tax certificate, or pursuant to any tax lien foreclosure proceeding, the title to the land will continue to be subject to any surviving easements for conservation purposes or "for" telephone, telegraph, pipeline, power transmission, or other public service purpose; and shall continue to be subject to any easement for "support of improvements that may be constructed above the lands," and for the purposes of drainage or of ingress and egress to and from other land.

The bill amends s. 197.573 (1), F.S., to include "other recorded instrument" providing that when a deed, or other recorded instrument in the chain of title contains restrictions and covenants running the land, the restrictions and covenants shall survive and be enforceable after the issuance of a tax deed or master's deed, or a clerk's certificate of title upon foreclosure of a tax deed, tax certificate, or tax lien, to the same extent that it would be enforceable against a voluntary grantee of the owner of the title immediately before the delivery of the tax deed, master's deed, or clerk's certificate of title.

The bill also makes technical changes to s. 197.573(2), F.S., and amends the statute providing this section does not protect covenants that create any debt or lien against or upon the property, except for covenants providing for satisfaction or survival of a lien of record held by a municipal or county governmental unit, or covenants providing a lien for assessments accruing after such tax deed, master's deed, or clerk's certificate of title to a condominium association, homeowners' association, property owners' association, or other person having assessment powers under such covenants.

Documentary Stamp Tax

General

Florida imposes a documentary stamp tax on tax deeds and other documents related to real property at the rate of 70 cents per \$100 of the consideration paid therefor.¹¹⁷ Consideration is defined to include, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed.¹¹⁸ Additionally, Florida imposes a documentary stamp tax on

¹¹⁷ s. 201.02(1)(a), F.S.

¹¹⁸ s. 201.02(1)(a), F.S.

bonds, certificates of indebtedness, notes and other written obligations to pay money at the rate of 35 cents per \$100 of the amount of the indebtedness.¹¹⁹

Spousal Homestead Transfers

Current Situation

Current law exempts from documentary stamp taxes on documents related to real property for certain transfers or conveyances as specified in ch. 201, F.S.¹²⁰ For example, a deed, transfer, or conveyance between spouses or former spouses pursuant to an action for dissolution of their marriage wherein the real property is or was their marital home or an interest therein is not subject to taxation under ch. 201, F.S.¹²¹ This exemption also applies to conveyances that occurred within one year before the dissolution of marriage.

Except for a conveyance prior to the dissolution of a marriage discussed above, there is currently no documentary stamp tax exemption for transfers or conveyances between married spouses. For instance, if a spouse owned real property prior to his or her marriage and added the other spouse's name to the deed subsequent to their marriage, documentary stamp tax would be imposed on such transaction.

Proposed Changes

The bill provides an exemption from documentary stamp taxes for a deed or other instrument that transfers or conveys homestead property, or any interest therein, between spouses. The exemption applies if:

- The only consideration for the transfer or conveyance is the amount of a mortgage or other lien encumbering the homestead property at the time of the transfer or conveyance; and
- The deed or other instrument is recorded within one year after the date of the marriage.

This exemption applies to transfers or conveyances between spouses, regardless of whether the transfer or conveyance is from one spouse to another, from one spouse to both spouses, or from both spouses to one spouse.

Loans issued by Local Housing Finance Authorities

Current Situation

Current law authorizes each county to create by ordinance a Housing Finance Authority (HFA) to encourage investment in construction and rehabilitation of suitable affordable housing units.¹²² HFAs have the authority to issue bonds and use the bond proceeds to raise capital for financing of qualifying housing projects.¹²³ Bonds issued by a HFA, and all notes, mortgages, or other instruments given to secure repayment of the bonds, are exempt from all taxes.¹²⁴

HFAs also have the authority to make conventional loans with funds derived from sources other than bond proceeds,¹²⁵ for instance, loans made to persons who otherwise cannot borrow from conventional lending sources.¹²⁶ However, even though bonds issued by a HFA and financial instruments given to

¹¹⁹ ss. 201.07 and 201.08, F.S.

¹²⁰ See ss. 201.02(6)-(8), and 201.24, F.S.

¹²¹ s. 201.02(7), F.S.

¹²² ch. 159, F.S.

¹²³ s. 159.612(2), F.S.

¹²⁴ s. 159.621, F.S.

¹²⁵ For example, funds from the State Housing Initiatives Partnership pursuant to ch. 420, F.S.

¹²⁶ s. 159.608(8), F.S.

secure repayment of the bonds are tax exempt, notes and mortgages pertaining to loans made by a HFA other than as part of a bond transaction remain subject to documentary stamp tax at a rate of 35 cents per \$100 of the consideration paid therefor.¹²⁷

Proposed Changes

The bill provides an exemption from documentary stamp taxes for any note or mortgage given in connection with a loan made by or on behalf of a housing finance authority. In order to qualify for the exemption, the housing authority must, at the time the note or mortgage is recorded, record an affidavit signed by an agent of the housing authority affirming that the loan was made by or on behalf of the housing finance authority.

Article V Fees

Traffic Fine Reduction for Driver Improvement Course Attendance

Current Situation

In general, ch. 318, F.S., provides for the disposition of traffic infractions. Specifically, s. 318.14, F.S., provides the procedures for processing noncriminal traffic infractions. A person who commits a noncriminal traffic infraction and is issued a citation, must elect to appear before a designated official, pay the citation, or enter into a payment plan with the clerk of court within 30 days after the citation is issued to avoid having his or her driver license suspended.¹²⁸

Section 318.14(9), F.S., provides that a person who does not hold a commercial driver license or commercial learner's permit and who is cited while driving a noncommercial motor vehicle for a noncriminal traffic infraction may, in lieu of a court appearance, elect to attend a basic driver improvement course.¹²⁹ If a driver improvement course is completed, adjudication is withheld and points¹³⁰ are not assessed against the person's driver license. However, a person may not elect to attend a driver improvement course if he or she elected to attend a driver improvement course in the preceding 12 months.

Similarly, the option to elect to attend a driver improvement program is not available for citations related to:

- Violating the posted speed limit when the driver exceeds the posted speed limit by 30 miles per hour or more;
- Not carrying the vehicle's certificate of registration while the vehicle is in use;
- Operating a motor vehicle with an expired registration;
- Operating a motor vehicle with a driver license expired for six months or less; and
- Operating a motor vehicle without carrying a driver license.¹³¹

A person may not make more than five elections for a driver improvement course within his or her lifetime.¹³² If a person completes a basic driver improvement course, 18 percent of the civil penalty imposed¹³³ is deposited in the State Courts Revenue Trust Fund. However, the 18 percent is not

¹²⁷ s. 201.08, F.S.

¹²⁸ s. 318.14, F.S.

¹²⁹ Driver improvement courses must be approved by the DHSMV.

¹³⁰ Points are provided for in s. 322.27, F.S.

¹³¹ s. 318.14(9), F.S.

¹³² s. 318.14(9), F.S.

¹³³ The civil penalty is imposed under s. 318.18(3), F.S. The civil penalty imposed varies by violation.

revenue for purposes of s. 28.36, F.S.,¹³⁴ and may not be used in establishing the budget of the clerk of the court under s. 28.36, F.S., or s. 28.35, F.S.¹³⁵

Prior to 2009, s. 318.14(9), F.S., provided for an 18 percent reduction in the civil penalty for persons who completed driver improvement school. In 2009, the statute was changed to remove the 18 percent reduction in fines and to allocate those funds to the State Courts Revenue Trust Fund.¹³⁶

Section 318.15, F.S., relates to failure to comply with a civil penalty or failure to appear. Specifically s. 318.15(1)(b), F.S., provides that a person who elects to attend driver improvement school and has paid the civil penalty¹³⁷ who subsequently fails to attend the driver improvement school within the time specified by the court is deemed to have admitted the infraction and is adjudicated guilty. In such a case, the clerk of the court notifies the Department of Highway Safety and Motor Vehicles (DHSMV) of the person's failure to attend driver improvement school and points are assessed on the person's driver license.

The cost of driver improvement courses range from \$15 to \$40, depending on the provider.¹³⁸ From 2008 to 2017, there has been a decrease in the number of individuals who have opted to attend a driver improvement course.¹³⁹

**Number of Individuals Electing to Attend
Driver Improvement Courses 2008-2017**

Calendar Year	Individuals Electing Driver Improvement Course	Elected But Did Not Attend
2008	479,116	-
2009	397,707	-
2010	347,458	42
2011	301,421	395
2012	271,256	404
2013	255,315	621
2014	260,131	839
2015	239,960	2,097
2016	221,884	8,386
2017	201,576	24,040
Total	2,975,824	36,824

Proposed Changes

The bill amends s. 318.14(9), F.S., providing a reduction of 18 percent on the civil penalty for a noncriminal traffic infraction if the person elects to attend driver improvement school. The bill also removes the provision that 18 percent of the civil penalty from those attending driver improvement schools is deposited into the State Courts Revenue Trust Fund. Therefore, the bill reduces the fine for those attending a driver improvement course and reduces the revenue provided to the State Courts Revenue Trust Fund.

¹³⁴ Section 28.36, F.S., provides budget procedures for court-related functions of the clerk of the court.

¹³⁵ Section 28.35, F.S., creates the Florida Clerk of Court Operations Corporation.

¹³⁶ Ch. 2009-7, Laws of Fla. The bill had an effective date of Feb. 1, 2009.

¹³⁷ The civil penalty is provided for in s. 318.14(9), F.S.

¹³⁸ DHSMV, *2017 Agency Legislative Bill Analysis: HB 547*, on file with the House Transportation & Infrastructure Subcommittee.

¹³⁹ Email from DHSMV staff, Dec. 1, 2017, on file with House Transportation & Infrastructure Subcommittee.

The bill also amends s. 318.15(1)(b), F.S., making conforming changes regarding the reduction in fines for those who elect to attend a driver improvement course.

Cigarette Tax Distributions

Current Situation

Chapter 210, F.S., governs taxes on tobacco products. Cigarette tax collections received by the Division of Alcoholic Beverages and Tobacco (division) in the Department of Business and Professional Regulation are deposited into the Cigarette Tax Collection Trust Fund. Section 210.20, F.S., provides for the payment of monthly distributions as follows:

From the total amount of cigarette tax collections:¹⁴⁰

- 8.0 percent service charge to the General Revenue Fund;¹⁴¹ and
- 0.9 percent to the Alcoholic Beverage and Tobacco Trust Fund.

From the remaining net collections:¹⁴²

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the Moffitt Center;¹⁴³ and
- 1.0 percent to the Biomedical Research Trust Fund in the Department of Health (DOH).¹⁴⁴

After the above distributions are made, the remaining balance of net cigarette tax collections is deposited in the General Revenue Fund.¹⁴⁵

Proposed Changes

The bill creates reporting requirements for distributions from cigarette tax collections going to the Moffitt Center. By March 15 of each year, the Center shall report to the Office of Economic and Demographic Research the following information:

- An itemized accounting of all expenditures of the distributed funds, including amounts spent on debt service.
- A statement indicating what portion of the distributed funds have been pledged for debt service.

¹⁴⁰ See s. 210.20(2)(a), F.S.

¹⁴¹ See s. 215.20(1), F.S. concerning the appropriation of the eight percent service charge to the General Revenue Fund.

¹⁴² See s. 210.20(2)(a), F.S.

¹⁴³ See s. 210.20(2)(b), F.S. The distribution of cigarette tax funds to the Moffitt Center was initiated in 1998, using 2.59% for the calculation on net cigarette tax collections. See ch. 98-286, Laws of Fla. The last adjustment to the percentage for the calculation occurred in 2014, when the percentage was set at the current 4.04% from July 1, 2014 through June 30, 2017. See s. 8 of ch. 2014-38, Laws of Fla.

¹⁴⁴ Pursuant to s. 210.20(2)(c), F.S. these funds (constituting 1.0% of net collections) are appropriated in an amount up to \$3 million annually during the period of July 1, 2013 to June 30, 2033, to DOH and the Sanford-Burnham Medical Research Institute for the purpose of those entities working to establish activities and grant opportunities relating to biomedical research.

¹⁴⁵ See s. 210.20(b), F.S.

- The original principal amount, and current debt service schedule of any bonds or other borrowing for which the distributed funds have been pledged or debt service.

Florida Education Scholarship Programs

Background

The Florida Tax Credit Scholarship Program (FTCP)¹⁴⁶ was established to encourage taxpayers to make private voluntary contributions to scholarship-funding organizations (SFO), expand educational opportunities for families with limited financial resources, and to enable children in Florida to achieve a greater level of excellence in their education.¹⁴⁷ SFOs use contributions to award scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides.¹⁴⁸

The Florida Tax Credit Scholarship Program is funded with contributions to private non-profit SFOs from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.¹⁴⁹ The credit is equal to 100 percent of the eligible contributions made.¹⁵⁰ To receive a credit the taxpayer must submit an application and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.¹⁵¹ Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.¹⁵²

The maximum amount of tax credits that may be awarded in FY 2017-18 is \$698 million. The Revenue Estimating Conference estimates that contributions applicable against this limit will be \$639.2 million in FY 2017-18. In any state fiscal year when the annual tax credits granted for the prior state fiscal year are equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount is increased by 25 percent.¹⁵³ Consequently, the maximum amount of tax credits expected to be available for award in FY 2018-19 is \$873.6 million.

The Gardiner Scholarship Program (GSP) was established in 2014¹⁵⁴ to provide an educational option for a parent of an eligible child¹⁵⁵ to better meet the individual educational needs of his or her child who has a disability.¹⁵⁶ Under the GSP, a parent of an eligible child may request a GSP scholarship by submitting an application to a SFO.¹⁵⁷ The GSP is directly administered by SFOs, and GSP funds may be awarded to parents to reimburse purchases of the certain items or services related to the child's education.¹⁵⁸ A student is not eligible for the program if he or she is receiving a scholarship pursuant to the Florida Tax Credit Scholarship Program under s. 1002.395, F.S.¹⁵⁹ The GSP is funded with appropriations made by the state to SFOs based on a funding formula provided in s. 1002.385(13), F.S.

The bill contains several provisions related to Florida's education scholarship programs.

¹⁴⁶ s. 1002.395, F.S.

¹⁴⁷ s. 1002.395 (1)(b), F.S.

¹⁴⁸ ss. 1002.395(2)(e) and (6)(d), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible SFO.

¹⁴⁹ ss. 1002.395(1) and (5), F.S.

¹⁵⁰ ss. 220.1875 and 1002.395(5), F.S.

¹⁵¹ s. 1002.395(5)(b), F.S.

¹⁵² s. 1002.395(5)(e), F.S.

¹⁵³ s. 1002.395(5)(a), F.S.

¹⁵⁴ Ch. 2014-184, s. 16, Laws of Fla.

¹⁵⁵ s. 1002.385(1) and (3), F.S.

¹⁵⁶ s. 1002.385(2)(d), F.S.

¹⁵⁷ s. 1002.385(11), F.S.

¹⁵⁸ See s. 1002.385(5), F.S.

¹⁵⁹ s. 1002.385(4), F.S.

Sales Tax Dealer Scholarship Credits

Proposed Changes

The bill creates s. 212.099, F.S., establishing tax credits that may be taken against sales tax liabilities for business-funded scholarships for the Gardiner Scholarship Program or the Florida Tax Credit Scholarship Program. The credit is equal to the amount of each business-funded scholarship created by the eligible business. A business-funded scholarship is an annual amount of financial aid created by an eligible business when the business makes a contribution to an eligible nonprofit scholarship funding organization in an amount that, if awarded to a single student, would equal the maximum scholarship award authorized pursuant to s. 1002.395 (The Florida Tax Credit Scholarship Program). Similar to the FTCP a business may not designate a specific student as the beneficiary of the contribution.

To receive a credit the dealer must submit an application and specify the applicable state fiscal year for the credit. DOR will approve tax credits on a first-come, first-served basis. Within 10 days after approving or denying an application, DOR will provide a copy of its approval or denial letter to the SFO specified by the dealer in the application.

Dealers may carryforward credits not fully used in the specified fiscal year for a period not to exceed 10 years. Dealers generally cannot transfer credits to another entity, unless the other entity has acquired all of the dealer's business assets or is a member of an affiliated group of corporations. Dealers can rescind its tax credits, which will become available to another eligible dealer in that fiscal year.

SFOs cannot use contributions from dealers for GSP scholarships until all of the funds appropriated to the organization in that year for GSP scholarships are used. When the appropriations are exhausted the SFO can use contributions from dealers, but must first use the contributions for GSP scholarships, and any remaining contributions can then be used for FTCP scholarships. Similar to the FTCP, an SFO can use up to three percent of contributions from dealers for administrative expenses, subject to the limitations in s. 1002.395(6)(j)l., F.S.

The sum of tax credits under this new statute that may be approved by DOR in any state fiscal year is \$154 million. This cap is unrelated to current statutory caps in s. 1002.395, F.S., for the Florida Tax Credit Scholarship Program.

The Department of Revenue is required to adopt rules to administer the new tax credits.

Information Sharing

Current Situation

Section 213.053, F.S., provides that all information contained in returns, reports, accounts, or declarations received by DOR is confidential, and exempt from public disclosure under s. 119.07(1), F.S. Section 213.053, F.S., also provides exceptions to this general rule allowing for disclosure of confidential taxpayer information under specified circumstances.

Proposed Changes

The bill amends s. 213.053, F.S., and creates a new subsection to require the DOR to disclose under certain circumstances the 200 taxpayers with the greatest corporate income tax liability reported during the previous calendar year. The list is to be provided to and at the request of eligible nonprofit SFOs that are eligible to use up to 3% of eligible contributions for administrative expenses. The list shall be in alphabetical order based on the taxpayer's name and include the taxpayer's address. The list shall not disclose the amount of tax owed by the taxpayer. An eligible nonprofit SFO may request the list once each calendar year and may use the list only to notify the taxpayer of the opportunity to make an eligible contribution to the Florida Tax Credit Scholarship Program. DOR shall provide such information within 45 days after receiving the request.

Credit Carry Forwards

Current Situation

If any tax credits under the program are not used within the state fiscal year originally specified by the taxpayer due to insufficient tax liability, the credit may be carried forward for a period of five years.¹⁶⁰ To carryforward an unused tax credit the taxpayer must submit an application for approval in the year that the taxpayer intends to use the carryforward credit.¹⁶¹

Proposed Changes

The bill extends from five years to ten the period for which unused credits may be carried forward by a taxpayer. Additionally, the need to apply for carry forwards is eliminated.

Sales Tax Dealer Collection Allowance

Current Situation

In 2010, the revenue sources against which tax credits can be claimed through the Florida Tax Credit Scholarship Program were expanded to include self-accrued sales tax liabilities of direct pay permit holders pursuant to s. 212.1831.¹⁶²

Section 212.183, F.S., establishes a process for the self-accrual of sales taxes, in limited circumstances,¹⁶³ which involves DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to DOR instead of paying taxes to the seller of purchased items.¹⁶⁴

Current law authorizes a collection allowance for certain sales tax dealers (including direct pay permit holders) as compensation for the prescribed record keeping, accounting for, and for the timely reporting and remitting of sales and use tax and discretionary sales surtax by electronic means.¹⁶⁵ Such persons will be allowed 2.5 percent of "the amount of the tax due", accounted for, and remitted to DOR in the form of a deduction. The collection allowance is limited to 2.5 percent of the first \$1,200 of the tax due, not to exceed \$30 in any filing period.¹⁶⁶

Direct pay permit holders using tax credits under the Florida Tax Credit Scholarship Program often are unable to take a dealer collection allowance because "the amount of tax due," upon which the allowance is based, may be zero.

Proposed Changes

For purposes of the dealer's collection allowance under s. 212.12, F.S., the bill requires that the amount of tax due shall include any eligible contribution made to an eligible nonprofit SFO from a direct pay permit holder, thereby allowing the taxpayer to retain their dealer collection allowance.

¹⁶⁰ s. 1002.395(5)(c), F.S.

¹⁶¹ s. 1002.395(5)(c), F.S.

¹⁶² s. 212.1831, F.S.

¹⁶³ See s. 212.183, F.S., and Rule 12A-1.0911, F.A.C.

¹⁶⁴ Direct pay was originally designed to overcome the tax complexities in situations where the taxability of a transaction could not be easily determined at the time of purchase. For example, a number of states exempt transactions if the item purchased is used in a particular manner, e.g., for manufacturers, if the item is used in the manufacturing process or as an "ingredient and component part" of their sale products. In such instances, direct pay authority would allow an entity to purchase certain products for all types of uses and to report the appropriate tax after the actual use had been determined. See *Model Direct Payment Permit Regulation: A Report of the Steering Committee*, Task Force on EDI Audit and Legal Issues for Tax Administration, June 2000, available at <https://www.taxadmin.org/assets/docs/Publications/dpay.pdf>

¹⁶⁵ s. 212.12, F.S., and Rule 12A-1.056(2)(a), F.A.C.

¹⁶⁶ Rule 12A-1.056(2)(b), F.A.C.

Use of Credits Against Estimated Payments

Current Situation

Corporate income tax payers must make four payments of a portion of their estimated tax liability during their taxable year, following certain requirements as to timing and amounts.¹⁶⁷

Currently, corporate income tax payers making contributions under the Florida Tax Credit Scholarship Program must use the amount of the credit earned to reduce the next estimated payment that is due immediately following a contribution in that taxable year.¹⁶⁸

Proposed Changes

The bill allows corporate income tax payers to use credits earned against any of their estimated payments due instead of against the estimated payment due immediately following the contribution date.

Timing of Scholarship Contributions

Current Situation

When corporate income tax payers wishing to make contributions to the program and use the allowable tax credits apply to the Department of Revenue (DOR) for a tax credit allocation, they must indicate which of the taxpayer's taxable years the credits will apply to. To use the credits allocated to them by the DOR, the taxpayer must make the actual contribution to the program during the taxable year indicated in the application.¹⁶⁹

Corporate income tax payers often do not have a precise knowledge of their tax liability until their taxable year is completed.

Provisions generally applicable to corporate income tax payers require annual tax returns to be filed on or before the first day of the fifth month following the close of the taxpayer's taxable year. Further, current law allows the final due date of tax returns to be extended by another six months, but only after tentative payments of final taxes owed.¹⁷⁰

Proposed Changes

The bill amends s. 220.1875(1), F.S., to provide that an eligible contribution must be made to an eligible nonprofit SFO on or before the date that the taxpayer is required to file a return pursuant to s. 220.222, F.S. This would allow a contribution to be made after a taxpayer's taxable year is complete but would allow the credit to be taken against that taxable year.

The bill also adds subsection (4) to provide if a taxpayer applies and is approved for a credit under s. 1002.395, F.S., after timely requesting an extension to file a return, credits granted under such circumstances shall not reduce the amount of tax due for purposes of the determination of whether the taxpayer was in compliance with the requirements under ss. 220.222 and 220.32, F.S. These provisions are designed to prevent a taxpayer from making a contribution (and using credits) to avoid penalties and interest associated with under payment of tentative final tax payments. The taxpayer's noncompliance with the requirement to pay tentative taxes (s. 220.32, F.S.) shall result in the revocation and rescindment of any credits and the taxpayer shall be assessed for any taxes, penalties, or interest due to noncompliance with the requirement to pay tentative taxes.

¹⁶⁷ s. 220.33, F.S.

¹⁶⁸ s. 1002.395(5)(g)1., F.S.

¹⁶⁹ s. 1002.395(5)(b)1., F.S.

¹⁷⁰ ss. 220.222 and 220.32, F.S.

The bill adds s. 220.13(1)(b), F.S., to provide that if the amount taken as credit under s. 220.1875, F.S., is added to taxable income in the previous taxable year and is subsequently allowed as a deduction from taxable income for federal tax purposes in the current taxable year, the amount of the deduction shall not be added back to the current year. This provision is intended to ensure that the credit under s. 220.1875, F.S., is added in the applicable tax year and does not result in a duplicate addition in a subsequent year.

Taxes Imposed on Motor and Diesel Fuel

Generally

Motor fuel and diesel fuel are subject to state taxation pursuant to ch. 206, F.S. The tax rate is a combination of several state and local rates, and the revenue collected is distributed to various state trust funds and to local governments for revenue sharing purposes.¹⁷¹ For 2017, the combined state tax rate is 24.8 cents per gallon.¹⁷² In addition, the retail sale of motor and diesel fuel is subject to sales tax under ch. 212, F.S., under certain circumstances if fuel taxes have not been paid.¹⁷³

Fuel Used for Agricultural Shipment after Hurricane Irma

Current Situation

Current law exempts the sale or use of motor and diesel fuel for agricultural or farm purposes;¹⁷⁴ however, agricultural or farm purposes are generally defined to mean “used exclusively on a farm or for processing farm products on the farm, and does not include fuel used in any vehicle or equipment operated upon public highways of the state.”¹⁷⁵

Proposed Changes

The bill creates an exemption from state and local taxes imposed on motor fuel and diesel under parts I and II, ch. 206, F.S.,¹⁷⁶ for fuel that is used for the transportation of agricultural products from the farm or agricultural land to a facility used to process, package, or store the product. The exemption is available through a refund of previously paid taxes and applies to purchases made between September 10, 2017, and June 30, 2018. Excluded from this exemption are the “constitutional fuel tax” levied under s. 9(c), Art. XII of the 1968 State Constitution, and the 0.125 cents per gallon levied to defray expenses for motor fuel inspection, testing and analysis by the Department of Agriculture and Consumer Services.¹⁷⁷

To receive a refund, the fuel purchaser must apply to DOR by December 31, 2018, and include the following information:

- The name and address of the person claiming the refund.
- The name and address of up to three owners of a farm or agricultural land whose agricultural product was shipped by the fuel purchaser.
- The sales invoice or other proof of purchase of the fuel, showing the number of gallons of fuel purchased, the type of fuel purchased, the date of purchase, and the name and place of business of the dealer from whom the fuel was purchased.
- The license number, or other identification number, of the motor vehicle that used the exempt fuel.

¹⁷¹ s. 206.41, F.S.

¹⁷² REC, 2018 FLORIDA TAX HANDBOOK, pp. 126-127, available at: <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2018.pdf>

¹⁷³ ss. 212.18(3) and 212.0501, F.S.; Rule 12B-5.120, F.A.C.

¹⁷⁴ ss. 206.41(4)(c), 206.64, 206.874(2)-(3), and 212.0501, F.S.

¹⁷⁵ The restriction does not apply to fuel used on highways to move equipment from one farm to another.

¹⁷⁶ The exemption does not include the 2 cent per gallon “second gas tax” imposed pursuant to art. XII, sec. 9(c), Fla. Const. under s. 206.41(1)(a), F.S., or the 0.125 cents per gallon inspection fee imposed under s. 206.41(1)(h), F.S.

¹⁷⁷ ss. 206.41(1)(a) and (h), F.S.

- An affidavit executed by the fuel purchaser including a statement that he or she purchased and used the fuel in a manner that qualifies for this exemption.

Export of Tax-Free Fuels

Current Situation

Chapter 206, F.S., provides for the licensing of a person engaged in business as a terminal supplier, importer, exporter, blender, biodiesel manufacturer, or wholesaler of motor fuel within this state.¹⁷⁸ Generally, taxes on motor fuel are imposed on all of the following:¹⁷⁹

- The removal of motor fuel in this state from a terminal¹⁸⁰ if the motor fuel is removed at the rack.¹⁸¹
- The removal of motor fuel in this state from any refinery under certain circumstances.
- The entry of motor fuel into this state for sale, consumption, use, or warehousing under certain circumstances.
- The removal of motor fuel in this state to an unregistered person, unless there was a prior taxable removal, entry, or sale of the motor fuel.
- The removal or sale of blended motor fuel in this state by the blender thereof.

However, current law exempts the purchase of taxable motor fuels at a terminal by a licensed exporter only under the following circumstances:

- The exporter has designated to the terminal supplier the destination for delivery of the fuel to a location outside the state;
- The exporter is licensed in the state of destination and has supplied the terminal supplier with that license number;
- The exporter has not been barred from making tax-free exports by the department for violation of s. 206.051(5); and
- The terminal supplier collects and remits to the state of destination all taxes imposed on said fuel by the destination state.

If a licensed exporter pays Florida motor fuel taxes, the exporter can take a credit on its monthly fuel tax return or apply for a refund of Florida fuel tax paid on fuel exported from the state.¹⁸²

Terminal suppliers may exchange fuel above the loading rack of a terminal with other terminal suppliers without paying motor fuel taxes,¹⁸³ but fuel tax must be paid by a terminal supplier that purchases motor fuel at the rack from another terminal supplier.

When a terminal supplier purchases motor fuel at the rack from another terminal supplier and subsequently resells the motor fuel to an exporter, the purchasing terminal supplier must pay Florida motor fuel tax on his purchase and charge Florida motor fuel tax to the exporter on the resale. Although the exporter may take a credit or refund for the Florida motor fuel tax (as described above), the exporter must first pay the Florida motor fuel tax as well as the motor fuel tax in the state to which the fuel will be exported.

¹⁷⁸ s. 206.02, F.S.

¹⁷⁹ s. 206.41(6), F.S.

¹⁸⁰ “Terminal” means a storage and distribution facility for taxable motor or diesel fuel, supplied by pipeline or marine vessel, that has the capacity to receive and store a bulk transfer of taxable motor or diesel fuel. See s. 206.01(18), F.S.

¹⁸¹ “Rack” means the part of a terminal or refinery by which fuel is physically removed into tanker trucks or rail cars. See s. 206.01(12), F.S.

¹⁸² s. 206.051(4), F.S.

¹⁸³ Rule 12B-5.050, F.A.C.

Proposed Changes

The bill amends s. 206.052, F.S., to provide an exemption from motor fuel taxes for a terminal supplier that purchases motor fuel from another terminal supplier at a terminal under the following circumstances:

- The terminal supplier who purchased the motor fuels sells the motor fuels to a licensed exporter for immediate export from the state.
- The terminal supplier who purchased the motor fuels has designated to the terminal supplier who sold the motor fuels the destination for delivery of the fuel to a location outside the state.
- The terminal supplier who purchased the motor fuels is licensed in the state of destination and has supplied the terminal supplier who sold the motor fuels with that license number.
- The licensed exporter has not been barred from making tax-free exports by the department for violation of s. 206.051(5).
- The terminal supplier who sold the motor fuels collects and remits to the state of destination all taxes imposed on said fuel by the destination state.

Aviation Fuel Taxes

Current Situation

Florida Law

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use.¹⁸⁴ Aviation fuel is defined as “fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications.”¹⁸⁵

In 2016, the Legislature amended the fuel tax laws by removing a limited exemption for certain air carriers and reducing the tax rate on all air carriers.¹⁸⁶ The combination of the exemption repeal and tax rate cut was intended to be neutral with respect to total aviation fuel tax collections on a recurring basis. The 2016 law changes provided a delayed effective date to July 1, 2019. Beginning in fiscal year 2019-2020, the excise tax on aviation fuel will be 4.27 per gallon.

Collections of aviation fuel tax in fiscal year 2018-19 are estimated to be \$34 million, net of refunds. After implementation of the rate cut enacted by the Legislature in 2016, collections of aviation fuel tax in fiscal year 2019-20 are estimated to be \$27.7 million, net of refunds.¹⁸⁷

Federal Law

The Federal Aviation Administration (FAA) is the agency within the United States Department of Transportation (USDOT) that, among other things, regulates the air transportation system in the United States.¹⁸⁸ Title 14 of the Code of Federal Regulations, in part, provides the licensing, certification, and operational specifications for all aviation activities in the United States. Federal regulations define “air carrier” to mean a person who undertakes directly by lease, or other arrangement, to engage in air transportation. Part 121 provides the operating requirements for domestic, flag, and supplemental operations. Part 125 provides for the certification and operation requirements for airplanes having a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more; part 125 also provides rules governing person on board such aircrafts. Part 135 provides the operating

¹⁸⁴ s. 206.9825, F.S.

¹⁸⁵ s. 206.9815, F.S.

¹⁸⁶ Ch. 2016-220, Laws of Fla.

¹⁸⁷ EDR, Florida Transportation Revenue Estimating Conference, February 2018.

¹⁸⁸ USDOT, Administrations, available at: <http://www.dot.gov/administrations> (last visited Feb. 15, 2018).

requirements for commuter and on-demand operations and rules governing persons on board such aircrafts.

The FAA imposes certain restrictions on the uses of revenues for airport operators that accept Federal assistance.¹⁸⁹ Generally, revenues from state and local taxes on aviation fuel may only be used for certain aviation-related purposes such as airport operating costs, or in the case of state taxes, a “state aviation program.”¹⁹⁰ However, the revenue from state and local taxes on aviation fuel which were in effect prior to December 30, 1987, is considered “grandfathered” and is eligible for use for otherwise impermissible expenditures.¹⁹¹ On November 7, 2014, the FAA clarified its interpretation of the federal requirements for the use of revenue derived from taxes on aviation fuel, and requested each state to validate compliance with this FAA regulation.¹⁹² On April 26, 2016, the Florida Department of Transportation validated the state’s compliance with the FAA regulation.¹⁹³

Proposed Changes

Beginning July 1, 2019, the bill reduces the excise tax on aviation fuel from 4.27 cents per gallon to 2.85 cents per gallon for aviation fuel paid by an air carrier who conducts scheduled operations or all-cargo operations that are authorized under 14 C.F.R. parts 121, 129, or 135, to 2.85 cents per gallon.

Local Government Preemption

Current Situation

Counties

A county without a charter has such power of self-government as provided by general¹⁹⁴ or special law, and may enact county ordinances not inconsistent with general law.¹⁹⁵ General law authorizes counties “the power to carry on county government”¹⁹⁶ and to “perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law.”¹⁹⁷

Municipalities

Chapter 166, F.S., also known as the Municipal Home Rule Powers Act,¹⁹⁸ acknowledges the constitutional grant to municipalities of governmental, corporate, and proprietary power necessary to conduct municipal government, functions, and services.¹⁹⁹ Chapter 166, F.S., provides municipalities with broad home rule powers, respecting expressed limits on municipal powers established by the Florida Constitution, applicable laws, and county charters.²⁰⁰

¹⁸⁹ 49 U.S.C. §§ 47107(b) and 47133; Public Laws No. 97-248 and 100-223.

¹⁹⁰ “State aviation program” is not defined, but generally refers to state programs that support capital improvements or operating costs of airports; FAA, Policy and Procedures Concerning the use of Airport Revenue: Proceeds from Taxes on Aviation Fuel, 79 FR 66282, available at: https://www.faa.gov/airports/resources/publications/federal_register_notices/ (last visited Feb. 15, 2018).

¹⁹¹ Dec. 30, 1987, is the “grandfather” deadline because The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223, passed on that date, which first required state and local taxes on aviation fuel to be spent on airport-related purposes.

¹⁹² FAA, Policy and Procedures Concerning the use of Airport Revenue: Proceeds from Taxes on Aviation Fuel, 79 FR 66282, available at: https://www.faa.gov/airports/resources/publications/federal_register_notices/ (last visited Feb 15, 2018).

¹⁹³ Florida DOT, correspondence from FDOT State Aviation Manager to FAA Director of Office of Airport Compliance and Management Analysis, April 26, 2016, on file with House Ways & Means Committee.

¹⁹⁴ ch. 125, part I, F.S.

¹⁹⁵ FLA. CONST. art. VIII, s. 1(f).

¹⁹⁶ s. 125.01(1), F.S.

¹⁹⁷ s. 125.01(1)(w), F.S.

¹⁹⁸ s. 166.011, F.S.

¹⁹⁹ Local Government Formation Manual 2017-2018, p. 16.

²⁰⁰ s. 166.021(4), F.S.

Section 166.221, F.S., authorizes municipalities to levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter.

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature "has preempted a particular subject area" or (2) the local enactment conflicts with a state statute. Where state preemption applies it precludes a local government from exercising authority in that particular area.²⁰¹ Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.²⁰² Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.²⁰³ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.²⁰⁴ In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.²⁰⁵ Implied preemption is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.²⁰⁶ Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.²⁰⁷ Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.²⁰⁸

Businesses, Professions and Occupations

General law directs a number of state agencies and licensing boards to regulate many professions and occupations and preempts the regulation of many businesses.

Whether or not, and to what degree, current law authorizes or preempts the local regulation of professions and occupations is typically done specifically and individually by subject matter, business type, or profession. For example, Florida law currently preempts local regulation with regard to the following: local fees associated with providing proof of licensure as a contractor, recording a contractor license, or providing, recording, or filing evidence of worker's compensation insurance coverage by a contractor;²⁰⁹ local fees and rules regarding low-voltage alarm system projects;²¹⁰ tobacco and nicotine products;²¹¹ firearms, weapons, and ammunition;²¹² employment benefits;²¹³ styrofoam products;²¹⁴ public lodging establishments and public food service establishments;²¹⁵ and disposable plastic bags.²¹⁶

²⁰¹ Wolf, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

²⁰² See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

²⁰³ *Mulligan*, 934 So.2d at 1243.

²⁰⁴ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010).

²⁰⁵ See, e.g., *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

²⁰⁶ *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011 (Fla. 2d DCA 2005).

²⁰⁷ 12A FLA. JUR 2D COUNTIES, ETC. s. 87 *Implied preemption—When preemption will be implied* (2018).

²⁰⁸ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880 (Fla. 2010).

²⁰⁹ s. 553.80(7)(d), F.S.

²¹⁰ s. 489.503(14), F.S.

²¹¹ ch. 569, F.S., and s. 386.209, F.S.

²¹² s. 790.33(1), F.S.

²¹³ s. 218.077, F.S.

²¹⁴ s. 500.90, F.S.

²¹⁵ s. 509.032, F.S.

²¹⁶ s. 403.7033, F.S.

Conversely, Florida law also specifically grants local jurisdictions the right to regulate businesses, occupations and professions in certain circumstances. For example, Florida law specifically authorizes regulations relating to: zoning; the levy of reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter;²¹⁷ the levy of local business taxes;²¹⁸ building code inspection fees;²¹⁹ tattoo establishments;²²⁰ massage practices;²²¹ child care facilities;²²² taxis and other vehicles for hire;²²³ and waste and sewage collection.²²⁴

Proposed Changes

The bill prohibits counties, municipalities, and other local governments from prohibiting the sale of or offering for sale of tangible personal property that is subject to tax under ch. 212, F.S.(i.e., sales and use tax) which may otherwise lawfully be sold in the state.

Administrative Provisions

Current Situation

Under s. 28.241(1)(a)2., F.S., a party instituting a civil action in circuit court relating to real property or mortgage foreclosure must pay a graduated filing fee based on the value of the claim. For cases where the value of the claim is more than \$50,000, but less than \$250,000, the filing fee is \$900, of which \$700 must be remitted by the clerk of court to DOR for deposit in the General Revenue Fund.²²⁵

Under s. 28.241(6), F.S., attorneys wishing to appear pro hac vice²²⁶ in trial and appellate proceedings must pay a \$100 filing fee. The fee is deposited into the General Revenue Fund.

Section 741.01(3), F.S., requires payment of a \$25 filing fee for issuance of a marriage license. The fee is deposited into the General Revenue Fund.

Proposed Changes

The bill would redirect the deposit of the fees imposed under ss. 28.241(6) and 741.01(3), F.S., from the General Revenue Fund to the State Courts Revenue Trust Fund. The bill would also redirect the first \$1.5 million in foreclosure filing fees remitted to DOR for claims of more than \$50,000, but less than \$250,000, from the General Revenue Fund to the Miami-Dade Clerk of Court.

B. SECTION DIRECTORY:

Section 1. Amends ss. 28.241(1) and (6), F.S., to redirect the deposit of certain court fees from the General Revenue Fund to the Miami-Dade Clerk of Court and the State Courts Revenue Fund.

²¹⁷ s. 166.221, F.S.

²¹⁸ ch. 205, F.S.

²¹⁹ s. 166.222, F.S.

²²⁰ s. 381.00791, F.S.

²²¹ s. 480.052, F.S.

²²² s. 402.306, F.S.

²²³ s. 125.01(1)(n), F.S.

²²⁴ s. 125.01(1)(k), F.S.

²²⁵ s. 28.241(1)(a)2.d.(II), F.S.

²²⁶ An attorney licensed in another state, but not a member of the Florida Bar, may appear in trial and appellate proceedings under certain circumstances. This is referred to as appearing Pro Hac Vice. See: <https://www.floridabar.org/rules/upl/upl002/#E-FilingProHacVice> (last visited Feb. 15, 2018)

- Section 2. Creates s. 125.0103(8), F.S., to provide that except as otherwise provided by law, a county, municipality, or other entity of local government may not prohibit the sale or offer for sale of tangible personal property subject to the tax imposed by chapter 212 which may lawfully be sold in the state.
- Section 3. Amends s. 159.621, F.S., to exempt from the excise tax on documents certain notes and mortgages.
- Section 4. Creates s. 166.043(8), F.S., to provide that except as otherwise provided by law, a county, municipality, or other entity of local government may not prohibit the sale or offer for sale of tangible personal property subject to the tax imposed by chapter 212 which may lawfully be sold in the state.
- Section 5. Creates s. 193.0237, F.S., to provide for the assessment of multiple parcel buildings.
- Section 6. Creates s. 193.4516, F.S., to provide for ad valorem tax valuation for certain tangible personal property owned and operated by a citrus fruit packing or processing facility for the 2018 tax roll.
- Section 7. Provides that the creation of s. 193.4516, F.S., by the bill applies to 2018 property tax roll.
- Section 8. Amends s. 194.011(3)(e), F.S., to clarify that where a condominium association has filed a single joint petition to the VAB, the association may continue to represent the unit owners through a related subsequent proceeding
- Section 9. Amends s. 194.032(1)(b), F.S., to expand value adjustment board jurisdiction to include appeals pertaining to tax abatements under s. 197.318.
- Section 10. Amends s. 194.181(2), F.S., provides statutory changes to conform with the changes in section 8 of the bill.
- Section 11. Amends s. 196.173(2), F.S., to update the statutory list of military operations that qualify a servicemember for the additional ad valorem exemption.
- Section 12. Amends s. 196.24(1), F.S., to remove the requirement that a surviving spouse be married to a disabled ex-servicemember for at least 5 years prior to his or her death in order to qualify for the ad valorem exemption.
- Section 13. Creates s. 197.318, F.S., to provide an ad valorem tax abatement for certain residential improvements damaged by a natural disaster.
- Section 14. Amends s. 197.3631, F.S., specifying application of special assessments on multiple parcel buildings.
- Section 15. Amends s. 197.572, F.S., relating to easements for conservation purposes.
- Section 16. Amends ss. 197.573(1) and (2), F.S., amending provisions related to the survival of restrictions and covenants after a tax sale.
- Section 17. Amends s. 201.02(7), F.S., to provide a documentary stamp tax exemption for certain instruments that transfer homestead property between spouses.

- Section 18. Creates s. 210.205, F.S., to require reporting by certain entities that receive cigarette tax distributions.
- Section 19. Amends s. 212.031(1), F.S., to reduce the business rent tax from 5.8% to 5.5% beginning in calendar year 2019.
- Section 20. Creates s. 212.05(6), F.S., to provide that except as otherwise provided by law, a county, municipality, or other entity of local government may not prohibit the sale or offer for sale of tangible personal property subject to the tax imposed by chapter 212 which may lawfully be sold in the state.
- Section 21. Amends s. 212.055(2)(d), F.S., to clarify the definition of "public facilities" means facilities enumerated in ss. 163.3164(38), s. 163.3221(13), or s. 189.012(5) and also includes facilities that are necessary to carry out governmental purposes, including but not limited to fire stations, general governmental office buildings, animal shelters.
- Section 22. Amends s. 212.08(5)(p), F.S., to set the cap for the Community Contribution Tax Credit Program at \$10.5 million for fiscal year 2018-2019, \$17 million for fiscal year 2019-2020, and \$10.5 million in each fiscal year thereafter.
- Section 23. Creates s. 212.099, F.S.; to establish the Florida Sales Tax Credit Scholarship Program, which provides tax credits to certain dealers who make contributions to eligible nonprofit scholarship-funding organizations under ss. 1002.385 and 1002.395.
- Section 24. Amends s. 212.12(11), F.S., to direct DOR to make available tax amounts and brackets for the tax imposed under s. 212.031(1), F.S.
- Section 25. Amends s. 212.1831, F.S., to modify the calculation of the dealer's collection allowance under s. 212.12 to include certain contributions to eligible nonprofit scholarship-funding organization.
- Section 26. Creates s. 212.205, F.S., to require reporting from certain entities that receive sales tax distributions.
- Section 27. Adds new section (21) to s. 213.053, F.S., to authorize the Department of Revenue to disclose certain information to certain nonprofit scholarship-funding organizations relative to the top 200 corporate income or franchise taxpayers.
- Section 28. Creates s. 218.131, F.S., to provide an appropriation to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties, and all taxing jurisdictions within such counties, as a direct result of the implementation of s. 197.318, F.S., by the bill.
- Section 29. Creates s. 218.135, F.S., to provide an appropriation to offset the reductions in ad valorem tax revenue experienced by fiscally constrained counties as a direct result of the implementation of s. 193.4516, F.S., by the bill.
- Section 30. Provides an appropriation to the Department of Revenue to implement the provisions of s. 218.135, F.S., created by the bill.
- Section 31. Amends s. 220.13(1)(a), F.S., to provide an exception to the additions to the calculation of adjusted taxable income for corporate income tax credits taken under s. 220.1875.

- Section 32. Amends s. 220.183(1)(c), F.S, to set the cap for the Community Contribution Tax Credit Program at \$10.5 million for fiscal year 2018-2019, \$17 million for fiscal year 2019-2020, and \$10.5 million in each fiscal year thereafter.
- Section 33. Amends s. 220.1845(2)(f), F.S., to set the cap for the Brownfields Redevelopment Program Tax Credit at \$23 million for fiscal year 2018-2019.
- Section 34. Amends 220.1875, F.S., to provide a deadline for an eligible contribution to be made to an eligible nonprofit scholarship-funding organization; and provide compliance requirements to pay tentative taxes under ss. 220.222 and 220.32 for tax credits under s. 1002.395.
- Section 35. Amends s. 318.14(9), F.S., to require an 18 percent reduction of a civil penalty under certain circumstances; and to delete the requirement that a specified percentage of the civil penalty be deposited in the State Courts Revenue Trust Fund.
- Section 36. Amends s. 318.15, F.S., to make conforming changes to the amendments made to s. 318.14(9) by the bill.
- Section 37. Amends s. 376.30781(4), F.S., to increase the total amount of tax credits for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas to \$23 million for fiscal year 2018-19.
- Section 38. Amends s. 624.5105(6), F.S., to set the cap for the Community Contribution Tax Credit Program at \$10.5 million for fiscal year 2018-2019, \$17 million in fiscal year 2019-2020, and \$10.5 million thereafter.
- Section 39. Amends ss. 718.111(3), (12) and (13), F.S., to clarify that where a condominium association has filed a single joint petition to the VAB, the association may continue to represent the unit owners through a related subsequent proceeding.
- Section 40. Amends s. 741.01(3), F.S., to redirect the deposit of certain court fees from the General Revenue Fund to the State Courts Revenue Fund.
- Section 41. Amends s. 1002.395, F.S., to provide an application deadline for certain tax credits under s. 220.1875; to extend the carry forward period for unused tax credits from 5 years to 10 years; and to provide applicability of the carried forward tax credit for purposes of s. 220.02(8).
- Section 42. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and personal computer-related accessories during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 43. Provides an exemption from the sales and use tax for the retail sale of certain supplies related to disaster preparedness during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 44. Provides an exemption from the sales and use tax for the purchase of generators used at nursing homes and assisted living facilities during a specified period; provides procedures and requirements for filing applications; provides penalties; provides emergency rulemaking authority; provides retroactive applicability; provides an appropriation.
- Section 45. Provides an exemption from the sales and use tax for the purchase of certain fencing materials during a specified period; provides definitions; provides procedures and

requirements for filing applications; provides penalties; provides emergency rulemaking authority; provides retroactive applicability.

- Section 46. Provides an exemption from the sales and use tax for the purchase of certain building materials used to repair nonresidential farm buildings during a specified period; provides definitions; provides procedures and requirements for filing applications; provides penalties; provides emergency rulemaking authority; provides retroactive applicability.
- Section 47. Provides an exemption from certain taxes for the purchase of motor or diesel fuel used to transport agricultural products during a specified period; provides definitions; provides procedures and requirements for filing applications; provides penalties; provides emergency rulemaking authority; provides retroactive applicability.
- Section 48. Adds new paragraph (m) to s. 193.155(8), F.S., to allow certain owners of homestead property damaged by a named tropical storm or hurricane to elect, for purposes of ad valorem assessment, to have the property deemed to have been abandoned as of the date of the storm or hurricane under certain circumstances.
- Section 49. Amends s. 163.01(7)(g), F.S., to clarify that certain legal entities created under the Florida Interlocal Cooperation Act of 1969 are not required to pay taxes or assessments regardless of whether the property is located within the jurisdiction of members of the entity, and the exemption is not affected by the entity entering into agreements with private entities for services related to utilities owned by the entity.
- Section 50. Amends s. 206.052, F.S., to provide an exemption from motor fuel taxes for certain terminal suppliers who resell motor fuel for immediate export from the state.
- Section 51. Amends s. 206.9825, F.S., as amended by ch. 2016-220, Laws of Fla., to reduce the excise tax rate on certain air carriers to 2.85 cents per gallon.
- Section 52. Provides that sections 33 through 36 of the act shall be considered revenue laws for purposes of ss. 213.05 and 213.06, F.S., and that the provisions of s. 72.011, F.S., apply to those sections.
- Section 53. Provides that the amendments made by this act to ss. 220.13, 220.1875 and 1002.395, F.S., apply to taxable years beginning on or after January 1, 2018.
- Section 54. Provides that amendments made by this act to ss. 195.208, 197.572, and 197.573, Florida Statutes, and the creation by this act of s. 193.0237, Florida Statutes, first apply to taxes levied and special assessments levied in 2018.
- Section 55. Provides the DOR with emergency rulemaking authority to implement the amendments made to ss. 212.1831, 220.13, 220.1875 and 1002.395, F.S., and the creation by this act of s. 212.099, F.S.
- Section 56. Provides an appropriation of nonrecurring funds in fiscal year 2018-19 to DOR to implement the provisions of the act.
- Section 57. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the sales tax on the rental of commercial real estate. The bill provides for a 10-day back-to-school sales tax holiday and three seven-day disaster preparedness sales tax holidays.

The bill also contains several provisions designed to provide tax relief to citizens adversely affected by Hurricane Irma.

The bill provides a discount for certain noncriminal traffic infractions when the driver attends a driver improvement course.

The bill is expected to reduce the corporate income tax liability for certain taxpayers that utilize the tax credit programs affected by the bill.

D. FISCAL COMMENTS:

The total impact of the bill in FY 2018-19 is -\$331.3 million (-\$273.9 million recurring) of which -\$292.8 million (-\$252.0 million recurring) is on General Revenue, -\$3.3 million (-\$10.0 million recurring) is on state trust funds, and -\$35.2 million (-\$11.9 million recurring) is on local government (see table below). Non-recurring state and local government impacts in years beyond FY 2018-19, total -\$6.5 million and -\$12.9 million, respectively. Total tax reductions proposed by the bill are represented by the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The total of -\$414.2 million in tax reductions proposed by the bill is the sum of -\$273.9 million (recurring, excluding appropriations), -\$120.9 million (pure nonrecurring in FY 2018-19), and -\$19.4 million (pure nonrecurring after FY 2018-19).

Appropriations Detail—The \$985,133 appropriated in the bill consists of \$243,814 to implement the “back-to-school” sales tax holiday, \$91,319 for programming changes and certain taxpayer notifications, and \$650,000 to compensate fiscally constrained counties for ad valorem revenue losses. Most of the above appropriations are needed to pay the cost of notifying several hundred thousand sales tax dealers of either the temporary or permanent law changes.

Fiscal Year 2018-19 Estimated Fiscal Impacts (millions of \$)

	General Revenue		State Trust Funds		Local		Total	
	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.	1st Yr	Recur.
Sales Tax: Scholarships Tax Credits	(154.0)	(154.0)	-	-	-	-	(154.0)	(154.0)
Sales Tax: Business Rent Tax Rate Cut	(34.3)	(82.3)	(*)	(*)	(4.4)	(10.6)	(38.7)	(92.9)
Sales Tax: Tax Holiday/"Back-to-School"	(50.4)	-	(*)	-	(12.9)	-	(63.3)	-
Sales Tax: Tax Holidays/Disaster Preparedness	(9.8)	-	(*)	-	(2.4)	-	(12.2)	-
Sales Tax: Agriculture Building Materials	(7.0)	-	(*)	-	(1.8)	-	(8.8)	-
Sales Tax: Agriculture Fencing	(2.1)	-	(*)	-	(0.6)	-	(2.7)	-
Sales Tax: Generators for Nursing Homes/ALFs	(5.3)	-	(*)	-	(1.4)	-	(6.7)	-
Sales Tax: Scholarships/Direct Pay Coll. Allowance	(0.1)	(0.1)	(*)	(*)	(*)	(*)	(0.1)	(0.1)
Corp Income Tax: Scholarships/Contribution Timing (2)	(10.0)	(10.0)	-	-	-	-	(10.0)	(10.0)
Corp Income Tax: Scholarships/Credit Carryforward	(**)	(**)	-	-	-	-	(**)	(**)
Corp Income Tax: Scholarships/Est. Payment Timing	(**)	+/-	-	-	-	-	(**)	+/-
Corp Income Tax: Scholarships/Top 200 List	(**)	(**)	-	-	-	-	(**)	(**)
Corp Income Tax: Brownfields Credit Increase	(13.0)	-	-	-	-	-	(13.0)	-
Ad Valorem: Citrus Processing/Packing Hurr Relief (1)	-	-	-	-	(10.5)	-	(10.5)	-
Ad Valorem: Condo Assn Appeals	(**)	(**)	-	-	(**)	(**)	(**)	(**)
Ad Valorem: Dis. Vet/Surviving Spouse (1)	-	-	-	-	(*)	(0.1)	(*)	(0.1)
Ad Valorem: FGUA Clarification (1)	-	-	-	-	(*)	(*)	(*)	(*)
Ad Valorem: Save Our Homes Portability (1)	-	-	-	-	-	(1.2)	-	(1.2)
Clerks of Court: Distribution	(1.5)	-	-	-	-	-	(1.5)	-
Doc Stamp Tax: Housing Authority Obligations	(0.2)	(0.2)	(0.3)	(0.3)	-	-	(0.5)	(0.5)
Doc Stamp Tax: Spousal Transfers	(0.6)	(0.6)	(0.9)	(0.9)	-	-	(1.5)	(1.5)
Fuel Tax: Aviation Tax Rate Reduction	-	(0.8)	-	(9.2)	-	-	-	(10.0)
Fuel Tax: Refunds for Agricultural Transportation	-	-	(2.5)	-	(1.2)	-	(3.7)	-
Fuel Tax: Supplier Export Exemption	-	-	(*)	(*)	(*)	(*)	(*)	(*)
Spec. Assessments/Ad Valorem: Multiparcel Buildings	-	-	-	-	(**)	(**)	(**)	(**)
Traffic Fines: 18% Discount	(3.5)	(4.0)	0.4	0.4	-	-	(3.1)	(3.6)
Appropriations: Administration & Fiscally Constrained	(0.99)	-	-	-	-	-	(0.99)	-
2018-19 Total	(292.8)	(252.0)	(3.3)	(10.0)	(35.2)	(11.9)	(331.3)	(273.9)
Non-recurring Impacts After FY 2018-19	Cash	Cash	Cash	Cash	Cash	Cash	Cash	Cash
Ad Valorem: Hurricane Homestead Tax Relief (1)	-	-	-	-	(12.9)	-	(12.9)	-
Sales Tax/Corp Inc Tax: Comm Cont Tax Credits	(6.0)	-	(*)	-	(0.5)	-	(6.5)	-
Bill Total	(298.8)	(252.0)	(3.3)	(10.0)	(48.6)	(11.9)	(350.7)	(273.9)
							Pure Nonrecurring =	(140.3)
							Recurring + Pure Nonrecurring (3) =	(414.2)

- (*) Impact less than \$50,000; (**) Impact is indeterminate.
- (1) Ad valorem tax impacts assume current tax rates.
- (2) Revenue Estimating Conference determined these are minimum impacts.
- (3) Recurring tax cut total (excl. appropriations) = -\$273.9 million
 Pure nonrecurring tax cuts in FY 2017-18 = -\$120.9 million
Pure nonrecurring tax cuts after FY 2017-18 = -\$ 19.4 million
-\$ 414.2 million

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because the provisions in the bill providing property tax abatements for homestead properties damaged or destroyed by hurricanes or reductions in valuation of certain tangible personal property used in citrus processing may reduce county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

The single subject provision in Art. III, section 6, of the Florida Constitution may be implicated by sections 2, 4 and 20 of the bill.

B. RULE-MAKING AUTHORITY:

The DOR has general rulemaking authority to create rules governing the taxes it administers. The bill authorizes DOR to adopt emergency rules to implement numerous changes in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 14, 2018, the Ways & Means Committee adopted seven amendments and reported the proposed committee bill favorably as a bill. The amendments:

- Made technical corrects to sections of the bill related to the Florida Scholarship Tax Credit Program.
- Provide DOR with emergency rulemaking authority.
- Provide that the temporary tax relief provisions related to hurricane damage (ss. 32-35 of the bill) are treated as "revenue laws" for purposes of DOR's tax administration. This amendment addresses an administrative concern from DOR because the bill sections are in chapter law (not statutory changes).
- Provide property tax relief to owners of homestead property damaged or destroyed by a named tropical storm or hurricane. The amendment allows such homeowners to keep their Save our Homes differential if they move and establish a new homestead as long as they deem the damaged property abandoned.
- Clarify the tax treatment of property located within and outside the jurisdiction of a separate legal entity created under the Florida Interlocal Cooperation Act of 1969.
- Provide a motor fuel tax exemption for certain businesses that sell motor fuel for immediate export from the state if the fuel tax is paid in the other state.
- Reduce the aviation fuel tax for certain air carriers from 4.27 cents per gallon to 2.85 cents per gallon beginning July 1, 2019.

This analysis is drafted to the bill as amended.

1 A bill to be entitled
 2 An act relating to taxation; amending s. 28.241, F.S.;
 3 providing for a distribution of certain filing fees;
 4 specifying that filing fees for trial and appellate
 5 proceedings must be deposited into the State Courts
 6 Revenue Trust Fund; amending s. 125.0103, F.S.;
 7 providing local governments may not prohibit the sale
 8 or offer for sale of certain tangible personal
 9 property subject to the tax imposed by chapter 212;
 10 amending s. 159.621, F.S.; providing an exemption from
 11 the excise tax on certain documents notes and
 12 mortgages that are part of a loan made by or on behalf
 13 of a housing financing authority; providing
 14 requirements for exemption; providing exceptions to
 15 the exemption; amending s. 166.043, F.S.; providing
 16 local governments may not prohibit the sale or offer
 17 for sale of certain tangible personal property subject
 18 to the tax imposed by chapter 212; creating s.
 19 193.0237, F.S.; providing a for the valuation of land
 20 upon which a multiple parcel building is located;
 21 providing procedures and requirements for the
 22 allocation of land value by the property appraiser;
 23 specifying the effect of a forced sale on the
 24 provisions of a record instrument of a parcel in a
 25 multiple parcel building; providing applicability;

26 creating s. 193.4516, F.S.; providing a valuation
 27 reduction for tangible personal property owned and
 28 operated by a citrus fruit packing or processing
 29 facility; providing applicability; defining the term
 30 "citrus" for purposes of the reduction; providing
 31 retroactive applicability; amending s. 194.011, F.S.;
 32 specifying that the right of a condominium,
 33 cooperative or homeowners association to petition a
 34 value adjustment board regarding an ad valorem tax
 35 assessment on behalf of some or all unit or parcel
 36 owners includes the right to represent unit or parcel
 37 owners in all related proceedings; amending s.
 38 194.032, F.S.; authorizing value adjustment boards to
 39 meet to hear appeals pertaining to specified tax
 40 abatements; amending s. 194.181, F.S.; specifying that
 41 a condominium, cooperative or homeowners association
 42 may be a party to an action contesting the assessment
 43 of ad valorem taxes; amending s. 196.173, F.S.;
 44 revising the military operations that qualify certain
 45 servicemembers for an additional ad valorem tax
 46 exemption; amending s. 196.24, F.S.; authorizing
 47 certain unremarried spouses of deceased disabled ex-
 48 servicemembers to claim ad valorem tax exemptions;
 49 creating s. 197.318, F.S.; providing for the abatement
 50 of ad valorem taxes for residential improvements

51 | damaged or destroyed by certain hurricanes; providing
 52 | definitions; providing procedures and requirements for
 53 | filing applications; providing reporting requirements;
 54 | providing retroactive applicability; amending s.
 55 | 197.3631, F.S.; providing for the levy and allocation
 56 | of non-ad valorem special assessments on parcels in a
 57 | multiple parcel building; amending s. 197.572, F.S.;
 58 | providing for the continued applicability of certain
 59 | easements for support of improvements that may be
 60 | constructed above certain conservation land; amending
 61 | s. 197.573, F.S.;; amending s. 201.02, F.S.; defining
 62 | the term "homestead property"; providing a documentary
 63 | stamp tax exemption for certain transfers of homestead
 64 | property between spouses; creating s. 210.205, F.S.;
 65 | requiring certain recipients of cigarette tax
 66 | distributions to report information regarding the
 67 | expenditure of such distributions; amending s.
 68 | 212.031, F.S.; reducing the tax levied on rental or
 69 | license fees charged for the use of real property;
 70 | amending s. 212.05, F.S.; providing local governments
 71 | may not prohibit the sale or offer for sale of certain
 72 | tangible personal property subject to the tax imposed
 73 | by chapter 212; amending s. 212.055, F.S.; revising
 74 | the definition of "public facilities" for purposes of
 75 | the local government infrastructure surtax; amending

76 ss. 212.08, 220.183, and 624.5105, F.S.; revising the
 77 total amount of community contribution tax credits
 78 that may be granted for certain projects that provide
 79 housing opportunities for certain persons; creating s.
 80 212.099, F.S.; establishing the Florida Sales Tax
 81 Credit Scholarship Program; providing definitions;
 82 authorizing certain persons to elect to direct certain
 83 state sales and use tax revenues to be transferred to
 84 a nonprofit scholarship-organization for the Florida
 85 Tax Credit Scholarship Program; providing procedures
 86 and requirements for filing applications; providing
 87 nonprofit scholarship-funding organization
 88 obligations; providing limits on the amount of tax
 89 credits; requiring the Department of Revenue to
 90 disregard certain tax credits for specified purposes;
 91 requiring the Department of Revenue to adopt rules to
 92 administer the program; amending s. 212.12, directing
 93 the department to make available the tax amounts and
 94 brackets for the tax imposed under s. 212.031;
 95 amending s. 212.1831, F.S.; modifying the calculation
 96 of the dealer's collection allowance under s. 212.12
 97 to include certain contributions to eligible nonprofit
 98 scholarship-funding organizations; creating s.
 99 212.205, F.S.; requiring certain recipients of sales
 100 tax distributions to report information related to

101 expenditure of those distributions; amending s.
 102 213.053, F.S.; providing definitions; authorizing the
 103 Department of Revenue to provide a list of certain
 104 taxpayers to certain nonprofit scholarship-funding
 105 organizations; creating s. 218.131, F.S.; requiring
 106 the Legislature to appropriate moneys to fiscally
 107 constrained counties and taxing jurisdictions within
 108 such counties that experience a reduction in ad
 109 valorem tax revenue as a result of tax abatements
 110 related to specified hurricanes; providing a method
 111 for distributing such moneys; creating s. 218.135,
 112 F.S.; requiring the Legislature to appropriate funds
 113 to offset reductions in ad valorem taxes as a result
 114 of reductions in the value of certain packing and
 115 processing equipment; providing a method for
 116 distributing such moneys; providing an appropriation;
 117 amending s. 220.13, F.S.; providing an exception to
 118 the additions to the calculation of adjusted taxable
 119 income for corporate income tax purposes; amending s.
 120 220.1845, F.S.; increasing the total amount of
 121 contaminated site rehabilitation tax credits for 1
 122 year; amending s. 220.1875, F.S.; providing a deadline
 123 for an eligible contribution to be made to an eligible
 124 nonprofit scholarship-funding organization;
 125 determining compliance with the requirement to pay

126 tentative taxes under ss. 220.222 and 220.32 for tax
 127 credits under s. 1002.395; amending s. 318.14, F.S.;
 128 requiring a specified reduction of a civil penalty
 129 under certain circumstances; deleting the requirement
 130 that a specified percentage of the civil penalty be
 131 deposited in the State Courts Revenue Trust Fund;
 132 amending s. 318.15, F.S.; requiring a person to pay
 133 the clerk of the court the amount of a reduction under
 134 certain circumstances; amending s. 376.30781, F.S.;
 135 increasing the total amount of tax credits for the
 136 rehabilitation of drycleaning-solvent-contaminated
 137 sites and brownfield sites in designated brownfield
 138 areas for 1 year; amending s. 718.111, F.S.;
 139 clarifying how a condominium association may protest
 140 ad valorem valuation of some or all of the units of
 141 the association; amending s. 741.01, F.S.; providing a
 142 certain fee paid to the clerk of the circuit court for
 143 the issuance of a marriage license is deposited into
 144 the State Courts Revenue Trust Fund; amending s.
 145 1002.395, F.S.; providing an application deadline for
 146 certain tax credits related to nonprofit scholarship-
 147 funding organizations; extending the carry forward
 148 period for unused tax credits from 5 years to 10
 149 years; providing applicability of the carried forward
 150 tax credit for purposes of certain taxes; removing the

151 requirement for a taxpayer to apply to the department
 152 for approval of a carry forward tax credit; providing
 153 sales tax exemptions for the retail sale of certain
 154 clothing, school supplies, personal computers, and
 155 personal computer-related accessories during a
 156 specified timeframe; providing exceptions; authorizing
 157 certain dealers to opt out of participating in such
 158 tax exemption; providing requirements for such
 159 dealers; authorizing the Department of Revenue to
 160 adopt emergency rules; providing an appropriation;
 161 providing a sales tax exemption for specified disaster
 162 preparedness supplies during specified timeframes;
 163 authorizing the Department of Revenue to adopt
 164 emergency rules; providing applicability; providing a
 165 sales tax exemption for certain generators used in
 166 nursing homes and assisted living facilities during a
 167 specified timeframe; providing procedures and
 168 requirements for filing applications; providing
 169 penalties; providing a sales tax exemption for certain
 170 fencing materials during a specified timeframe;
 171 providing definitions; providing procedures and
 172 requirements for filing applications; providing
 173 penalties; authorizing the Department of Revenue to
 174 adopt emergency rules; providing retroactive
 175 applicability; providing a sales tax exemption for

176 certain building materials used to repair
 177 nonresidential farm buildings during a specified
 178 timeframe; providing definitions; providing procedures
 179 and requirements for filing applications; providing
 180 penalties; authorizing the Department of Revenue to
 181 adopt emergency rules; providing retroactive
 182 applicability; providing an exemption from taxes on
 183 fuel for certain agricultural uses; providing
 184 definitions; providing procedures and requirements for
 185 filing applications; providing penalties; authorizing
 186 the Department of Revenue to adopt emergency rules;
 187 providing retroactive applicability; amending s.
 188 193.155, F.S.; providing that owners of homestead
 189 property that was significantly damaged or destroyed
 190 as a result of a named tropical storm or hurricane may
 191 elect to have such property deemed abandoned if the
 192 owner establishes a new homestead property by a
 193 specified date; amending s. 163.01, F.S.; providing
 194 the tax treatment of property located within or
 195 outside the jurisdiction of specified legal entities
 196 created under the Florida Interlocal Cooperation Act
 197 of 1969; amending s. 206.052, F.S.; exempting certain
 198 terminal suppliers from paying the motor fuel tax
 199 under specified circumstances; amending s. 206.9825,
 200 F.S.; revising the rate of the aviation fuel tax paid

201 by certain air carriers on a specified date;
 202 authorizing the Department of Revenue to adopt
 203 emergency rules; providing retroactive applicability;
 204 providing an appropriation; providing effective dates.
 205

206 Be It Enacted by the Legislature of the State of Florida:
 207

208 Section 1. Paragraph (a) of subsection (1) and subsection
 209 (6) of section 28.241, Florida Statutes, are amended to read:

210 28.241 Filing fees for trial and appellate proceedings.—

211 (1) Filing fees are due at the time a party files a
 212 pleading to initiate a proceeding or files a pleading for
 213 relief. Reopen fees are due at the time a party files a pleading
 214 to reopen a proceeding if at least 90 days have elapsed since
 215 the filing of a final order or final judgment with the clerk. If
 216 a fee is not paid upon the filing of the pleading as required
 217 under this section, the clerk shall pursue collection of the fee
 218 pursuant to s. 28.246.

219 (a)1.a. Except as provided in sub-subparagraph b. and
 220 subparagraph 2., the party instituting any civil action, suit,
 221 or proceeding in the circuit court shall pay to the clerk of
 222 that court a filing fee of up to \$395 in all cases in which
 223 there are not more than five defendants and an additional filing
 224 fee of up to \$2.50 for each defendant in excess of five. Of the
 225 first \$200 in filing fees, \$195 must be remitted to the

226 Department of Revenue for deposit into the State Courts Revenue
 227 Trust Fund, \$4 must be remitted to the Department of Revenue for
 228 deposit into the Administrative Trust Fund within the Department
 229 of Financial Services and used to fund the contract with the
 230 Florida Clerks of Court Operations Corporation created in s.
 231 28.35, and \$1 must be remitted to the Department of Revenue for
 232 deposit into the Administrative Trust Fund within the Department
 233 of Financial Services to fund audits of individual clerks'
 234 court-related expenditures conducted by the Department of
 235 Financial Services. By the 10th of each month, the clerk shall
 236 submit that portion of the filing fees collected in the previous
 237 month which is in excess of one-twelfth of the clerk's total
 238 budget to the Department of Revenue for deposit into the Clerks
 239 of the Court Trust Fund.

240 b. The party instituting any civil action, suit, or
 241 proceeding in the circuit court under chapter 39, chapter 61,
 242 chapter 741, chapter 742, chapter 747, chapter 752, or chapter
 243 753 shall pay to the clerk of that court a filing fee of up to
 244 \$295 in all cases in which there are not more than five
 245 defendants and an additional filing fee of up to \$2.50 for each
 246 defendant in excess of five. Of the first \$100 in filing fees,
 247 \$95 must be remitted to the Department of Revenue for deposit
 248 into the State Courts Revenue Trust Fund, \$4 must be remitted to
 249 the Department of Revenue for deposit into the Administrative
 250 Trust Fund within the Department of Financial Services and used

251 to fund the contract with the Florida Clerks of Court Operations
 252 Corporation created in s. 28.35, and \$1 must be remitted to the
 253 Department of Revenue for deposit into the Administrative Trust
 254 Fund within the Department of Financial Services to fund audits
 255 of individual clerks' court-related expenditures conducted by
 256 the Department of Financial Services.

257 c. An additional filing fee of \$4 shall be paid to the
 258 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 259 for deposit into the Court Education Trust Fund and shall remit
 260 50 cents to the Department of Revenue for deposit into the
 261 Administrative Trust Fund within the Department of Financial
 262 Services to fund clerk education provided by the Florida Clerks
 263 of Court Operations Corporation. An additional filing fee of up
 264 to \$18 shall be paid by the party seeking each severance that is
 265 granted. The clerk may impose an additional filing fee of up to
 266 \$85 for all proceedings of garnishment, attachment, replevin,
 267 and distress. Postal charges incurred by the clerk of the
 268 circuit court in making service by certified or registered mail
 269 on defendants or other parties shall be paid by the party at
 270 whose instance service is made. Additional fees, charges, or
 271 costs may not be added to the filing fees imposed under this
 272 section, except as authorized in this section or by general law.

273 2.a. Notwithstanding the fees prescribed in subparagraph
 274 1., a party instituting a civil action in circuit court relating
 275 to real property or mortgage foreclosure shall pay a graduated

276 filing fee based on the value of the claim.

277 b. A party shall estimate in writing the amount in
 278 controversy of the claim upon filing the action. For purposes of
 279 this subparagraph, the value of a mortgage foreclosure action is
 280 based upon the principal due on the note secured by the
 281 mortgage, plus interest owed on the note and any moneys advanced
 282 by the lender for property taxes, insurance, and other advances
 283 secured by the mortgage, at the time of filing the foreclosure.
 284 The value shall also include the value of any tax certificates
 285 related to the property. In stating the value of a mortgage
 286 foreclosure claim, a party shall declare in writing the total
 287 value of the claim, as well as the individual elements of the
 288 value as prescribed in this sub-subparagraph.

289 c. In its order providing for the final disposition of the
 290 matter, the court shall identify the actual value of the claim.
 291 The clerk shall adjust the filing fee if there is a difference
 292 between the estimated amount in controversy and the actual value
 293 of the claim and collect any additional filing fee owed or
 294 provide a refund of excess filing fee paid.

295 d. The party shall pay a filing fee of:

296 (I) Three hundred and ninety-five dollars in all cases in
 297 which the value of the claim is \$50,000 or less and in which
 298 there are not more than five defendants. The party shall pay an
 299 additional filing fee of up to \$2.50 for each defendant in
 300 excess of five. Of the first \$200 in filing fees, \$195 must be

301 remitted by the clerk to the Department of Revenue for deposit
 302 into the General Revenue Fund, \$4 must be remitted to the
 303 Department of Revenue for deposit into the Administrative Trust
 304 Fund within the Department of Financial Services and used to
 305 fund the contract with the Florida Clerks of Court Operations
 306 Corporation created in s. 28.35, and \$1 must be remitted to the
 307 Department of Revenue for deposit into the Administrative Trust
 308 Fund within the Department of Financial Services to fund audits
 309 of individual clerks' court-related expenditures conducted by
 310 the Department of Financial Services;

311 (II) Nine hundred dollars in all cases in which the value
 312 of the claim is more than \$50,000 but less than \$250,000 and in
 313 which there are not more than five defendants. The party shall
 314 pay an additional filing fee of up to \$2.50 for each defendant
 315 in excess of five. Of the first \$705 in filing fees, \$700 must
 316 be remitted by the clerk to the Department of Revenue for
 317 deposit into the General Revenue Fund, except that the first
 318 \$1.5 million in such filing fees remitted to the Department of
 319 Revenue and deposited into the General Revenue Fund in fiscal
 320 year 2018-2019 shall be distributed to the Miami-Dade County
 321 Clerk of Court, \$4 must be remitted to the Department of Revenue
 322 for deposit into the Administrative Trust Fund within the
 323 Department of Financial Services and used to fund the contract
 324 with the Florida Clerks of Court Operations Corporation created
 325 in s. 28.35, and \$1 must be remitted to the Department of

326 Revenue for deposit into the Administrative Trust Fund within
 327 the Department of Financial Services to fund audits of
 328 individual clerks' court-related expenditures conducted by the
 329 Department of Financial Services; or

330 (III) One thousand nine hundred dollars in all cases in
 331 which the value of the claim is \$250,000 or more and in which
 332 there are not more than five defendants. The party shall pay an
 333 additional filing fee of up to \$2.50 for each defendant in
 334 excess of five. Of the first \$1,705 in filing fees, \$930 must be
 335 remitted by the clerk to the Department of Revenue for deposit
 336 into the General Revenue Fund, \$770 must be remitted to the
 337 Department of Revenue for deposit into the State Courts Revenue
 338 Trust Fund, \$4 must be remitted to the Department of Revenue for
 339 deposit into the Administrative Trust Fund within the Department
 340 of Financial Services to fund the contract with the Florida
 341 Clerks of Court Operations Corporation created in s. 28.35, and
 342 \$1 must be remitted to the Department of Revenue for deposit
 343 into the Administrative Trust Fund within the Department of
 344 Financial Services to fund audits of individual clerks' court-
 345 related expenditures conducted by the Department of Financial
 346 Services.

347 e. An additional filing fee of \$4 shall be paid to the
 348 clerk. The clerk shall remit \$3.50 to the Department of Revenue
 349 for deposit into the Court Education Trust Fund and shall remit
 350 50 cents to the Department of Revenue for deposit into the

351 Administrative Trust Fund within the Department of Financial
 352 Services to fund clerk education provided by the Florida Clerks
 353 of Court Operations Corporation. An additional filing fee of up
 354 to \$18 shall be paid by the party seeking each severance that is
 355 granted. The clerk may impose an additional filing fee of up to
 356 \$85 for all proceedings of garnishment, attachment, replevin,
 357 and distress. Postal charges incurred by the clerk of the
 358 circuit court in making service by certified or registered mail
 359 on defendants or other parties shall be paid by the party at
 360 whose instance service is made. Additional fees, charges, or
 361 costs may not be added to the filing fees imposed under this
 362 section, except as authorized in this section or by general law.

363 (6) From each attorney appearing pro hac vice, the clerk
 364 of the circuit court shall collect a fee of \$100 for deposit
 365 into the State Courts Revenue Trust Fund ~~General Revenue Fund~~.

366 Section 2. Subsection (8) is added to section 125.0103,
 367 Florida Statutes, to read:

368 125.0103 Ordinances and rules imposing price controls;
 369 findings required; procedures.-

370 (8) Except as otherwise provided by law, a county,
 371 municipality, or other entity of local government may not
 372 prohibit the sale of or offering for sale of tangible personal
 373 property subject to the tax imposed by chapter 212 which may
 374 lawfully be sold in the state. Any such ordinance or rule is
 375 void.

376 Section 3. Section 159.621, Florida Statutes, is amended
 377 to read:

378 159.621 Housing bonds exempted from taxation; notes and
 379 mortgages exempt from excise tax on documents.—

380 (1) The bonds of a housing finance authority issued under
 381 this act, together with all notes, mortgages, security
 382 agreements, letters of credit, or other instruments which arise
 383 out of or are given to secure the repayment of bonds issued in
 384 connection with the financing of any housing development under
 385 this part, as well as the interest thereon and income therefrom,
 386 shall be exempt from all taxes.

387 (2) Any note or mortgage given in connection with a loan
 388 made by or on behalf of a housing finance authority under s.
 389 159.608(8) is exempt from the excise tax on documents under
 390 chapter 201 if, at the time the note or mortgage is recorded,
 391 the housing finance authority records an affidavit signed by an
 392 agent of the housing authority that affirms that the loan was
 393 made by or on behalf of the housing finance authority.

394
 395 The exemption granted by this section does not apply ~~shall not~~
 396 ~~be applicable~~ to any tax imposed by chapter 220 on interest,
 397 income, or profits on debt obligations owned by corporations or
 398 to a deed for property financed by a housing finance authority.

399 Section 4. Subsection (8) is added to section 166.043,
 400 Florida Statutes, to read:

401 166.043 Ordinances and rules imposing price controls;
 402 findings required; procedures.-

403 (8) Except as otherwise provided by law, a county,
 404 municipality, or other entity of local government may not
 405 prohibit the sale of or offering for sale of tangible personal
 406 property subject to the tax imposed by chapter 212 which may
 407 lawfully be sold in the state. Any such ordinance or rule is
 408 void.

409 Section 5. Effective upon this act becoming a law, section
 410 193.0237, Florida Statutes, is created to read:

411 193.0237 Assessment of multiple parcel buildings.-
 412 193.0237 Assessment of multiple parcel buildings.-

413 (1) As used in this section, the term:

414 (a) "Multiple parcel building" means a building, other than
 415 one consisting entirely of a single condominium, timeshare, or
 416 cooperative, which contains separate parcels that are vertically
 417 located, in whole or in part, on or over the same land.

418 (b) "Parcel" means a portion of a multiple parcel building
 419 which is identified in a recorded instrument by a legal
 420 description that is sufficient for record ownership and
 421 conveyance by deed separately from any other portion of the
 422 building.

423 (c) "Recorded instrument" means a declaration, covenant,
 424 easement, deed, plat, agreement, or other legal instrument,
 425 other than a lease, mortgage, or lien, which describes one or

426 more parcels in a multiple parcel building and which is recorded
 427 in the public records of the county where the multiple parcel
 428 building is located.

429 (2) The value of land upon which a multiple parcel building
 430 is located, regardless of ownership, may not be separately
 431 assessed and must be allocated among and included in the just
 432 value of all the parcels in the multiple parcel building as
 433 provided in subsection (3).

434 (3) The property appraiser, for assessment purposes, must
 435 allocate all of the just value of the land among the parcels in
 436 a multiple parcel building in the same proportion that the just
 437 value of the improvements in each parcel bears to the total just
 438 value of all the improvements in the entire multiple parcel
 439 building.

440 (4) A condominium, timeshare, or cooperative may be created
 441 within a parcel in a multiple parcel building. Any land value
 442 allocated to the just value of a parcel containing a condominium
 443 must be further allocated among the condominium units in that
 444 parcel in the manner required in s. 193.023(5).

445 Any land value allocated to the just value of a parcel
 446 containing a cooperative must be further allocated among the
 447 cooperative units in that parcel in the manner required in s.
 448 719.114.

449 (5) Each parcel in a multiple parcel building must be
 450 assigned a separate tax folio number. However, if a condominium

451 or cooperative is created within any such parcel, a separate tax
 452 folio number must be assigned to each condominium unit or
 453 cooperative unit, rather than to the parcel in which they were
 454 created.

455 (6) All provisions of a recorded instrument affecting a
 456 parcel in a multiple parcel building, which parcel has been sold
 457 for taxes or special assessments, survive and are enforceable
 458 after the issuance of a tax deed or master's deed, or upon
 459 foreclosure of an assessment, a certificate or lien, a tax deed,
 460 a tax certificate, or a tax lien, to the same extent that they
 461 would be enforceable against a voluntary grantee of the title
 462 immediately before the delivery of the tax deed, master's deed,
 463 or clerk's certificate of title as provided in s. 197.573.

464 (7) This section applies to any land on which a multiple
 465 parcel building is substantially completed as of January 1 of
 466 the respective assessment year. This section applies to
 467 assessments beginning in the 2018 calendar year.

468 Section 6. Section 193.4516, Florida Statutes, is created
 469 to read:

470 193.4516 Assessment of citrus fruit packing and processing
 471 equipment damaged by Hurricane Irma or citrus greening.—

472 (1) For purposes of ad valorem taxation, and applying to
 473 the 2018 tax roll only, tangible personal property owned and
 474 operated by a citrus fruit packing or processing facility is
 475 deemed to have a market value no greater than its value for

476 salvage, provided the tangible personal property is no longer
 477 used in the operation of the facility due to the effects of
 478 Hurricane Irma or citrus greening.

479 (2)(a) The valuation provided in subsection (1) is
 480 effective until a citrus fruit packing or processing facility
 481 sells or leases the tangible personal property or returns such
 482 property to operational use.

483 (b) As used in this section, the term "citrus" has the
 484 same meaning as provided in s. 581.011(7).

485 Section 7. The creation by this act of s. 193.4516,
 486 Florida Statutes, applies to the 2018 property tax roll.

487 Section 8. Paragraph (e) of subsection (3) of section
 488 194.011, Florida Statutes, is amended to read:

489 194.011 Assessment notice; objections to assessments.-

490 (3) A petition to the value adjustment board must be in
 491 substantially the form prescribed by the department.

492 Notwithstanding s. 195.022, a county officer may not refuse to
 493 accept a form provided by the department for this purpose if the
 494 taxpayer chooses to use it. A petition to the value adjustment
 495 board must be signed by the taxpayer or be accompanied at the
 496 time of filing by the taxpayer's written authorization or power
 497 of attorney, unless the person filing the petition is listed in
 498 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
 499 petition with a value adjustment board without the taxpayer's
 500 signature or written authorization by certifying under penalty

501 of perjury that he or she has authorization to file the petition
 502 on behalf of the taxpayer. If a taxpayer notifies the value
 503 adjustment board that a petition has been filed for the
 504 taxpayer's property without his or her consent, the value
 505 adjustment board may require the person filing the petition to
 506 provide written authorization from the taxpayer authorizing the
 507 person to proceed with the appeal before a hearing is held. If
 508 the value adjustment board finds that a person listed in s.
 509 194.034(1)(a) willfully and knowingly filed a petition that was
 510 not authorized by the taxpayer, the value adjustment board shall
 511 require such person to provide the taxpayer's written
 512 authorization for representation to the value adjustment board
 513 clerk before any petition filed by that person is heard, for 1
 514 year after imposition of such requirement by the value
 515 adjustment board. A power of attorney or written authorization
 516 is valid for 1 assessment year, and a new power of attorney or
 517 written authorization by the taxpayer is required for each
 518 subsequent assessment year. A petition shall also describe the
 519 property by parcel number and shall be filed as follows:

520 1. A condominium association as defined in s. 718.103(2),
 521 a cooperative association as defined in s. 719.103(2), or any
 522 homeowners' association as defined in s. 723.075, with approval
 523 of its board of administration or directors, may file with the
 524 value adjustment board a single joint petition on behalf of any
 525 association members who own units or parcels of property which

526 the property appraiser determines are substantially similar with
 527 respect to location, proximity to amenities, number of rooms,
 528 living area, and condition. The condominium association,
 529 cooperative association, or homeowners' association ~~as defined~~
 530 ~~in s. 723.075~~ shall provide the unit or parcel owners with
 531 notice of its intent to petition the value adjustment board and
 532 shall provide at least 20 days for a unit or parcel owner to
 533 elect, in writing, that his or her unit or parcel not be
 534 included in the petition.

535 2. Where an association has filed a single joint petition,
 536 the association may continue to represent the unit or parcel
 537 owners through any related subsequent proceeding, including
 538 judicial review under part II of this chapter and any appeal
 539 thereof. This subparagraph is intended to clarify existing law
 540 and applies to any pending action.

541 Section 9. Paragraph (b) of subsection (1) of section
 542 194.032, Florida Statutes, is amended to read:

543 194.032 Hearing purposes; timetable.—

544 (1)

545 (b) Notwithstanding the provisions of paragraph (a), the
 546 value adjustment board may meet prior to the approval of the
 547 assessment rolls by the Department of Revenue, but not earlier
 548 than July 1, to hear appeals pertaining to the denial by the
 549 property appraiser of exemptions, tax abatements under s.
 550 197.318, agricultural and high-water recharge classifications,

551 classifications as historic property used for commercial or
 552 certain nonprofit purposes, and deferrals under subparagraphs
 553 (a)2., 3., and 4. In such event, however, the board may not
 554 certify any assessments under s. 193.122 until the Department of
 555 Revenue has approved the assessments in accordance with s.
 556 193.1142 and all hearings have been held with respect to the
 557 particular parcel under appeal.

558 Section 10. Subsection (2) of section 194.181, Florida
 559 Statutes, is amended to read:

560 194.181 Parties to a tax suit.—

561 (2) In any case brought by the taxpayer, or brought by a
 562 condominium or cooperative association on behalf of some or all
 563 owners, contesting the assessment of any property, the county
 564 property appraiser shall be party defendant. In any case brought
 565 by the property appraiser pursuant to s. 194.036(1)(a) or (b),
 566 the taxpayer, condominium association, or cooperative
 567 association shall be party defendant. In any case brought by the
 568 property appraiser pursuant to s. 194.036(1)(c), the value
 569 adjustment board shall be party defendant.

570 Section 11. Subsection (2) of section 196.173, Florida
 571 Statutes, is amended to read:

572 196.173 Exemption for deployed servicemembers.—

573 (2) The exemption is available to servicemembers who were
 574 deployed during the preceding calendar year on active duty
 575 outside the continental United States, Alaska, or Hawaii in

- 576 support of any of the following military operations:
- 577 (a) Operation Joint Task Force Bravo, which began in 1995.
- 578 (b) Operation Joint Guardian, which began on June 12,
- 579 1999.
- 580 (c) Operation Noble Eagle, which began on September 15,
- 581 2001.
- 582 (d) Operation Enduring Freedom, which began on October 7,
- 583 2001, and ended on December 31, 2014.
- 584 (e) Operations in the Balkans, which began in 2004.
- 585 (f) Operation Nomad Shadow, which began in 2007.
- 586 (g) Operation U.S. Airstrikes Al Qaeda in Somalia, which
- 587 began in January 2007.
- 588 (h) Operation Copper Dune, which began in 2009.
- 589 (i) Operation Georgia Deployment Program, which began in
- 590 August 2009.
- 591 ~~(j) Operation New Dawn, which began on September 1, 2010,~~
- 592 ~~and ended on December 15, 2011.~~
- 593 ~~(k) Operation Odyssey Dawn, which began on March 19, 2011,~~
- 594 ~~and ended on October 31, 2011.~~
- 595 (j)~~(l)~~ Operation Spartan Shield, which began in June 2011.
- 596 (k)~~(m)~~ Operation Observant Compass, which began in October
- 597 2011.
- 598 (l)~~(n)~~ Operation Inherent Resolve, which began on August
- 599 8, 2014.
- 600 (m)~~(o)~~ Operation Atlantic Resolve, which began in April

601 2014.

602 (n)~~(p)~~ Operation Freedom's Sentinel, which began on
 603 January 1, 2015.

604 (o)~~(q)~~ Operation Resolute Support, which began in January
 605 2015.

606

607 The Department of Revenue shall notify all property appraisers
 608 and tax collectors in this state of the designated military
 609 operations.

610 Section 12. Subsection (1) of section 196.24, Florida
 611 Statutes, is amended to read:

612 196.24 Exemption for disabled ex-servicemember or
 613 surviving spouse; evidence of disability.-

614 (1) Any ex-servicemember, as defined in s. 196.012, who is
 615 a bona fide resident of the state, who was discharged under
 616 honorable conditions, and who has been disabled to a degree of
 617 10 percent or more by misfortune or while serving during a
 618 period of wartime service as defined in s. 1.01(14) is entitled
 619 to the exemption from taxation provided for in s. 3(b), Art. VII
 620 of the State Constitution as provided in this section. Property
 621 to the value of \$5,000 of such a person is exempt from taxation.
 622 The production by him or her of a certificate of disability from
 623 the United States Government or the United States Department of
 624 Veterans Affairs or its predecessor before the property
 625 appraiser of the county wherein the ex-servicemember's property

626 lies is prima facie evidence of the fact that he or she is
 627 entitled to the exemption. The unremarried surviving spouse of
 628 such a disabled ex-servicemember ~~who, on the date of the~~
 629 ~~disabled ex-servicemember's death, had been married to the~~
 630 ~~disabled ex-servicemember for at least 5 years~~ is also entitled
 631 to the exemption.

632 Section 13. Effective upon this act becoming a law,
 633 section 197.318, Florida Statutes, is created to read:

634 197.318 Abatement of taxes for residential improvements
 635 damaged or destroyed by Hurricanes Hermine, Matthew, or Irma.—

636 (1) As used in this section, the term:

637 (a) "Damage differential" means the product arrived at by
 638 multiplying the percent change in value by a ratio, the
 639 numerator of which is the number of days the residential
 640 improvement was rendered uninhabitable in the year the hurricane
 641 occurred, the denominator of which is 365.

642 (b) "Disaster relief credit" means the product arrived at
 643 by multiplying the damage differential by the amount of timely
 644 paid taxes that were initially levied in the year the hurricane
 645 occurred.

646 (c) "Hurricane" means any of the following:

- 647 1. Hurricane Hermine that occurred in calendar year 2016.
- 648 2. Hurricane Matthew that occurred in calendar year 2016
- 649 3. Hurricane Irma that occurred during calendar year 2017.

650 (d) "Percent change in value" means the difference between

651 a residential parcel's just value as of January 1 of the year in
 652 which a hurricane occurred and its postdisaster just value
 653 expressed as a percentage of the parcel's just value as of
 654 January 1 of the year in which the hurricane occurred.

655 (e) "Postdisaster just value" means the just value of the
 656 residential parcel on January 1 of the year in which a hurricane
 657 occurred, reduced to reflect the just value of the residential
 658 improvement as provided in subsection (5) as a result of the
 659 destruction and damage caused by the hurricane. Postdisaster
 660 just value is determined only for purposes of calculating tax
 661 abatements under this section, and does not determine a parcel's
 662 just value as of January 1 each year.

663 (f) "Residential improvement" means a residential dwelling
 664 or house that is owned and used as a homestead as defined in s.
 665 196.012(13). A residential improvement does not include a
 666 structure that is not essential to the use and occupancy of the
 667 residential dwelling or house, including, but not limited to, a
 668 detached utility building, detached carport, detached garage,
 669 bulkhead, fence, and swimming pool, and does not include land.

670 (g) "Uninhabitable" means the loss of use or occupancy,
 671 resulting from Hurricanes Hermine or Matthew during the 2016
 672 calendar year or Hurricane Irma during the 2017 calendar year of
 673 a residential improvement for the purpose for which it was
 674 constructed, as evidenced by documentation, including, but not
 675 limited to, utility bills, insurance information, contractors'

676 statements, building permit applications, or building inspection
 677 certificates of occupancy.

678 (2) If a residential improvement is rendered uninhabitable
 679 for at least 30 days due to damage or destruction to the
 680 property caused by Hurricanes Hermine or Matthew during the 2016
 681 calendar year or Hurricane Irma during the 2017 calendar year,
 682 taxes initially levied in 2019 may be abated in the following
 683 manner:

684 (a) The property owner must file an application with the
 685 property appraiser no later than March 1, 2019. A property owner
 686 who fails to file an application by March 1, 2019, waives a
 687 claim for abatement of taxes under this section.

688 (b) The application shall identify the residential parcel
 689 on which the residential improvement was damaged or destroyed,
 690 the date the damage or destruction occurred, and the number of
 691 days the property was uninhabitable during the calendar year
 692 that the hurricane occurred.

693 (c) The application shall be verified under oath and is
 694 subject to penalty of perjury.

695 (d) Upon receipt of the application, the property
 696 appraiser shall investigate the statements contained in the
 697 application to determine if the applicant is entitled to an
 698 abatement of taxes. If the property appraiser determines that
 699 the applicant is not entitled to an abatement, the applicant may
 700 file a petition with the value adjustment board, pursuant to s.

701 194.011(3), requesting that the abatement be granted. If the
 702 property appraiser determines that the applicant is entitled to
 703 an abatement, the property appraiser shall issue an official
 704 written statement to the tax collector by April 1, 2019, which
 705 provides:

706 1. The number of days during the calendar year in which
 707 the hurricane occurred that the residential improvement was
 708 uninhabitable. To qualify for the abatement, the residential
 709 improvement must be uninhabitable for at least 30 days.

710 2. The just value of the residential parcel, as determined
 711 by the property appraiser on January 1 of the year in which the
 712 hurricane for which the applicant is claiming an abatement
 713 occurred.

714 3. The postdisaster just value of the residential parcel,
 715 as determined by the property appraiser.

716 4. The percent change in value applicable to the
 717 residential parcel.

718 (3) Upon receipt of the written statement from the
 719 property appraiser, the tax collector shall calculate the damage
 720 differential and disaster relief credit pursuant to this
 721 section. The tax collector shall reduce the taxes initially
 722 levied on the residential parcel in 2019 by an amount equal to
 723 the disaster relief credit. If the value of the credit exceeds
 724 the taxes levied in 2019, the remaining value of the credit
 725 shall be applied to taxes due in subsequent years until the

726 value of the credit is exhausted.

727 (4) No later than May 1, 2019, the tax collector shall
 728 notify:

729 (a) The department of the total reduction in taxes for all
 730 properties that qualified for an abatement pursuant to this
 731 section.

732 (b) The governing board of each affected local government
 733 of the reduction in such local government's taxes that will
 734 occur pursuant to this section.

735 (5) For purposes of this section, residential improvements
 736 that are uninhabitable shall have no value placed thereon.

737 (6) This section applies retroactively to January 1, 2016,
 738 and expires January 1, 2021.

739 Section 14. Effective upon this act becoming a law,
 740 section 197.3631, Florida Statutes, is amended to read:

741 197.3631 Non-ad valorem assessments; general provisions.—

742 (1) Non-ad valorem assessments as defined in s. 197.3632
 743 may be collected pursuant to the method provided for in ss.
 744 197.3632 and 197.3635. Non-ad valorem assessments may also be
 745 collected pursuant to any alternative method which is authorized
 746 by law, but such alternative method shall not require the tax
 747 collector or property appraiser to perform those services as
 748 provided for in ss. 197.3632 and 197.3635. However, a property
 749 appraiser or tax collector may contract with a local government
 750 to supply information and services necessary for any such

751 alternative method. Section 197.3632 is additional authority for
 752 local governments to impose and collect non-ad valorem
 753 assessments supplemental to the home rule powers pursuant to ss.
 754 125.01 and 166.021 and chapter 170, or any other law. Any county
 755 operating under a charter adopted pursuant to s. 11, Art. VIII
 756 of the Constitution of 1885, as amended, as referred to in s.
 757 6(e), Art. VIII of the Constitution of 1968, as amended, may use
 758 any method authorized by law for imposing and collecting non-ad
 759 valorem assessments.

760 (2) For non-ad valorem special assessments based on the
 761 size or area of the land containing a multiple parcel building,
 762 regardless of ownership, the special assessment must be levied
 763 on and allocated among all the parcels in the multiple parcel
 764 building on the same basis that the land value is allocated
 765 among the parcels in s. 193.0237(3). For non-ad valorem
 766 assessments not based on the size or area of the land, each
 767 parcel in the multiple parcel building shall be subject to a
 768 separate assessment. For purposes of this subsection, the terms
 769 "multiple parcel building" and "parcel" have the same meaning as
 770 provided in in s. 193.0237(1).

771 Section 15. Effective upon this act becoming a law,
 772 section 197.572, Florida Statutes, is amended to read:
 773 197.572 Easements for conservation purposes, public
 774 service purposes, support of certain improvements, or for
 775 drainage or ingress and egress survive tax sales and deeds.—When

776 any lands are sold for the nonpayment of taxes, or any tax
 777 certificate is issued thereon by a governmental unit or agency
 778 or pursuant to any tax lien foreclosure proceeding, the title to
 779 the lands shall continue to be subject to any easement for
 780 conservation purposes as provided in s. 704.06 or for telephone,
 781 telegraph, pipeline, power transmission, or other public service
 782 purpose; and shall continue to be subject to any easement for
 783 support of improvements that may be constructed above the lands,
 784 and for the purposes of drainage or of ingress and egress to and
 785 from other land. The easement and the rights of the owner of it
 786 shall survive and be enforceable after the execution, delivery,
 787 and recording of a tax deed, a master's deed, or a clerk's
 788 certificate of title pursuant to foreclosure of a tax deed, tax
 789 certificate, or tax lien, to the same extent as though the land
 790 had been conveyed by voluntary deed. The easement must be
 791 evidenced by written instrument recorded in the office of the
 792 clerk of the circuit court in the county where such land is
 793 located before the recording of such tax deed or master's deed,
 794 or, if not recorded, an easement for a public service purpose
 795 must be evidenced by wires, poles, or other visible occupation,
 796 an easement for drainage must be evidenced by a waterway, water
 797 bed, or other visible occupation, and an easement for the
 798 purpose of ingress and egress must be evidenced by a road or
 799 other visible occupation to be entitled to the benefit of this
 800 section; however, this shall apply only to tax deeds issued

801 after the effective date of this act.

802 Section 16. Effective upon this act becoming a law,
 803 subsections (1) and (2) of section 197.573, Florida Statutes,
 804 are amended to read:

805 197.573 Survival of restrictions and covenants after tax
 806 sale.—

807 (1) When a deed, or other recorded instrument in the chain
 808 of title contains restrictions and covenants running with the
 809 land, as hereinafter defined and limited, the restrictions and
 810 covenants shall survive and be enforceable after the issuance of
 811 a tax deed or master's deed, or a clerk's certificate of title
 812 upon foreclosure of a tax deed, tax certificate, or tax lien, to
 813 the same extent that it would be enforceable against a voluntary
 814 grantee of the owner of the title immediately before the
 815 delivery of the tax deed, master's deed, or clerk's certificate
 816 of title.

817 (2) This section applies ~~shall apply~~ to the usual
 818 restrictions and covenants limiting the use of property; the
 819 type, character and location of building; covenants against
 820 nuisances and what the former parties deemed to be undesirable
 821 conditions, in, upon, and about the property; and other similar
 822 restrictions and covenants; but this section does ~~shall~~ not
 823 protect covenants that:

824 (a) Create ~~creating~~ any debt or lien against or upon the
 825 property, except one providing for satisfaction or survival of a

826 | lien of record held by a municipal or county governmental unit,
 827 | or one providing a lien for assessments accruing after such tax
 828 | deed, master's deed, or clerk's certificate of title to a
 829 | condominium association, homeowners' association, property
 830 | owners' association, or other person having assessment powers
 831 | under such covenants; or

832 | (b) Require ~~requiring~~ the grantee to expend money for any
 833 | purpose, except one that may require that the premises be kept
 834 | in a sanitary or sightly condition or one to abate nuisances or
 835 | undesirable conditions.

836 | Section 17. Subsection (7) of section 201.02, Florida
 837 | Statutes, is amended to read:

838 | 201.02 Tax on deeds and other instruments relating to real
 839 | property or interests in real property.-

840 | (7) Taxes imposed by this section do not apply to:

841 | (a) A deed, transfer, or conveyance between spouses or
 842 | former spouses pursuant to an action for dissolution of their
 843 | marriage wherein the real property is or was their marital home
 844 | or an interest therein. Taxes paid pursuant to this section
 845 | shall be refunded in those cases in which a deed, transfer, or
 846 | conveyance occurred 1 year before a dissolution of marriage.
 847 | This paragraph ~~subsection~~ applies in spite of any consideration
 848 | as defined in subsection (1). This paragraph ~~subsection~~ does not
 849 | apply to a deed, transfer, or conveyance executed before July 1,
 850 | 1997.

851 (b) A deed or other instrument that transfers or conveys
 852 homestead property or any interest in homestead property between
 853 spouses, if the only consideration for the transfer or
 854 conveyance is the amount of a mortgage or other lien encumbering
 855 the homestead property at the time of the transfer or conveyance
 856 and if the deed or other instrument is recorded within 1 year
 857 after the date of the marriage. This paragraph applies to
 858 transfers or conveyances from one spouse to another, from one
 859 spouse to both spouses, or from both spouses to one spouse. For
 860 the purpose of this paragraph, the term "homestead property" has
 861 the same meaning as the term "homestead" as defined in s.
 862 192.001.

863 Section 18. Section 210.205, Florida Statutes, is created
 864 to read:

865 210.205 Cigarette tax distribution reporting.—By March 15
 866 of each year, each entity that received a distribution pursuant
 867 to s. 210.20(2)(b) in the preceding calendar year shall report
 868 to the Office of Economic and Demographic Research the following
 869 information:

870 (1) An itemized accounting of all expenditures of the
 871 funds distributed in the preceding calendar year, including
 872 amounts spent on debt service.

873 (2) A statement indicating what portion of the distributed
 874 funds have been pledged for debt service.

875 (3) The original principal amount and current debt service

876 schedule of any bonds or other borrowing for which the
 877 distributed funds have been pledged for debt service.

878 Section 19. Effective January 1, 2019, paragraphs (c) and
 879 (d) of subsection (1) of section 212.031, Florida Statutes, are
 880 amended to read:

881 212.031 Tax on rental or license fee for use of real
 882 property.-

883 (1)

884 (c) For the exercise of such privilege, a tax is levied at
 885 the rate of 5.5 ~~5.8~~ percent of and on the total rent or license
 886 fee charged for such real property by the person charging or
 887 collecting the rental or license fee. The total rent or license
 888 fee charged for such real property shall include payments for
 889 the granting of a privilege to use or occupy real property for
 890 any purpose and shall include base rent, percentage rents, or
 891 similar charges. Such charges shall be included in the total
 892 rent or license fee subject to tax under this section whether or
 893 not they can be attributed to the ability of the lessor's or
 894 licensor's property as used or operated to attract customers.
 895 Payments for intrinsically valuable personal property such as
 896 franchises, trademarks, service marks, logos, or patents are not
 897 subject to tax under this section. In the case of a contractual
 898 arrangement that provides for both payments taxable as total
 899 rent or license fee and payments not subject to tax, the tax
 900 shall be based on a reasonable allocation of such payments and

901 shall not apply to that portion which is for the nontaxable
 902 payments.

903 (d) When the rental or license fee of any such real
 904 property is paid by way of property, goods, wares, merchandise,
 905 services, or other thing of value, the tax shall be at the rate
 906 of 5.5 ~~5.8~~ percent of the value of the property, goods, wares,
 907 merchandise, services, or other thing of value.

908 Section 20. Subsection (6) is added to section 212.05,
 909 Florida Statutes, to read:

910 212.05 Sales, storage, use tax.—It is hereby declared to
 911 be the legislative intent that every person is exercising a
 912 taxable privilege who engages in the business of selling
 913 tangible personal property at retail in this state, including
 914 the business of making mail order sales, or who rents or
 915 furnishes any of the things or services taxable under this
 916 chapter, or who stores for use or consumption in this state any
 917 item or article of tangible personal property as defined herein
 918 and who leases or rents such property within the state.

919 (6) Except as otherwise provided by law, a county,
 920 municipality, or other entity of local government may not
 921 prohibit the sale of or offering for sale of tangible personal
 922 property subject to the tax imposed by chapter 212 which may
 923 lawfully be sold in the state. Any such ordinance or rule is
 924 void.

925 Section 21. Paragraph (d) of subsection (2) of section

926 212.055, Florida Statutes, is amended to read:

927 212.055 Discretionary sales surtaxes; legislative intent;
 928 authorization and use of proceeds.—It is the legislative intent
 929 that any authorization for imposition of a discretionary sales
 930 surtax shall be published in the Florida Statutes as a
 931 subsection of this section, irrespective of the duration of the
 932 levy. Each enactment shall specify the types of counties
 933 authorized to levy; the rate or rates which may be imposed; the
 934 maximum length of time the surtax may be imposed, if any; the
 935 procedure which must be followed to secure voter approval, if
 936 required; the purpose for which the proceeds may be expended;
 937 and such other requirements as the Legislature may provide.
 938 Taxable transactions and administrative procedures shall be as
 939 provided in s. 212.054.

940 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

941 (d) The proceeds of the surtax authorized by this
 942 subsection and any accrued interest shall be expended by the
 943 school district, within the county and municipalities within the
 944 county, or, in the case of a negotiated joint county agreement,
 945 within another county, to finance, plan, and construct
 946 infrastructure; to acquire any interest in land for public
 947 recreation, conservation, or protection of natural resources or
 948 to prevent or satisfy private property rights claims resulting
 949 from limitations imposed by the designation of an area of
 950 critical state concern; to provide loans, grants, or rebates to

951 residential or commercial property owners who make energy
 952 efficiency improvements to their residential or commercial
 953 property, if a local government ordinance authorizing such use
 954 is approved by referendum; or to finance the closure of county-
 955 owned or municipally owned solid waste landfills that have been
 956 closed or are required to be closed by order of the Department
 957 of Environmental Protection. Any use of the proceeds or interest
 958 for purposes of landfill closure before July 1, 1993, is
 959 ratified. The proceeds and any interest may not be used for the
 960 operational expenses of infrastructure, except that a county
 961 that has a population of fewer than 75,000 and that is required
 962 to close a landfill may use the proceeds or interest for long-
 963 term maintenance costs associated with landfill closure.
 964 Counties, as defined in s. 125.011, and charter counties may, in
 965 addition, use the proceeds or interest to retire or service
 966 indebtedness incurred for bonds issued before July 1, 1987, for
 967 infrastructure purposes, and for bonds subsequently issued to
 968 refund such bonds. Any use of the proceeds or interest for
 969 purposes of retiring or servicing indebtedness incurred for
 970 refunding bonds before July 1, 1999, is ratified.

971 1. For the purposes of this paragraph, the term
 972 "infrastructure" means:

973 a. Any fixed capital expenditure or fixed capital outlay
 974 associated with the construction, reconstruction, or improvement
 975 of public facilities that have a life expectancy of 5 or more

976 | years, any related land acquisition, land improvement, design,
 977 | and engineering costs, and all other professional and related
 978 | costs required to bring the public facilities into service. For
 979 | purposes of this sub-subparagraph, the term "public facilities"
 980 | means facilities as defined in s. 163.3164(38), s. 163.3221(13),
 981 | or s. 189.012(5), and includes facilities that are necessary to
 982 | carry out governmental purposes, including, but not limited to,
 983 | fire stations, general governmental office buildings, and animal
 984 | shelters, regardless of whether the facilities are owned by the
 985 | local taxing authority or another governmental entity.

986 | b. A fire department vehicle, an emergency medical service
 987 | vehicle, a sheriff's office vehicle, a police department
 988 | vehicle, or any other vehicle, and the equipment necessary to
 989 | outfit the vehicle for its official use or equipment that has a
 990 | life expectancy of at least 5 years.

991 | c. Any expenditure for the construction, lease, or
 992 | maintenance of, or provision of utilities or security for,
 993 | facilities, as defined in s. 29.008.

994 | d. Any fixed capital expenditure or fixed capital outlay
 995 | associated with the improvement of private facilities that have
 996 | a life expectancy of 5 or more years and that the owner agrees
 997 | to make available for use on a temporary basis as needed by a
 998 | local government as a public emergency shelter or a staging area
 999 | for emergency response equipment during an emergency officially
 1000 | declared by the state or by the local government under s.

1001 252.38. Such improvements are limited to those necessary to
 1002 comply with current standards for public emergency evacuation
 1003 shelters. The owner must enter into a written contract with the
 1004 local government providing the improvement funding to make the
 1005 private facility available to the public for purposes of
 1006 emergency shelter at no cost to the local government for a
 1007 minimum of 10 years after completion of the improvement, with
 1008 the provision that the obligation will transfer to any
 1009 subsequent owner until the end of the minimum period.

1010 e. Any land acquisition expenditure for a residential
 1011 housing project in which at least 30 percent of the units are
 1012 affordable to individuals or families whose total annual
 1013 household income does not exceed 120 percent of the area median
 1014 income adjusted for household size, if the land is owned by a
 1015 local government or by a special district that enters into a
 1016 written agreement with the local government to provide such
 1017 housing. The local government or special district may enter into
 1018 a ground lease with a public or private person or entity for
 1019 nominal or other consideration for the construction of the
 1020 residential housing project on land acquired pursuant to this
 1021 sub-subparagraph.

1022 2. For the purposes of this paragraph, the term "energy
 1023 efficiency improvement" means any energy conservation and
 1024 efficiency improvement that reduces consumption through
 1025 conservation or a more efficient use of electricity, natural

1026 gas, propane, or other forms of energy on the property,
 1027 including, but not limited to, air sealing; installation of
 1028 insulation; installation of energy-efficient heating, cooling,
 1029 or ventilation systems; installation of solar panels; building
 1030 modifications to increase the use of daylight or shade;
 1031 replacement of windows; installation of energy controls or
 1032 energy recovery systems; installation of electric vehicle
 1033 charging equipment; installation of systems for natural gas fuel
 1034 as defined in s. 206.9951; and installation of efficient
 1035 lighting equipment.

1036 3. Notwithstanding any other provision of this subsection,
 1037 a local government infrastructure surtax imposed or extended
 1038 after July 1, 1998, may allocate up to 15 percent of the surtax
 1039 proceeds for deposit into a trust fund within the county's
 1040 accounts created for the purpose of funding economic development
 1041 projects having a general public purpose of improving local
 1042 economies, including the funding of operational costs and
 1043 incentives related to economic development. The ballot statement
 1044 must indicate the intention to make an allocation under the
 1045 authority of this subparagraph.

1046 Section 22. Paragraph (p) of subsection (5) of section
 1047 212.08, Florida Statutes, is amended to read:

1048 212.08 Sales, rental, use, consumption, distribution, and
 1049 storage tax; specified exemptions.—The sale at retail, the
 1050 rental, the use, the consumption, the distribution, and the

1051 storage to be used or consumed in this state of the following
 1052 are hereby specifically exempt from the tax imposed by this
 1053 chapter.

1054 (5) EXEMPTIONS; ACCOUNT OF USE.—

1055 (p) Community contribution tax credit for donations.—

1056 1. Authorization.—Persons who are registered with the
 1057 department under s. 212.18 to collect or remit sales or use tax
 1058 and who make donations to eligible sponsors are eligible for tax
 1059 credits against their state sales and use tax liabilities as
 1060 provided in this paragraph:

1061 a. The credit shall be computed as 50 percent of the
 1062 person's approved annual community contribution.

1063 b. The credit shall be granted as a refund against state
 1064 sales and use taxes reported on returns and remitted in the 12
 1065 months preceding the date of application to the department for
 1066 the credit as required in sub-subparagraph 3.c. If the annual
 1067 credit is not fully used through such refund because of
 1068 insufficient tax payments during the applicable 12-month period,
 1069 the unused amount may be included in an application for a refund
 1070 made pursuant to sub-subparagraph 3.c. in subsequent years
 1071 against the total tax payments made for such year. Carryover
 1072 credits may be applied for a 3-year period without regard to any
 1073 time limitation that would otherwise apply under s. 215.26.

1074 c. A person may not receive more than \$200,000 in annual
 1075 tax credits for all approved community contributions made in any

1076 one year.

1077 d. All proposals for the granting of the tax credit
 1078 require the prior approval of the Department of Economic
 1079 Opportunity.

1080 e. The total amount of tax credits which may be granted
 1081 for all programs approved under this paragraph, s. 220.183, and
 1082 s. 624.5105 is \$10.5 million in the 2018-2019 fiscal year, \$17
 1083 million ~~\$21.4 million~~ in the 2019-2020 ~~2017-2018~~ fiscal year,
 1084 and \$10.5 million in each fiscal year thereafter for projects
 1085 that provide housing opportunities for persons with special
 1086 needs or homeownership opportunities for low-income households
 1087 or very-low-income households and \$3.5 million each fiscal year
 1088 for all other projects. As used in this paragraph, the term
 1089 "person with special needs" has the same meaning as in s.
 1090 420.0004 and the terms "low-income person," "low-income
 1091 household," "very-low-income person," and "very-low-income
 1092 household" have the same meanings as in s. 420.9071.

1093 f. A person who is eligible to receive the credit provided
 1094 in this paragraph, s. 220.183, or s. 624.5105 may receive the
 1095 credit only under one section of the person's choice.

1096 2. Eligibility requirements.—

1097 a. A community contribution by a person must be in the
 1098 following form:

1099 (I) Cash or other liquid assets;

1100 (II) Real property, including 100 percent ownership of a

1101 real property holding company;
 1102 (III) Goods or inventory; or
 1103 (IV) Other physical resources identified by the Department
 1104 of Economic Opportunity.

1105
 1106 For purposes of this sub-subparagraph, the term "real property
 1107 holding company" means a Florida entity, such as a Florida
 1108 limited liability company, that is wholly owned by the person;
 1109 is the sole owner of real property, as defined in s.
 1110 192.001(12), located in the state; is disregarded as an entity
 1111 for federal income tax purposes pursuant to 26 C.F.R. s.
 1112 301.7701-3(b)(1)(ii); and at the time of contribution to an
 1113 eligible sponsor, has no material assets other than the real
 1114 property and any other property that qualifies as a community
 1115 contribution.

1116 b. All community contributions must be reserved
 1117 exclusively for use in a project. As used in this sub-
 1118 subparagraph, the term "project" means activity undertaken by an
 1119 eligible sponsor which is designed to construct, improve, or
 1120 substantially rehabilitate housing that is affordable to low-
 1121 income households or very-low-income households; designed to
 1122 provide housing opportunities for persons with special needs;
 1123 designed to provide commercial, industrial, or public resources
 1124 and facilities; or designed to improve entrepreneurial and job-
 1125 development opportunities for low-income persons. A project may

1126 be the investment necessary to increase access to high-speed
 1127 broadband capability in a rural community that had an enterprise
 1128 zone designated pursuant to chapter 290 as of May 1, 2015,
 1129 including projects that result in improvements to communications
 1130 assets that are owned by a business. A project may include the
 1131 provision of museum educational programs and materials that are
 1132 directly related to a project approved between January 1, 1996,
 1133 and December 31, 1999, and located in an area which was in an
 1134 enterprise zone designated pursuant to s. 290.0065 as of May 1,
 1135 2015. This paragraph does not preclude projects that propose to
 1136 construct or rehabilitate housing for low-income households or
 1137 very-low-income households on scattered sites or housing
 1138 opportunities for persons with special needs. With respect to
 1139 housing, contributions may be used to pay the following eligible
 1140 special needs, low-income, and very-low-income housing-related
 1141 activities:

1142 (I) Project development impact and management fees for
 1143 special needs, low-income, or very-low-income housing projects;

1144 (II) Down payment and closing costs for persons with
 1145 special needs, low-income persons, and very-low-income persons;

1146 (III) Administrative costs, including housing counseling
 1147 and marketing fees, not to exceed 10 percent of the community
 1148 contribution, directly related to special needs, low-income, or
 1149 very-low-income projects; and

1150 (IV) Removal of liens recorded against residential

1151 | property by municipal, county, or special district local
 1152 | governments if satisfaction of the lien is a necessary precedent
 1153 | to the transfer of the property to a low-income person or very-
 1154 | low-income person for the purpose of promoting home ownership.
 1155 | Contributions for lien removal must be received from a
 1156 | nonrelated third party.

1157 | c. The project must be undertaken by an "eligible
 1158 | sponsor," which includes:

1159 | (I) A community action program;

1160 | (II) A nonprofit community-based development organization
 1161 | whose mission is the provision of housing for persons with
 1162 | special needs, low-income households, or very-low-income
 1163 | households or increasing entrepreneurial and job-development
 1164 | opportunities for low-income persons;

1165 | (III) A neighborhood housing services corporation;

1166 | (IV) A local housing authority created under chapter 421;

1167 | (V) A community redevelopment agency created under s.
 1168 | 163.356;

1169 | (VI) A historic preservation district agency or
 1170 | organization;

1171 | (VII) A local workforce development board;

1172 | (VIII) A direct-support organization as provided in s.
 1173 | 1009.983;

1174 | (IX) An enterprise zone development agency created under
 1175 | s. 290.0056;

1176 (X) A community-based organization incorporated under
 1177 chapter 617 which is recognized as educational, charitable, or
 1178 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code
 1179 and whose bylaws and articles of incorporation include
 1180 affordable housing, economic development, or community
 1181 development as the primary mission of the corporation;

1182 (XI) Units of local government;

1183 (XII) Units of state government; or

1184 (XIII) Any other agency that the Department of Economic
 1185 Opportunity designates by rule.

1186

1187 A contributing person may not have a financial interest in the
 1188 eligible sponsor.

1189 d. The project must be located in an area which was in an
 1190 enterprise zone designated pursuant to chapter 290 as of May 1,
 1191 2015, or a Front Porch Florida Community, unless the project
 1192 increases access to high-speed broadband capability in a rural
 1193 community that had an enterprise zone designated pursuant to
 1194 chapter 290 as of May 1, 2015, but is physically located outside
 1195 the designated rural zone boundaries. Any project designed to
 1196 construct or rehabilitate housing for low-income households or
 1197 very-low-income households or housing opportunities for persons
 1198 with special needs is exempt from the area requirement of this
 1199 sub-subparagraph.

1200 e.(I) If, during the first 10 business days of the state

1201 fiscal year, eligible tax credit applications for projects that
 1202 provide housing opportunities for persons with special needs or
 1203 homeownership opportunities for low-income households or very-
 1204 low-income households are received for less than the annual tax
 1205 credits available for those projects, the Department of Economic
 1206 Opportunity shall grant tax credits for those applications and
 1207 grant remaining tax credits on a first-come, first-served basis
 1208 for subsequent eligible applications received before the end of
 1209 the state fiscal year. If, during the first 10 business days of
 1210 the state fiscal year, eligible tax credit applications for
 1211 projects that provide housing opportunities for persons with
 1212 special needs or homeownership opportunities for low-income
 1213 households or very-low-income households are received for more
 1214 than the annual tax credits available for those projects, the
 1215 Department of Economic Opportunity shall grant the tax credits
 1216 for those applications as follows:

1217 (A) If tax credit applications submitted for approved
 1218 projects of an eligible sponsor do not exceed \$200,000 in total,
 1219 the credits shall be granted in full if the tax credit
 1220 applications are approved.

1221 (B) If tax credit applications submitted for approved
 1222 projects of an eligible sponsor exceed \$200,000 in total, the
 1223 amount of tax credits granted pursuant to sub-sub-sub-
 1224 subparagraph (A) shall be subtracted from the amount of
 1225 available tax credits, and the remaining credits shall be

1226 granted to each approved tax credit application on a pro rata
 1227 basis.

1228 (II) If, during the first 10 business days of the state
 1229 fiscal year, eligible tax credit applications for projects other
 1230 than those that provide housing opportunities for persons with
 1231 special needs or homeownership opportunities for low-income
 1232 households or very-low-income households are received for less
 1233 than the annual tax credits available for those projects, the
 1234 Department of Economic Opportunity shall grant tax credits for
 1235 those applications and shall grant remaining tax credits on a
 1236 first-come, first-served basis for subsequent eligible
 1237 applications received before the end of the state fiscal year.
 1238 If, during the first 10 business days of the state fiscal year,
 1239 eligible tax credit applications for projects other than those
 1240 that provide housing opportunities for persons with special
 1241 needs or homeownership opportunities for low-income households
 1242 or very-low-income households are received for more than the
 1243 annual tax credits available for those projects, the Department
 1244 of Economic Opportunity shall grant the tax credits for those
 1245 applications on a pro rata basis.

1246 3. Application requirements.—

1247 a. An eligible sponsor seeking to participate in this
 1248 program must submit a proposal to the Department of Economic
 1249 Opportunity which sets forth the name of the sponsor, a
 1250 description of the project, and the area in which the project is

1251 located, together with such supporting information as is
 1252 prescribed by rule. The proposal must also contain a resolution
 1253 from the local governmental unit in which the project is located
 1254 certifying that the project is consistent with local plans and
 1255 regulations.

1256 b. A person seeking to participate in this program must
 1257 submit an application for tax credit to the Department of
 1258 Economic Opportunity which sets forth the name of the sponsor, a
 1259 description of the project, and the type, value, and purpose of
 1260 the contribution. The sponsor shall verify, in writing, the
 1261 terms of the application and indicate its receipt of the
 1262 contribution, and such verification must accompany the
 1263 application for tax credit. The person must submit a separate
 1264 tax credit application to the Department of Economic Opportunity
 1265 for each individual contribution that it makes to each
 1266 individual project.

1267 c. A person who has received notification from the
 1268 Department of Economic Opportunity that a tax credit has been
 1269 approved must apply to the department to receive the refund.
 1270 Application must be made on the form prescribed for claiming
 1271 refunds of sales and use taxes and be accompanied by a copy of
 1272 the notification. A person may submit only one application for
 1273 refund to the department within a 12-month period.

1274 4. Administration.-

1275 a. The Department of Economic Opportunity may adopt rules

1276 necessary to administer this paragraph, including rules for the
 1277 approval or disapproval of proposals by a person.

1278 b. The decision of the Department of Economic Opportunity
 1279 must be in writing, and, if approved, the notification shall
 1280 state the maximum credit allowable to the person. Upon approval,
 1281 the Department of Economic Opportunity shall transmit a copy of
 1282 the decision to the department.

1283 c. The Department of Economic Opportunity shall
 1284 periodically monitor all projects in a manner consistent with
 1285 available resources to ensure that resources are used in
 1286 accordance with this paragraph; however, each project must be
 1287 reviewed at least once every 2 years.

1288 d. The Department of Economic Opportunity shall, in
 1289 consultation with the statewide and regional housing and
 1290 financial intermediaries, market the availability of the
 1291 community contribution tax credit program to community-based
 1292 organizations.

1293 Section 23. Section 212.099, Florida Statutes, is created
 1294 to read:

1295 212.099 Florida Sales Tax Credit Scholarship Program.-

1296 (1) As used in this section, the term:

1297 (a) "Eligible business" means a person defined as a dealer
 1298 in this chapter.

1299 (b) "Eligible contribution" or "contribution" means a
 1300 monetary contribution from an eligible business to an eligible

1301 nonprofit scholarship-funding organization to be used pursuant
 1302 to ss. 1002.385 or 1002.395. The eligible business making the
 1303 contribution may not designate a specific student as the
 1304 beneficiary of the contribution.

1305 (c) "Eligible nonprofit scholarship-funding organization"
 1306 has the same meaning as provided in s. 1002.395(2)(f).

1307 (d) "Business-funded scholarship" means an amount of
 1308 financial aid created by an eligible business when the business
 1309 makes an eligible contribution in an amount that, if awarded to
 1310 a single student, would equal the maximum scholarship award
 1311 authorized pursuant to s. 1002.395(12)(a)1.a.(III) for a single
 1312 year.

1313 (2) An eligible business may apply to the department for a
 1314 tax credit under this section. An eligible business is allowed a
 1315 credit against the state tax imposed under this chapter in an
 1316 amount equal to each business-funded scholarship created by the
 1317 eligible business.

1318 (3)(a) The eligible business shall specify in the
 1319 application the applicable state fiscal year in which to apply
 1320 the credit. The department shall approve tax credits on a first-
 1321 come, first-served basis.

1322 (b) Within 10 days after approving or denying an
 1323 application, the department shall provide a copy of its approval
 1324 or denial letter to the eligible nonprofit scholarship-funding

1325 organization that was named by the eligible business in the
 1326 application.

1327 (4) An eligible nonprofit scholarship-funding organization
 1328 that receives eligible contributions pursuant to this section
 1329 shall provide the eligible business with a receipt of the total
 1330 amount of funds received from and the number of scholarships
 1331 created by the eligible business. The eligible business shall
 1332 provide this information to the department pursuant to s.
 1333 212.11(5).

1334 (5)(a) Eligible contributions may be used to fund the
 1335 program established under s. 1002.385 if funds appropriated in a
 1336 state fiscal year for the program are insufficient to fund
 1337 eligible students.

1338 (b) If the conditions in paragraph (a) are met, the
 1339 organization shall first use eligible contributions received
 1340 during any state fiscal year to fund scholarships for students
 1341 pursuant to s. 1002.385(12)(d). Any remaining contributions may
 1342 be used to fund scholarships for students eligible pursuant to
 1343 s. 1002.395(3)(b)1. or 2.

1344 (c) The organization shall separately account for each
 1345 scholarship funded pursuant to this section.

1346 (d) Notwithstanding s. 1002.385(6)(b), any funds remaining
 1347 from a closed scholarship account funded pursuant to this
 1348 section shall be used to fund other scholarships pursuant to s.
 1349 1002.385.

1350 (e) The organization may, subject to the limitations of s.
 1351 1002.395(6)(j)1., use up to 3 percent of eligible contributions
 1352 received during the state fiscal year in which such
 1353 contributions are collected for administrative expenses.

1354 (6) If a tax credit approved under this section is not
 1355 fully used within the specified state fiscal year because of
 1356 insufficient tax liability on the part of the eligible business,
 1357 the unused amount may be carried forward for up to 10 years.

1358 (7) An eligible business may not convey, assign, or
 1359 transfer an approved tax credit or a carryforward tax credit to
 1360 another entity unless all of the assets of the eligible business
 1361 are conveyed, assigned, or transferred in the same transaction.
 1362 However, a tax credit may be conveyed, transferred, or assigned
 1363 between members of an affiliated group of corporations. An
 1364 eligible business shall notify the department of its intent to
 1365 convey, transfer, or assign a tax credit to another member
 1366 within an affiliated group of corporations. The amount conveyed,
 1367 transferred, or assigned is available to another member of the
 1368 affiliated group of corporations upon approval by the
 1369 department.

1370 (8) Within any state fiscal year, an eligible business may
 1371 rescind all or part of a tax credit approved under this section.
 1372 The amount rescinded shall become available for that state
 1373 fiscal year to another eligible business approved by the
 1374 department if the business receives notice from the department

1375 that it has accepted the rescindment. Any amount rescinded under
 1376 this subsection shall become available to an eligible business
 1377 on a first-come, first-served basis based on tax credit
 1378 applications received after the date the department accepts the
 1379 rescindment.

1380 (9) Within 10 days after the department approves or denies
 1381 an application for the conveyance, transfer, or assignment of a
 1382 tax credit under subsection (6) or rescinds a tax credit under
 1383 subsection (7), it shall provide a copy of its approval or
 1384 denial letter to the eligible nonprofit scholarship-funding
 1385 organization named by the eligible business in its application.
 1386 The department shall also include the eligible nonprofit
 1387 scholarship-funding organization named by the eligible business
 1388 on all letters or correspondence of acknowledgment for tax
 1389 credits under this section.

1390 (10) The sum of tax credits that may be approved by the
 1391 department in any state fiscal year is \$154 million.

1392 (11) For purposes of the distributions of tax revenue
 1393 under s. 212.20, the department shall disregard any tax credits
 1394 allowed under this section to ensure that any reduction in tax
 1395 revenue received that is attributable to the tax credits results
 1396 only in a reduction in distributions to the General Revenue
 1397 Fund.

1398 (12) The department shall adopt rules to administer this
 1399 section.

1400 Section 24. Subsection (11) of section 212.12, Florida
 1401 Statutes, is amended to read:

1402 212.12 Dealer's credit for collecting tax; penalties for
 1403 noncompliance; powers of Department of Revenue in dealing with
 1404 delinquents; brackets applicable to taxable transactions;
 1405 records required.-

1406 (11) The department shall make available in an electronic
 1407 format or otherwise the tax amounts and brackets applicable to
 1408 all taxable transactions that occur in counties that have a
 1409 surtax at a rate other than 1 percent which would otherwise have
 1410 been transactions taxable at the rate of 6 percent. Likewise,
 1411 the department shall make available in an electronic format or
 1412 otherwise the tax amounts and brackets applicable to
 1413 transactions taxable at 4.35 percent pursuant to s.
 1414 212.05(1)(e)1.c. or the applicable tax rate pursuant to
 1415 212.031(1) and on transactions which would otherwise have been
 1416 so taxable in counties which have adopted a discretionary sales
 1417 surtax.

1418 Section 25. Section 212.1831, Florida Statutes, is amended
 1419 to read:

1420 212.1831 Credit for contributions to eligible nonprofit
 1421 scholarship-funding organizations.-There is allowed a credit of
 1422 100 percent of an eligible contribution made to an eligible
 1423 nonprofit scholarship-funding organization under s. 1002.395
 1424 against any tax imposed by the state and due under this chapter

1425 from a direct pay permit holder as a result of the direct pay
 1426 permit held pursuant to s. 212.183. For purposes of the dealer's
 1427 credit granted for keeping prescribed records, filing timely tax
 1428 returns, and properly accounting and remitting taxes under s.
 1429 212.12, the amount of tax due used to calculate the credit shall
 1430 include any eligible contribution made to an eligible nonprofit
 1431 scholarship-funding organization from a direct pay permit
 1432 holder. For purposes of the distributions of tax revenue under
 1433 s. 212.20, the department shall disregard any tax credits
 1434 allowed under this section to ensure that any reduction in tax
 1435 revenue received that is attributable to the tax credits results
 1436 only in a reduction in distributions to the General Revenue
 1437 Fund. The provisions of s. 1002.395 apply to the credit
 1438 authorized by this section.

1439 Section 26. Section 212.205, Florida Statutes, is created
 1440 to read:

1441 212.205 Sales tax distribution reporting.—By March 15 of
 1442 each year, each person who received a distribution pursuant to
 1443 s. 212.20(6)(d)6.b.-f. in the preceding calendar year shall
 1444 report to the Office of Economic and Demographic Research the
 1445 following information:

1446 (1) An itemized accounting of all expenditures of the
 1447 funds distributed in the preceding calendar year, including
 1448 amounts spent on debt service.

1449 (2) A statement indicating what portion of the distributed

1450 funds have been pledged for debt service.

1451 (3) The original principal amount, and current debt
 1452 service schedule of any bonds or other borrowing for which the
 1453 distributed funds have been pledged for debt service.

1454 Section 27. Effective upon this act becoming a law,
 1455 subsection (21) is added to section 213.053, Florida Statutes,
 1456 to read:

1457 213.053 Confidentiality and information sharing.—

1458 (21) (a) For purposes of this subsection, the term:

1459 1. "Eligible nonprofit scholarship-funding organization"
 1460 means an eligible nonprofit scholarship-funding organization as
 1461 defined in s. 1002.395(2) that meets the criteria in s.
 1462 1002.395(6) to use up to 3 percent of eligible contributions for
 1463 administrative expenses.

1464 2. "Taxpayer" has the same meaning as in s. 220.03, unless
 1465 disclosure of the taxpayer's name and address would violate any
 1466 term of an information-sharing agreement between the department
 1467 and an agency of the Federal Government.

1468 (b) The department, upon request, shall provide to an
 1469 eligible nonprofit scholarship-funding organization that
 1470 provides scholarships under s. 1002.395 a list of the 200
 1471 taxpayers with the greatest total corporate income or franchise
 1472 tax due as reported on the taxpayer's return filed pursuant to
 1473 s. 220.22 during the previous calendar year. The list must be in
 1474 alphabetical order based on the taxpayer's name and shall

1475 contain the taxpayer's address. The list may not disclose the
 1476 amount of tax owed by any taxpayer.

1477 (c) An eligible nonprofit scholarship-funding organization
 1478 may request the list once each calendar year. The department
 1479 shall provide the list within 45 days after the request is made.

1480 (d) Any taxpayer information contained in the list may be
 1481 used by the eligible nonprofit scholarship-funding organization
 1482 only to notify the taxpayer of the opportunity to make an
 1483 eligible contribution to the Florida Tax Credit Scholarship
 1484 Program under s. 1002.395. Any information furnished to an
 1485 eligible nonprofit scholarship-funding organization under this
 1486 subsection may not be further disclosed by the organization
 1487 except as provided in this paragraph.

1488 (e) An eligible nonprofit scholarship-funding
 1489 organization, its officers, and employees are subject to the
 1490 same requirements of confidentiality and the same penalties for
 1491 violating confidentiality as the department and its employees.
 1492 Breach of confidentiality is a misdemeanor of the first degree,
 1493 punishable as provided by s. 775.082 or s. 775.083.

1494 Section 28. Section 218.131, Florida Statutes, is created
 1495 to read:

1496 218.131 Offset for tax loss associated with reductions in
 1497 value of certain residences due to specified hurricanes.-

1498 (1) In the 2019-2020 fiscal year, the Legislature shall
 1499 appropriate moneys to offset the reductions in ad valorem tax

1500 revenue experienced by fiscally constrained counties, as defined
 1501 in s. 218.67(1) and all taxing jurisdictions within such
 1502 counties, which occur as a direct result of the implementation
 1503 of s. 197.318. The moneys appropriated for this purpose shall be
 1504 distributed in January 2020 among the affected taxing
 1505 jurisdictions based on each jurisdiction's reduction in ad
 1506 valorem tax revenue resulting from the implementation of s.
 1507 197.318.

1508 (2) On or before November 15, 2019, each affected taxing
 1509 jurisdiction shall apply to the Department of Revenue to
 1510 participate in the distribution of the appropriation and provide
 1511 documentation supporting the taxing jurisdiction's reduction in
 1512 ad valorem tax revenue in the form and manner prescribed by the
 1513 department. The documentation must include a copy of the notice
 1514 required by s. 197.318(4)(b) from the tax collector who reports
 1515 to the affected taxing jurisdiction the reduction in ad valorem
 1516 taxes it will incur as a result of implementation of s. 197.318.
 1517 If a fiscally constrained county or an eligible taxing
 1518 jurisdiction within such county fails to apply for the
 1519 distribution, its share shall revert to the fund from which the
 1520 appropriation was made.

1521 Section 29. Section 218.135, Florida Statutes, is created
 1522 to read:

1523 218.135 Offset for tax loss associated with reductions in
 1524 value of certain citrus fruit packing and processing equipment.-

1525 (1) For the 2018-2019 fiscal year, the Legislature shall
 1526 appropriate moneys to offset the reductions in ad valorem tax
 1527 revenue experienced by fiscally constrained counties, as defined
 1528 in s. 218.67(1), which occur as a direct result of the
 1529 implementation of s. 193.4516. The moneys appropriated for this
 1530 purpose shall be distributed in January 2019 among the fiscally
 1531 constrained counties based on each county's proportion of the
 1532 total reduction in ad valorem tax revenue resulting from the
 1533 implementation s. 193.4516.

1534 (2) On or before November 15, 2018, each fiscally
 1535 constrained county shall apply to the Department of Revenue to
 1536 participate in the distribution of the appropriation and provide
 1537 documentation supporting the county's estimated reduction in ad
 1538 valorem tax revenue in the form and manner prescribed by the
 1539 department. The documentation must include an estimate of the
 1540 reduction in taxable value directly attributable to the
 1541 implementation of s. 193.4516 for all county taxing
 1542 jurisdictions within the county and shall be prepared by the
 1543 property appraiser in each fiscally constrained county. The
 1544 documentation shall also include the county millage rates
 1545 applicable in all such jurisdictions for the current year and
 1546 the prior year, rolled-back rates determined as provided in s.
 1547 200.065 for each county taxing jurisdiction, and maximum millage
 1548 rates that could have been levied by majority vote pursuant to
 1549 s. 200.065(5). For purposes of this section, each fiscally

1550 constrained county's reduction in ad valorem tax revenue shall
 1551 be calculated as 95 percent of the estimated reduction in
 1552 taxable value multiplied by the lesser of the 2018 applicable
 1553 millage rate or the applicable millage rate for each county
 1554 taxing jurisdiction in the current year. If a fiscally
 1555 constrained county fails to apply for the distribution, its
 1556 share shall revert to the fund from which the appropriation was
 1557 made.

1558 Section 30. For the 2018-2019 fiscal year, the sum of
 1559 \$650,000 in nonrecurring funds is appropriated from the General
 1560 Revenue Fund to the Department of Revenue to implement the
 1561 provisions of s. 218.135, Florida Statutes.

1562 Section 31. Paragraph (a) of subsection (1) of section
 1563 220.13, Florida Statutes, is amended to read:

1564 220.13 "Adjusted federal income" defined.—

1565 (1) The term "adjusted federal income" means an amount
 1566 equal to the taxpayer's taxable income as defined in subsection
 1567 (2), or such taxable income of more than one taxpayer as
 1568 provided in s. 220.131, for the taxable year, adjusted as
 1569 follows:

1570 (a) Additions.—There shall be added to such taxable
 1571 income:

1572 1.a. The amount of any tax upon or measured by income,
 1573 excluding taxes based on gross receipts or revenues, paid or
 1574 accrued as a liability to the District of Columbia or any state

1575 of the United States which is deductible from gross income in
 1576 the computation of taxable income for the taxable year.

1577 b. Notwithstanding sub-subparagraph a., if a credit taken
 1578 under s. 220.1875 is added to taxable income in a previous
 1579 taxable year under subparagraph 11. and is taken as a deduction
 1580 for federal tax purposes in the current taxable year, the amount
 1581 of the deduction allowed shall not be added to taxable income in
 1582 the current year. The exception in this sub-subparagraph is
 1583 intended to ensure that the credit under s. 220.1875 is added in
 1584 the applicable taxable year and does not result in a duplicate
 1585 addition in a subsequent year.

1586 2. The amount of interest which is excluded from taxable
 1587 income under s. 103(a) of the Internal Revenue Code or any other
 1588 federal law, less the associated expenses disallowed in the
 1589 computation of taxable income under s. 265 of the Internal
 1590 Revenue Code or any other law, excluding 60 percent of any
 1591 amounts included in alternative minimum taxable income, as
 1592 defined in s. 55(b)(2) of the Internal Revenue Code, if the
 1593 taxpayer pays tax under s. 220.11(3).

1594 3. In the case of a regulated investment company or real
 1595 estate investment trust, an amount equal to the excess of the
 1596 net long-term capital gain for the taxable year over the amount
 1597 of the capital gain dividends attributable to the taxable year.

1598 4. That portion of the wages or salaries paid or incurred
 1599 for the taxable year which is equal to the amount of the credit

1600 allowable for the taxable year under s. 220.181. This
 1601 subparagraph shall expire on the date specified in s. 290.016
 1602 for the expiration of the Florida Enterprise Zone Act.

1603 5. That portion of the ad valorem school taxes paid or
 1604 incurred for the taxable year which is equal to the amount of
 1605 the credit allowable for the taxable year under s. 220.182. This
 1606 subparagraph shall expire on the date specified in s. 290.016
 1607 for the expiration of the Florida Enterprise Zone Act.

1608 6. The amount taken as a credit under s. 220.195 which is
 1609 deductible from gross income in the computation of taxable
 1610 income for the taxable year.

1611 7. That portion of assessments to fund a guaranty
 1612 association incurred for the taxable year which is equal to the
 1613 amount of the credit allowable for the taxable year.

1614 8. In the case of a nonprofit corporation which holds a
 1615 pari-mutuel permit and which is exempt from federal income tax
 1616 as a farmers' cooperative, an amount equal to the excess of the
 1617 gross income attributable to the pari-mutuel operations over the
 1618 attributable expenses for the taxable year.

1619 9. The amount taken as a credit for the taxable year under
 1620 s. 220.1895.

1621 10. Up to nine percent of the eligible basis of any
 1622 designated project which is equal to the credit allowable for
 1623 the taxable year under s. 220.185.

1624 11. The amount taken as a credit for the taxable year

1625 under s. 220.1875. The addition in this subparagraph is intended
 1626 to ensure that the same amount is not allowed for the tax
 1627 purposes of this state as both a deduction from income and a
 1628 credit against the tax. This addition is not intended to result
 1629 in adding the same expense back to income more than once.

1630 12. The amount taken as a credit for the taxable year
 1631 under s. 220.192.

1632 13. The amount taken as a credit for the taxable year
 1633 under s. 220.193.

1634 14. Any portion of a qualified investment, as defined in
 1635 s. 288.9913, which is claimed as a deduction by the taxpayer and
 1636 taken as a credit against income tax pursuant to s. 288.9916.

1637 15. The costs to acquire a tax credit pursuant to s.
 1638 288.1254(5) that are deducted from or otherwise reduce federal
 1639 taxable income for the taxable year.

1640 16. The amount taken as a credit for the taxable year
 1641 pursuant to s. 220.194.

1642 17. The amount taken as a credit for the taxable year
 1643 under s. 220.196. The addition in this subparagraph is intended
 1644 to ensure that the same amount is not allowed for the tax
 1645 purposes of this state as both a deduction from income and a
 1646 credit against the tax. The addition is not intended to result
 1647 in adding the same expense back to income more than once.

1648 Section 32. Paragraph (c) of subsection (1) of section
 1649 220.183, Florida Statutes, is amended to read:

1650 220.183 Community contribution tax credit.-

1651 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
 1652 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
 1653 SPENDING.-

1654 (c) The total amount of tax credit which may be granted
 1655 for all programs approved under this section, s. 212.08(5)(p),
 1656 and s. 624.5105 is \$10.5 million in the 2018-2019 fiscal year,
 1657 \$17 million ~~\$21.4 million~~ in the 2019-2020 ~~2017-2018~~ fiscal
 1658 year, and \$10.5 million in each fiscal year thereafter for
 1659 projects that provide housing opportunities for persons with
 1660 special needs as defined in s. 420.0004 and homeownership
 1661 opportunities for low-income households or very-low-income
 1662 households as defined in s. 420.9071 and \$3.5 million each
 1663 fiscal year for all other projects.

1664 Section 33. Paragraph (f) of subsection (2) of section
 1665 220.1845, Florida Statutes, is amended to read:

1666 220.1845 Contaminated site rehabilitation tax credit.-

1667 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.-

1668 (f) The total amount of the tax credits which may be
 1669 granted under this section is \$23 million in the 2018-2019
 1670 fiscal year and \$10 million each fiscal year thereafter.

1671 Section 34. Subsection (1) of section 220.1875, Florida
 1672 Statutes, is amended, and subsection (4) is added to that
 1673 section to read:

1674 220.1875 Credit for contributions to eligible nonprofit

1675 scholarship-funding organizations.—

1676 (1) There is allowed a credit of 100 percent of an
 1677 eligible contribution made to an eligible nonprofit scholarship-
 1678 funding organization under s. 1002.395 against any tax due for a
 1679 taxable year under this chapter after the application of any
 1680 other allowable credits by the taxpayer. An eligible
 1681 contribution must be made to an eligible nonprofit scholarship-
 1682 funding organization on or before the date the taxpayer is
 1683 required to file a return pursuant to s. 220.222. The credit
 1684 granted by this section shall be reduced by the difference
 1685 between the amount of federal corporate income tax taking into
 1686 account the credit granted by this section and the amount of
 1687 federal corporate income tax without application of the credit
 1688 granted by this section.

1689 (4) If a taxpayer applies and is approved for a credit
 1690 under s. 1002.395 after timely requesting an extension to file
 1691 under s. 220.222(2):

1692 (a) The credit does not reduce the amount of tax due for
 1693 purposes of the department's determination as to whether the
 1694 taxpayer was in compliance with the requirement to pay tentative
 1695 taxes under ss. 220.222 and 220.32.

1696 (b) The taxpayer's noncompliance with the requirement to
 1697 pay tentative taxes shall result in the revocation and
 1698 rescindment of any such credit.

1699 (c) The taxpayer shall be assessed for any taxes,

1700 penalties, or interest due from the taxpayer's noncompliance
 1701 with the requirement to pay tentative taxes.

1702 Section 35. Subsection (9) of section 318.14, Florida
 1703 Statutes, is amended to read:

1704 318.14 Noncriminal traffic infractions; exception;
 1705 procedures.—

1706 (9) Any person who does not hold a commercial driver
 1707 license or commercial learner's permit and who is cited while
 1708 driving a noncommercial motor vehicle for an infraction under
 1709 this section other than a violation of s. 316.183(2), s.
 1710 316.187, or s. 316.189 when the driver exceeds the posted limit
 1711 by 30 miles per hour or more, s. 320.0605, s. 320.07(3)(a) or
 1712 (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in
 1713 lieu of a court appearance, elect to attend in the location of
 1714 his or her choice within this state a basic driver improvement
 1715 course approved by the Department of Highway Safety and Motor
 1716 Vehicles. In such a case, adjudication must be withheld, any
 1717 civil penalty that is imposed by s. 318.18(3) must be reduced by
 1718 18 percent, and points, as provided by s. 322.27, may not be
 1719 assessed. However, a person may not make an election under this
 1720 subsection if the person has made an election under this
 1721 subsection in the preceding 12 months. A person may not make
 1722 more than five elections within his or her lifetime under this
 1723 subsection. The requirement for community service under s.
 1724 318.18(8) is not waived by a plea of nolo contendere or by the

1725 withholding of adjudication of guilt by a court. ~~If a person~~
 1726 ~~makes an election to attend a basic driver improvement course~~
 1727 ~~under this subsection, 18 percent of the civil penalty imposed~~
 1728 ~~under s. 318.18(3) shall be deposited in the State Courts~~
 1729 ~~Revenue Trust Fund; however, that portion is not revenue for~~
 1730 ~~purposes of s. 28.36 and may not be used in establishing the~~
 1731 ~~budget of the clerk of the court under that section or s. 28.35.~~

1732 Section 36. Paragraph (b) of subsection (1) of section
 1733 318.15, Florida Statutes, is amended to read:

1734 318.15 Failure to comply with civil penalty or to appear;
 1735 penalty.—

1736 (1)

1737 (b) However, a person who elects to attend driver
 1738 improvement school and has paid the civil penalty as provided in
 1739 s. 318.14(9), but who subsequently fails to attend the driver
 1740 improvement school within the time specified by the court is
 1741 ~~shall be~~ deemed to have admitted the infraction and shall be
 1742 adjudicated guilty. If the person received ~~In such a case in~~
 1743 ~~which there was~~ an 18-percent reduction pursuant to s. 318.14(9)
 1744 ~~as it existed before February 1, 2009,~~ the person must pay the
 1745 clerk of the court that amount and a processing fee of up to
 1746 \$18, after which ~~no~~ additional penalties, court costs, or
 1747 surcharges may not ~~shall~~ be imposed for the violation. In all
 1748 other such cases, the person must pay the clerk a processing fee
 1749 of up to \$18, after which ~~no~~ additional penalties, court costs,

1750 or surcharges may not ~~shall~~ be imposed for the violation. The
 1751 clerk of the court shall notify the department of the person's
 1752 failure to attend driver improvement school and points shall be
 1753 assessed pursuant to s. 322.27.

1754 Section 37. Subsection (4) of section 376.30781, Florida
 1755 Statutes, is amended to read:

1756 376.30781 Tax credits for rehabilitation of drycleaning-
 1757 solvent-contaminated sites and brownfield sites in designated
 1758 brownfield areas; application process; rulemaking authority;
 1759 revocation authority.-

1760 (4) The Department of Environmental Protection is
 1761 responsible for allocating the tax credits provided for in s.
 1762 220.1845, which may not exceed a total of \$23 million in tax
 1763 credits in fiscal year 2018-2019 and \$10 million in tax credits
 1764 each fiscal year thereafter.

1765 Section 38. Paragraph (c) of subsection (1) of section
 1766 624.5105, Florida Statutes, is amended to read:

1767 624.5105 Community contribution tax credit; authorization;
 1768 limitations; eligibility and application requirements;
 1769 administration; definitions; expiration.-

1770 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.-

1771 (c) The total amount of tax credit which may be granted
 1772 for all programs approved under this section and ss.

1773 212.08(5)(p) and 220.183 is \$10.5 million in the 2018-2019
 1774 fiscal year, \$17 million ~~\$21.4 million~~ in the 2019-2020 ~~2017-~~

1775 | ~~2018~~ fiscal year, and \$10.5 million in each fiscal year
 1776 | thereafter for projects that provide housing opportunities for
 1777 | persons with special needs as defined in s. 420.0004 or
 1778 | homeownership opportunities for low-income or very-low-income
 1779 | households as defined in s. 420.9071 and \$3.5 million each
 1780 | fiscal year for all other projects.

1781 | Section 39. Subsection (3), paragraphs (a), (b), and (g)
 1782 | of subsection (12), and subsection (13) of section 718.111,
 1783 | Florida Statutes, are amended to read:

1784 | 718.111 The association.—

1785 | (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
 1786 | SUE, AND BE SUED; ~~CONFLICT OF INTEREST.~~—

1787 | (a) The association may contract, sue, or be sued with
 1788 | respect to the exercise or nonexercise of its powers. For these
 1789 | purposes, the powers of the association include, but are not
 1790 | limited to, the maintenance, management, and operation of the
 1791 | condominium property.

1792 | (b) After control of the association is obtained by unit
 1793 | owners other than the developer, the association may:

1794 | 1. Institute, maintain, settle, or appeal actions or
 1795 | hearings in its name on behalf of all unit owners concerning
 1796 | matters of common interest to most or all unit owners,
 1797 | including, but not limited to, the common elements; the roof and
 1798 | structural components of a building or other improvements;
 1799 | mechanical, electrical, and plumbing elements serving an

1800 improvement or a building; representations of the developer
 1801 pertaining to any existing or proposed commonly used facilities;
 1802 ~~and~~

1803 2. Protest ~~protesting~~ ad valorem taxes on commonly used
 1804 facilities and on units; ~~and may~~

1805 3. Defend actions pertaining to ad valorem taxation of
 1806 commonly used facilities or units, or related to in eminent
 1807 domain; or

1808 4. Bring inverse condemnation actions.

1809 (c) If the association has the authority to maintain a
 1810 class action, the association may be joined in an action as
 1811 representative of that class with reference to litigation and
 1812 disputes involving the matters for which the association could
 1813 bring a class action.

1814 (d) The association, in its own name, or on behalf of some
 1815 or all unit owners, may institute, file, protest, maintain or
 1816 defend any administrative challenge, lawsuit, appeal or other
 1817 challenge to ad valorem taxes assessed on units or that values
 1818 commonly used facilities or common elements. The affected
 1819 association members are not necessary or indispensable parties
 1820 to any such action. This paragraph is intended to clarify
 1821 existing law and applies to any pending action.

1822 (e) Nothing herein limits any statutory or common-law
 1823 right of any individual unit owner or class of unit owners to
 1824 bring any action without participation by the association which

1825 may otherwise be available.

1826 Section 40. Subsection (3) of section 741.01, Florida
 1827 Statutes, is amended to read:

1828 741.01 County court judge or clerk of the circuit court to
 1829 issue marriage license; fee.—

1830 (3) An additional fee of \$25 shall be paid to the clerk
 1831 upon receipt of the application for issuance of a marriage
 1832 license. The moneys collected shall be remitted by the clerk to
 1833 the Department of Revenue, monthly, for deposit in the State
 1834 Courts Revenue Trust Fund ~~General Revenue Fund~~.

1835 Section 41. Paragraph (j) of subsection (2) and paragraphs
 1836 (b), (c), (f), and (g) of subsection (5) of section 1002.395,
 1837 Florida Statutes, are amended to read:

1838 1002.395 Florida Tax Credit Scholarship Program.—

1839 (2) DEFINITIONS.—As used in this section, the term:

1840 (j) "Tax credit cap amount" means the maximum annual tax
 1841 credit amount that the department may approve for ~~in~~ a state
 1842 fiscal year.

1843 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

1844 (b) A taxpayer may submit an application to the department
 1845 for a tax credit or credits under one or more of s. 211.0251, s.
 1846 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

1847 1. The taxpayer shall specify in the application each tax for
 1848 which the taxpayer requests a credit and the applicable taxable
 1849 year for a credit under s. 220.1875 or s. 624.51055 or the

1850 applicable state fiscal year for a credit under s. 211.0251, s.
 1851 212.1831, or s. 561.1211. For purposes of s. 220.1875, a
 1852 taxpayer may apply for a credit to be used for a prior taxable
 1853 year before the date the taxpayer is required to file a return
 1854 for that year pursuant to s. 220.222. The department shall
 1855 approve tax credits on a first-come, first-served basis and must
 1856 obtain the division's approval before approving a tax credit
 1857 under s. 561.1211.

1858 2. Within 10 days after approving or denying an
 1859 application, the department shall provide a copy of its approval
 1860 or denial letter to the eligible nonprofit scholarship-funding
 1861 organization specified by the taxpayer in the application.

1862 (c) If a tax credit approved under paragraph (b) is not
 1863 fully used within the specified state fiscal year for credits
 1864 under s. 211.0251, s. 212.1831, or s. 561.1211 or against taxes
 1865 due for the specified taxable year for credits under s. 220.1875
 1866 or s. 624.51055 because of insufficient tax liability on the
 1867 part of the taxpayer, the unused amount shall ~~may~~ be carried
 1868 forward for a period not to exceed 10 ~~5~~ years. For purposes of
 1869 s. 220.1875, a credit carried forward may be used in a
 1870 subsequent year after applying the other credits and unused
 1871 carryovers in the order provided in s. 220.02(8). ~~However, any~~
 1872 ~~taxpayer that seeks to carry forward an unused amount of tax~~
 1873 ~~credit must submit an application to the department for approval~~
 1874 ~~of the carryforward tax credit in the year that the taxpayer~~

1875 ~~intends to use the carryforward. The department must obtain the~~
 1876 ~~division's approval prior to approving the carryforward of a tax~~
 1877 ~~credit under s. 561.1211.~~

1878 (f) Within 10 days after approving or denying ~~an~~
 1879 ~~application for a carryforward tax credit under paragraph (c),~~
 1880 the conveyance, transfer, or assignment of a tax credit under
 1881 paragraph (d), or the rescindment of a tax credit under
 1882 paragraph (e), the department shall provide a copy of its
 1883 approval or denial letter to the eligible nonprofit scholarship-
 1884 funding organization specified by the taxpayer. The department
 1885 shall also include the eligible nonprofit scholarship-funding
 1886 organization specified by the taxpayer on all letters or
 1887 correspondence of acknowledgment for tax credits under s.
 1888 212.1831.

1889 (g) For purposes of calculating the underpayment of
 1890 estimated corporate income taxes pursuant to s. 220.34 and tax
 1891 installment payments for taxes on insurance premiums or
 1892 assessments under s. 624.5092, the final amount due is the
 1893 amount after credits earned under s. 220.1875 or s. 624.51055
 1894 for contributions to eligible nonprofit scholarship-funding
 1895 organizations are deducted.

1896 1. For purposes of determining if a penalty or interest
 1897 shall be imposed for underpayment of estimated corporate income
 1898 tax pursuant to s. 220.34(2)(d)1., a taxpayer may, after earning
 1899 a credit under s. 220.1875, reduce any ~~the following~~ estimated

1900 payment in that taxable year by the amount of the credit. This
 1901 subparagraph applies to contributions made on or after July 1,
 1902 2014.

1903 2. For purposes of determining if a penalty under s.
 1904 624.5092 shall be imposed, an insurer may, after earning a
 1905 credit under s. 624.51055, reduce the following installment
 1906 payment of 27 percent of the amount of the net tax due as
 1907 reported on the return for the preceding year under s.
 1908 624.5092(2)(b) by the amount of the credit. This subparagraph
 1909 applies to contributions made on or after July 1, 2014.

1910 Section 42. Clothing, school supplies, personal computers,
 1911 and personal computer-related accessories; sales tax holiday.-

1912 (1) The tax levied under chapter 212, Florida Statutes, may not
 1913 be collected during the period from August 3, 2018, through
 1914 August 12, 2018, on the retail sale of:

1915 (a) Clothing, wallets, or bags, including handbags,
 1916 backpacks, fanny packs, and diaper bags, but excluding
 1917 briefcases, suitcases, and other garment bags, having a sales
 1918 price of \$60 or less per item. As used in this paragraph, the
 1919 term "clothing" means:

1920 1. Any article of wearing apparel intended to be worn on
 1921 or about the human body, excluding watches, watchbands, jewelry,
 1922 umbrellas, and handkerchiefs; and

1923 2. All footwear, excluding skis, swim fins, roller blades,
 1924 and skates.

1925 (b) School supplies having a sales price of \$15 or less
 1926 per item. As used in this paragraph, the term "school supplies"
 1927 means pens, pencils, erasers, crayons, notebooks, notebook
 1928 filler paper, legal pads, binders, lunch boxes, construction
 1929 paper, markers, folders, poster board, composition books, poster
 1930 paper, scissors, cellophane tape, glue or paste, rulers,
 1931 computer disks, protractors, compasses, and calculators.

1932 (2) The tax levied under chapter 212, Florida Statutes,
 1933 may not be collected during the period from August 3, 2018,
 1934 through August 12, 2018, on the first \$1,000 of the sales price
 1935 of personal computers or personal computer-related accessories
 1936 purchased for noncommercial home or personal use. For purposes
 1937 of this subsection, the term:

1938 (a) "Personal computers" includes electronic book readers,
 1939 laptops, desktops, handhelds, tablets, and tower computers. The
 1940 term does not include cellular telephones, video game consoles,
 1941 digital media receivers, or devices that are not primarily
 1942 designed to process data.

1943 (b) "Personal computer-related accessories" includes
 1944 keyboards, mice, personal digital assistants, monitors, other
 1945 peripheral devices, modems, routers, and nonrecreational
 1946 software, regardless of whether the accessories are used in
 1947 association with a personal computer base unit. The term does
 1948 not include furniture or systems, devices, software, or
 1949 peripherals that are designed or intended primarily for

1950 recreational use.

1951 (c) "Monitors" does not include devices that include a
 1952 television tuner.

1953 (3) The tax exemptions provided in this section do not
 1954 apply to sales within a theme park or entertainment complex as
 1955 defined in s. 509.013(9), Florida Statutes, within a public
 1956 lodging establishment as defined in s. 509.013(4), Florida
 1957 Statutes, or within an airport as defined in s. 330.27(2),
 1958 Florida Statutes.

1959 (4) The tax exemptions provided in this section may apply
 1960 at the option of a dealer if less than 5 percent of the dealer's
 1961 gross sales of tangible personal property in the prior calendar
 1962 year are comprised of items that would be exempt under this
 1963 section. If a qualifying dealer chooses not to participate in
 1964 the tax holiday, by August 1, 2018, the dealer must notify the
 1965 Department of Revenue in writing of its election to collect
 1966 sales tax during the holiday and must post a copy of that notice
 1967 in a conspicuous location at its place of business.

1968 (5) The Department of Revenue may, and all conditions are
 1969 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
 1970 Florida Statutes, to administer this section.

1971 (6) For the 2017-2018 fiscal year, the sum of \$243,814 in
 1972 nonrecurring funds is appropriated from the General Revenue Fund
 1973 to the Department of Revenue for the purpose of implementing
 1974 this section. Funds remaining unexpended or unencumbered from

1975 this appropriation as of June 30, 2018, shall revert and be
 1976 reappropriated for the same purpose in the 2018-2019 fiscal
 1977 year.

1978 (7) This section shall take effect upon this act becoming
 1979 a law.

1980 Section 43. Disaster preparedness supplies; sales tax
 1981 holiday.-

1982 (1) The tax levied under chapter 212, Florida Statutes,
 1983 may not be collected during the periods from May 4, 2018,
 1984 through May 10, 2018; from June 1, 2018, through June 7, 2018;
 1985 and from July 6, 2018, through July 12, 2018, on the retail sale
 1986 of:

1987 (a) A portable self-powered light source selling for \$20
 1988 or less.

1989 (b) A portable self-powered radio, two-way radio, or
 1990 weather-band radio selling for \$50 or less.

1991 (c) A tarpaulin or other flexible waterproof sheeting
 1992 selling for \$50 or less.

1993 (d) An item normally sold as, or generally advertised as,
 1994 a ground anchor system or tie-down kit selling for \$50 or less.

1995 (e) A gas or diesel fuel tank selling for \$25 or less.

1996 (f) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-
 1997 volt batteries, excluding automobile and boat batteries, selling
 1998 for \$30 or less.

1999 (g) A nonelectric food storage cooler selling for \$30 or
 2000 less.

2001 (h) A portable generator used to provide light or
 2002 communications or preserve food in the event of a power outage
 2003 selling for \$750 or less.

2004 (i) Reusable ice selling for \$10 or less.

2005 (2) The Department of Revenue may, and all conditions are
 2006 deemed met to, adopt emergency rules pursuant to s 120.54(4),
 2007 Florida Statutes, to administer this section.

2008 (3) The tax exemptions provided in this section do not
 2009 apply to sales within a theme park or entertainment complex as
 2010 defined in s. 509.013(9), Florida Statutes, within a public
 2011 lodging establishment as defined in s. 509.013(4), Florida
 2012 Statutes, or within an airport as defined in s. 330.27(2),
 2013 Florida Statutes.

2014 (4) This section shall take effect upon this act becoming
 2015 a law.

2016 Section 44. Equipment used to generate emergency electric
 2017 energy.—

2018 (1) The purchase of any equipment to generate emergency
 2019 electric energy at a nursing home facility as defined in s.
 2020 400.021(12) or an assisted living facility as defined in s.
 2021 429.02(5), is exempt from the tax imposed under chapter 212,
 2022 Florida Statutes, during the period from July 1, 2017, through
 2023 December 31, 2018. The electric energy that is generated must be

2024 used at the home or facility and meet the energy needs for
 2025 emergency generation for that size and class of facility.

2026 (2) The purchaser of the equipment must provide the dealer
 2027 with an affidavit certifying that the equipment will only be
 2028 used as provided in subsection (1).

2029 (3) The exemption provided in subsection (1) is limited to
 2030 a maximum of \$15,000 in tax for the purchase of equipment for
 2031 any single facility.

2032 (4) (a) The exemption under this section may be applied at
 2033 the time of purchase or is available through a refund from the
 2034 Department of Revenue of previously paid taxes. For purchases
 2035 made before the effective date of this section, an application
 2036 for refund must be submitted to the department within 6 months
 2037 after the effective date of this section. For purchases made on
 2038 or after the effective date of this section, if the exemption
 2039 was not applied to the purchase, an application for refund must
 2040 be submitted to the department within 6 months after the date of
 2041 purchase.

2042 (b) The purchaser of the emergency electric equipment
 2043 applying for a refund under this subsection must provide the
 2044 department with an affidavit certifying that the equipment will
 2045 only be used as provided in subsection (1).

2046 (5) A person furnishing a false affidavit to the dealer
 2047 pursuant to subsection (2) or the Department of Revenue pursuant
 2048 to subsection (4) is subject to the penalty set forth in s.

2049 212.085 and as otherwise authorized by law.

2050 (6) The Department of Revenue may, and all conditions are
 2051 deemed met to, adopt emergency rules pursuant to s 120.54(4),
 2052 Florida Statutes, to administer this section.

2053 (7) Notwithstanding any other provision of law, emergency
 2054 rules adopted pursuant to subsection (6) are effective for 6
 2055 months after adoption and may be renewed during the pendency of
 2056 procedures to adopt permanent rules addressing the subject of
 2057 the emergency rules.

2058 (8) This section shall take effect upon becoming a law and
 2059 operates retroactively to July 1, 2017.

2060 Section 45. Fencing materials used in agriculture.-

2061 (1) The purchase of fencing materials is exempt from the
 2062 tax imposed under chapter 212, Florida Statutes, during the
 2063 period from September 10, 2017, through May 31, 2018, if the
 2064 fencing materials will be or were used to repair damage to
 2065 fences that occurred as a direct result of the impact of
 2066 Hurricane Irma. The exemption provided by this section is
 2067 available only through a refund from the Department of Revenue
 2068 of previously paid taxes.

2069 (2) For purposes of the exemption provided in this
 2070 section, the term:

2071 (a) "Agricultural land" means a farm, as defined in s.
 2072 823.14, land that is an integral part of a farm operation, or
 2073 land that is classified as agricultural land under s. 193.461.

2074 (b) "Fencing materials" means hog wire and nylon mesh
 2075 netting used on agricultural land for protection from predatory
 2076 or destructive animals and barbed wire fencing, and includes
 2077 gates and materials used to construct or repair such fencing,
 2078 used on a beef or dairy cattle farm.

2079 (3) To receive a refund pursuant to this section, the
 2080 owner of the fencing materials or the real property into which
 2081 the fencing materials were incorporated must apply to the
 2082 Department of Revenue by December 31, 2018. The refund
 2083 application must include the following information:

2084 (a) The name and address of the person claiming the
 2085 refund.

2086 (b) The address and assessment roll parcel number of the
 2087 agricultural land in which the fencing materials was or will be
 2088 used.

2089 (c) The sales invoice or other proof of purchase of the
 2090 fencing materials, showing the amount of sales tax paid, the
 2091 date of purchase, and the name and address of the dealer from
 2092 whom the materials were purchased.

2093 (d) An affidavit executed by the owner of the fencing
 2094 materials or the real property into which the fencing materials
 2095 were or will be incorporated including a statement that the
 2096 fencing materials were or will be used to repair fencing damaged
 2097 as a direct result of the impact of Hurricane Irma.

2098 (4) A person furnishing a false affidavit to the

2099 Department of Revenue pursuant to subsection (3) is subject to
 2100 the penalty set forth in s. 212.085 and as otherwise authorized
 2101 by law.

2102 (5) The Department of Revenue may, and all conditions are
 2103 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
 2104 Florida Statutes, to administer this section.

2105 (6) Notwithstanding any other provision of law, emergency
 2106 rules adopted pursuant to subsection (5) are effective for 6
 2107 months after adoption and may be renewed during the pendency of
 2108 procedures to adopt permanent rules addressing the subject of
 2109 the emergency rules.

2110 (7) This section shall take effect upon becoming a law and
 2111 operates retroactively to September 10, 2017.

2112 Section 46. Building materials used in the repair of
 2113 nonresidential farm buildings damaged by Hurricane Irma.-

2114 (1) Building materials used to repair a nonresidential
 2115 farm building damaged as a direct result of the impact of
 2116 Hurricane Irma and purchased during the period from September
 2117 10, 2017, through May 31, 2018, are exempt from the tax imposed
 2118 under chapter 212, Florida Statutes. The exemption provided by
 2119 this section is available only through a refund of previously
 2120 paid taxes.

2121 (2) For purposes of the exemption provided in this
 2122 section, the term:

2123 (a) "Building materials" means tangible personal property

2124 that becomes a component part of a nonresidential farm building.

2125 (b) "Nonresidential farm building" has the same meaning as
 2126 in s. 604.50, Florida Statutes.

2127 (3) To receive a refund pursuant to this section, the
 2128 owner of the building materials or of the real property into
 2129 which the building materials will be or were incorporated must
 2130 apply to the Department of Revenue by December 31, 2018. The
 2131 refund application must include the following information:

2132 (a) The name and address of the person claiming the
 2133 refund.

2134 (b) The address and assessment roll parcel number of the
 2135 real property where the building materials were or will be used.

2136 (c) The sales invoice or other proof of purchase of the
 2137 building materials, showing the amount of sales tax paid, the
 2138 date of purchase, and the name and address of the dealer from
 2139 whom the materials were purchased.

2140 (d) An affidavit executed by the owner of the building
 2141 materials or the real property into which the building materials
 2142 will be or were incorporated including a statement that the
 2143 building materials were or will be used to repair the
 2144 nonresidential farm building damaged as a direct result of the
 2145 impact of Hurricane Irma.

2146 (4) A person furnishing a false affidavit to the
 2147 Department of Revenue pursuant to subsection (3) is subject to
 2148 the penalty set forth in s. 212.085 and as otherwise provided by

2149 law.

2150 (5) The Department of Revenue may, and all conditions are
 2151 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
 2152 Florida Statutes, to administer this section.

2153 (6) Notwithstanding any other provision of law, emergency
 2154 rules adopted pursuant to subsection (5) are effective for 6
 2155 months after adoption and may be renewed during the pendency of
 2156 procedures to adopt permanent rules addressing the subject of
 2157 the emergency rules.

2158 (7) This section shall take effect upon becoming a law and
 2159 operates retroactively to September 10, 2017.

2160 Section 47. Refund of fuel taxes used for agricultural
 2161 shipment after Hurricane Irma.-

2162 (1) Fuel purchased and used in this state during the
 2163 period from September 10, 2017, through June 30, 2018, which is
 2164 or was used in any motor vehicle driven or operated upon the
 2165 public highways of this state for agricultural shipment is
 2166 exempt from all state and county taxes authorized or imposed
 2167 under parts I and II of chapter 206, Florida Statutes, excluding
 2168 the taxes imposed under s. 206.41(1)(a) and (h), Florida
 2169 Statutes. The exemption provided by this section is available to
 2170 the fuel purchaser in an amount equal to the fuel tax imposed on
 2171 fuel that was purchased for agricultural shipment during the
 2172 period from September 10, 2017, through June 30, 2018. The
 2173 exemption provided by this section is only available through a

2174 refund from the Department of Revenue.

2175 (2) For purposes of the exemption provided in this
 2176 section, the term:

2177 (a) "Agricultural processing or storage facility" means
 2178 property used or useful in separating, cleaning, processing,
 2179 converting, packaging, handling, storing, and other activities
 2180 necessary to prepare crops, livestock, related products, and
 2181 other products of agriculture, and includes nonfarm facilities
 2182 that produce agricultural products in whole or in part through
 2183 natural processes, animal husbandry, and apiaries.

2184 (b) "Agricultural product" means the natural products of a
 2185 farm, nursery, grove, orchard, vineyard, garden, or apiary,
 2186 including livestock as defined in s. 585.01(13).

2187 (c) "Agricultural shipment" means the transport of any
 2188 agricultural product from a farm, nursery, grove, orchard,
 2189 vineyard, garden, or apiary to an agricultural processing or
 2190 storage facility.

2191 (d) "Fuel" means motor fuel or diesel fuel, as those terms
 2192 are defined in ss. 206.01 and 206.86, respectively.

2193 (e) "Fuel tax" means all state and county taxes authorized
 2194 or imposed under chapter 206, Florida Statutes, on fuel.

2195 (f) "Motor vehicle" and "public highways" have the same
 2196 meanings as in s. 206.01, Florida Statutes.

2197 (3) To receive a refund pursuant to this section, the fuel
 2198 purchaser must apply to the Department of Revenue by December

2199 31, 2018. The refund application must include the following
 2200 information:

2201 (a) The name and address of the person claiming the
 2202 refund.

2203 (b) The names and addresses of up to three owners of
 2204 farms, nurseries, groves, orchards, vineyards, gardens, or
 2205 apiaries whose agricultural products were shipped by the person
 2206 seeking the refund pursuant to this section.

2207 (c) The sales invoice or other proof of purchase of the
 2208 fuel, showing the number of gallons of fuel purchased, the type
 2209 of fuel purchased, the date of purchase, and the name and place
 2210 of business of the dealer from whom the fuel was purchased.

2211 (d) The license number or other identification number of
 2212 the motor vehicle that used the exempt fuel.

2213 (e) An affidavit executed by the person seeking the refund
 2214 pursuant to this section, including a statement that he or she
 2215 purchased and used the fuel for which the refund is being
 2216 claimed during the period from September 10, 2017, through June
 2217 30, 2018, for an agricultural shipment.

2218 (4) A person furnishing a false affidavit to the
 2219 Department of Revenue pursuant to subsection (3) is subject to
 2220 the penalty set forth in s. 206.11 and as otherwise provided by
 2221 law.

2222 (5) The tax imposed under s. 212.0501 does not apply to
 2223 fuel that is exempt under this section and for which a fuel

2224 purchaser received a refund under this section.

2225 (6) The Department of Revenue may, and all conditions are
 2226 deemed met to, adopt emergency rules pursuant to s. 120.54(4),
 2227 Florida Statutes, to administer this section.

2228 (7) Notwithstanding any other provision of law, emergency
 2229 rules adopted pursuant to subsection (6) are effective for 6
 2230 months after adoption and may be renewed during the pendency of
 2231 procedures to adopt permanent rules addressing the subject of
 2232 the emergency rules.

2233 (8) This section shall take effect upon becoming a law and
 2234 operate retroactively to September 10, 2017.

2235 Section 48. Paragraph (m) is added to subsection (8) of
 2236 section 193.155, Florida Statutes, to read:

2237 193.155 Homestead assessments.—Homestead property shall be
 2238 assessed at just value as of January 1, 1994. Property receiving
 2239 the homestead exemption after January 1, 1994, shall be assessed
 2240 at just value as of January 1 of the year in which the property
 2241 receives the exemption unless the provisions of subsection (8)
 2242 apply.

2243 (8) Property assessed under this section shall be assessed
 2244 at less than just value when the person who establishes a new
 2245 homestead has received a homestead exemption as of January 1 of
 2246 either of the 2 immediately preceding years. A person who
 2247 establishes a new homestead as of January 1, 2008, is entitled
 2248 to have the new homestead assessed at less than just value only

2249 | if that person received a homestead exemption on January 1,
 2250 | 2007, and only if this subsection applies retroactive to January
 2251 | 1, 2008. For purposes of this subsection, a husband and wife who
 2252 | owned and both permanently resided on a previous homestead shall
 2253 | each be considered to have received the homestead exemption even
 2254 | though only the husband or the wife applied for the homestead
 2255 | exemption on the previous homestead. The assessed value of the
 2256 | newly established homestead shall be determined as provided in
 2257 | this subsection.

2258 | (m) For purposes of receiving an assessment reduction
 2259 | pursuant to this subsection, an owner of a homestead property
 2260 | that was significantly damaged or destroyed as a result of a
 2261 | named tropical storm or hurricane may elect, in the calendar
 2262 | year following the named tropical storm or hurricane, to have
 2263 | the significantly damaged or destroyed homestead deemed to have
 2264 | been abandoned as of the date of the named tropical storm or
 2265 | hurricane even though the owner received a homestead exemption
 2266 | on the property as of January 1 of the year immediately
 2267 | following the named tropical storm or hurricane. The election
 2268 | provided for in this paragraph is available only if the owner
 2269 | establishes a new homestead as of January 1 of the second year
 2270 | immediately following the storm or hurricane. This paragraph
 2271 | shall apply to homestead property damaged or destroyed on or
 2272 | after January 1, 2017.

2273 | Section 49. Paragraph (g) of subsection (7) of section

2274 | 163.01, Florida Statutes, is amended to read:
 2275 | 163.01 Florida Interlocal Cooperation Act of 1969.—
 2276 | (7)
 2277 | (g)1. Notwithstanding any other provisions of this
 2278 | section, any separate legal entity created under this section,
 2279 | the membership of which is limited to municipalities and
 2280 | counties of the state, and which may include a special district
 2281 | in addition to a municipality or county or both, may acquire,
 2282 | own, construct, improve, operate, and manage public facilities,
 2283 | or finance facilities on behalf of any person, relating to a
 2284 | governmental function or purpose, including, but not limited to,
 2285 | wastewater facilities, water or alternative water supply
 2286 | facilities, and water reuse facilities, which may serve
 2287 | populations within or outside of the members of the entity.
 2288 | Notwithstanding s. 367.171(7), any separate legal entity created
 2289 | under this paragraph is not subject to Public Service Commission
 2290 | jurisdiction. The separate legal entity may not provide utility
 2291 | services within the service area of an existing utility system
 2292 | unless it has received the consent of the utility.
 2293 | 2. For purposes of this paragraph, the term:
 2294 | a. "Host government" means the governing body of the
 2295 | county, if the largest number of equivalent residential
 2296 | connections currently served by a system of the utility is
 2297 | located in the unincorporated area, or the governing body of a
 2298 | municipality, if the largest number of equivalent residential

2299 connections currently served by a system of the utility is
 2300 located within that municipality's boundaries.

2301 b. "Separate legal entity" means any entity created by
 2302 interlocal agreement the membership of which is limited to two
 2303 or more special districts, municipalities, or counties of the
 2304 state, but which entity is legally separate and apart from any
 2305 of its member governments.

2306 c. "System" means a water or wastewater facility or group
 2307 of such facilities owned by one entity or affiliate entities.

2308 d. "Utility" means a water or wastewater utility and
 2309 includes every person, separate legal entity, lessee, trustee,
 2310 or receiver owning, operating, managing, or controlling a
 2311 system, or proposing construction of a system, who is providing,
 2312 or proposes to provide, water or wastewater service to the
 2313 public for compensation.

2314 3. A separate legal entity that seeks to acquire any
 2315 utility shall notify the host government in writing by certified
 2316 mail about the contemplated acquisition not less than 30 days
 2317 before any proposed transfer of ownership, use, or possession of
 2318 any utility assets by such separate legal entity. The potential
 2319 acquisition notice shall be provided to the legislative head of
 2320 the governing body of the host government and to its chief
 2321 administrative officer and shall provide the name and address of
 2322 a contact person for the separate legal entity and information
 2323 identified in s. 367.071(4)(a) concerning the contemplated

2324 acquisition.

2325 4.a. Within 30 days following receipt of the notice, the
 2326 host government may adopt a resolution to become a member of the
 2327 separate legal entity, adopt a resolution to approve the utility
 2328 acquisition, or adopt a resolution to prohibit the utility
 2329 acquisition by the separate legal entity if the host government
 2330 determines that the proposed acquisition is not in the public
 2331 interest. A resolution adopted by the host government which
 2332 prohibits the acquisition may include conditions that would make
 2333 the proposal acceptable to the host government.

2334 b. If a host government adopts a membership resolution,
 2335 the separate legal entity shall accept the host government as a
 2336 member on the same basis as its existing members before any
 2337 transfer of ownership, use, or possession of the utility or the
 2338 utility facilities. If a host government adopts a resolution to
 2339 approve the utility acquisition, the separate legal entity may
 2340 complete the acquisition. If a host government adopts a
 2341 prohibition resolution, the separate legal entity may not
 2342 acquire the utility within that host government's territory
 2343 without the specific consent of the host government by future
 2344 resolution. If a host government does not adopt a prohibition
 2345 resolution or an approval resolution, the separate legal entity
 2346 may proceed to acquire the utility after the 30-day notice
 2347 period without further notice.

2348 5. After the acquisition or construction of any utility

2349 systems by a separate legal entity created under this paragraph,
 2350 revenues or any other income may not be transferred or paid to a
 2351 member of a separate legal entity, or to any other special
 2352 district, county, or municipality, from user fees or other
 2353 charges or revenues generated from customers that are not
 2354 physically located within the jurisdictional or service delivery
 2355 boundaries of the member, special district, county, or
 2356 municipality receiving the transfer or payment. Any transfer or
 2357 payment to a member, special district, or other local government
 2358 must be solely from user fees or other charges or revenues
 2359 generated from customers that are physically located within the
 2360 jurisdictional or service delivery boundaries of the member,
 2361 special district, or local government receiving the transfer of
 2362 payment.

2363 6. This section is an alternative provision otherwise
 2364 provided by law as authorized in s. 4, Art. VIII of the State
 2365 Constitution for any transfer of power as a result of an
 2366 acquisition of a utility by a separate legal entity from a
 2367 municipality, county, or special district.

2368 7. The entity may finance or refinance the acquisition,
 2369 construction, expansion, and improvement of such facilities
 2370 relating to a governmental function or purpose through the
 2371 issuance of its bonds, notes, or other obligations under this
 2372 section or as otherwise authorized by law. The entity has all
 2373 the powers provided by the interlocal agreement under which it

2374 is created or which are necessary to finance, own, operate, or
 2375 manage the public facility, including, without limitation, the
 2376 power to establish rates, charges, and fees for products or
 2377 services provided by it, the power to levy special assessments,
 2378 the power to sell or finance all or a portion of such facility,
 2379 and the power to contract with a public or private entity to
 2380 manage and operate such facilities or to provide or receive
 2381 facilities, services, or products. Except as may be limited by
 2382 the interlocal agreement under which the entity is created, all
 2383 of the privileges, benefits, powers, and terms of s. 125.01,
 2384 relating to counties, and s. 166.021, relating to
 2385 municipalities, are fully applicable to the entity. However,
 2386 neither the entity nor any of its members on behalf of the
 2387 entity may exercise the power of eminent domain over the
 2388 facilities or property of any existing water or wastewater plant
 2389 utility system, nor may the entity acquire title to any water or
 2390 wastewater plant utility facilities, other facilities, or
 2391 property which was acquired by the use of eminent domain after
 2392 the effective date of this act. Bonds, notes, and other
 2393 obligations issued by the entity are issued on behalf of the
 2394 public agencies that are members of the entity.

2395 8. Any entity created under this section may also issue
 2396 bond anticipation notes in connection with the authorization,
 2397 issuance, and sale of bonds. The bonds may be issued as serial
 2398 bonds or as term bonds or both. Any entity may issue capital

2399 appreciation bonds or variable rate bonds. Any bonds, notes, or
 2400 other obligations must be authorized by resolution of the
 2401 governing body of the entity and bear the date or dates; mature
 2402 at the time or times, not exceeding 40 years from their
 2403 respective dates; bear interest at the rate or rates; be payable
 2404 at the time or times; be in the denomination; be in the form;
 2405 carry the registration privileges; be executed in the manner; be
 2406 payable from the sources and in the medium or payment and at the
 2407 place; and be subject to the terms of redemption, including
 2408 redemption prior to maturity, as the resolution may provide. If
 2409 any officer whose signature, or a facsimile of whose signature,
 2410 appears on any bonds, notes, or other obligations ceases to be
 2411 an officer before the delivery of the bonds, notes, or other
 2412 obligations, the signature or facsimile is valid and sufficient
 2413 for all purposes as if he or she had remained in office until
 2414 the delivery. The bonds, notes, or other obligations may be sold
 2415 at public or private sale for such price as the governing body
 2416 of the entity shall determine. Pending preparation of the
 2417 definitive bonds, the entity may issue interim certificates,
 2418 which shall be exchanged for the definitive bonds. The bonds may
 2419 be secured by a form of credit enhancement, if any, as the
 2420 entity deems appropriate. The bonds may be secured by an
 2421 indenture of trust or trust agreement. In addition, the
 2422 governing body of the legal entity may delegate, to an officer,
 2423 official, or agent of the legal entity as the governing body of

2424 the legal entity may select, the power to determine the time;
 2425 manner of sale, public or private; maturities; rate of interest,
 2426 which may be fixed or may vary at the time and in accordance
 2427 with a specified formula or method of determination; and other
 2428 terms and conditions as may be deemed appropriate by the
 2429 officer, official, or agent so designated by the governing body
 2430 of the legal entity. However, the amount and maturity of the
 2431 bonds, notes, or other obligations and the interest rate of the
 2432 bonds, notes, or other obligations must be within the limits
 2433 prescribed by the governing body of the legal entity and its
 2434 resolution delegating to an officer, official, or agent the
 2435 power to authorize the issuance and sale of the bonds, notes, or
 2436 other obligations.

2437 9. Bonds, notes, or other obligations issued under this
 2438 paragraph may be validated as provided in chapter 75. The
 2439 complaint in any action to validate the bonds, notes, or other
 2440 obligations must be filed only in the Circuit Court for Leon
 2441 County. The notice required to be published by s. 75.06 must be
 2442 published in Leon County and in each county that is a member of
 2443 the entity issuing the bonds, notes, or other obligations, or in
 2444 which a member of the entity is located, and the complaint and
 2445 order of the circuit court must be served only on the State
 2446 Attorney of the Second Judicial Circuit and on the state
 2447 attorney of each circuit in each county that is a member of the
 2448 entity issuing the bonds, notes, or other obligations or in

2449 which a member of the entity is located. Section 75.04(2) does
 2450 not apply to a complaint for validation brought by the legal
 2451 entity.

2452 10. The accomplishment of the authorized purposes of a
 2453 legal entity created under this paragraph is in all respects for
 2454 the benefit of the people of the state, for the increase of
 2455 their commerce and prosperity, and for the improvement of their
 2456 health and living conditions. Since the legal entity will
 2457 perform essential governmental functions for the public health,
 2458 safety, and welfare in accomplishing its purposes, the legal
 2459 entity is not required to pay any taxes or assessments of any
 2460 kind whatsoever upon any property acquired or used by it for
 2461 such purposes or upon any revenues at any time received by it,
 2462 whether the property is within or outside the jurisdiction of
 2463 members of the entity. The exemption provided in this paragraph
 2464 applies regardless of whether the separate legal entity enters
 2465 into agreements with private firms or entities to manage,
 2466 operate, or improve the utilities owned by the separate legal
 2467 entity. The bonds, notes, and other obligations of an entity,
 2468 their transfer, and the income therefrom, including any profits
 2469 made on the sale thereof, are at all times free from taxation of
 2470 any kind by the state or by any political subdivision or other
 2471 agency or instrumentality thereof. The exemption granted in this
 2472 subparagraph is not applicable to any tax imposed by chapter 220
 2473 on interest, income, or profits on debt obligations owned by

2474 corporations.

2475 Section 50. Subsection (2) of section 206.052, Florida
 2476 Statutes, is renumbered as subsection (3), and a new subsection
 2477 (2) is added to that section, to read:

2478 206.052 Export of tax-free fuels.-

2479 (2) A terminal supplier may purchase taxable motor fuels
 2480 from another terminal supplier at a terminal without paying the
 2481 tax imposed pursuant to this part only under the following
 2482 circumstances:

2483 (a) The terminal supplier who purchased the motor fuel
 2484 will sell the motor fuel to a licensed exporter for immediate
 2485 export from the state.

2486 (b) The terminal supplier who purchased the motor fuel has
 2487 designated to the terminal supplier who sold the motor fuel the
 2488 destination for delivery of the fuel to a location outside the
 2489 state.

2490 (c) The terminal supplier who purchased the motor fuel is
 2491 licensed in the state of destination and has supplied the
 2492 terminal supplier who sold the motor fuel with that license
 2493 number.

2494 (d) The licensed exporter has not been barred from making
 2495 tax-free exports by the department for violation of s.
 2496 206.051(5).

2497 (e) The terminal supplier who sold the motor fuel collects
 2498 and remits to the state of destination all taxes imposed by the

2499 destination state on the fuel.

2500 Section 51. Effective July 1, 2019, section 206.9825,
 2501 Florida Statutes, as amended by chapter 2016-220, Laws of
 2502 Florida, is amended to read:

2503 206.9825 Aviation fuel tax.—

2504 (1)(a) Except as otherwise provided in this part, an
 2505 excise tax of 4.27 cents per gallon of aviation fuel is imposed
 2506 upon every gallon of aviation fuel sold in this state, or
 2507 brought into this state for use, upon which such tax has not
 2508 been paid or the payment thereof has not been lawfully assumed
 2509 by some person handling the same in this state. Fuel taxed
 2510 pursuant to this part is not subject to the taxes imposed by ss.
 2511 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

2512 (b)1. Sales of aviation fuel to, and exclusively used for
 2513 flight training through a school of aeronautics or college of
 2514 aviation by, a college based in this state which is a tax-exempt
 2515 organization under s. 501(c)(3) of the Internal Revenue Code or
 2516 a university based in this state are exempt from the tax imposed
 2517 by this part if the college or university:

2518 a. Is accredited by or has applied for accreditation by
 2519 the Aviation Accreditation Board International; and

2520 b. Offers a graduate program in aeronautical or aerospace
 2521 engineering or offers flight training through a school of
 2522 aeronautics or college of aviation.

2523 2. A licensed wholesaler or terminal supplier that sells

2524 aviation fuel to a college or university qualified under this
 2525 paragraph and that does not collect the aviation fuel tax from
 2526 the college or university on such sale may receive an ultimate
 2527 vendor credit for the 4.27-cent excise tax previously paid on
 2528 the aviation fuel delivered to such college or university.

2529 3. A college or university qualified under this paragraph
 2530 which purchases aviation fuel from a retail supplier, including
 2531 a fixed-base operator, and pays the 4.27-cent excise tax on the
 2532 purchase may apply for and receive a refund of the aviation fuel
 2533 tax paid.

2534 (2) The excise tax provided by this section and paid by an
 2535 air carrier who conducts scheduled operations or all-cargo
 2536 operations that are authorized under 14 C.F.R. part 121, 14
 2537 C.F.R. part 129, or 14 C.F.R. part 135, is 2.85 cents per
 2538 gallon.

2539 (3)(2)(a) An excise tax of 4.27 cents per gallon is
 2540 imposed on each gallon of kerosene in the same manner as
 2541 prescribed for diesel fuel under ss. 206.87(2) and 206.872.

2542 (b) The exemptions provided by s. 206.874 shall apply to
 2543 kerosene if the dyeing and marking requirements of s. 206.8741
 2544 are met.

2545 (c) Kerosene prepackaged in containers of 5 gallons or
 2546 less and labeled "Not for Use in a Motor Vehicle" is exempt from
 2547 the taxes imposed by this part when sold for home heating and
 2548 cooking. Packagers may qualify for a refund of taxes previously

2549 paid, as prescribed by the department.

2550 (d) Sales of kerosene in quantities of 5 gallons or less
 2551 by a person not licensed under this chapter who has no
 2552 facilities for placing kerosene in the fuel supply system of a
 2553 motor vehicle may qualify for a refund of taxes paid. Refunds of
 2554 taxes paid shall be limited to sales for use in home heating or
 2555 cooking and shall be documented as prescribed by the department.

2556 (4)~~(3)~~ An excise tax of 4.27 cents per gallon is imposed
 2557 on each gallon of aviation gasoline in the manner prescribed by
 2558 paragraph (3)(a) (2)(a). However, the exemptions allowed by
 2559 paragraph (3)(b) (2)(b) do not apply to aviation gasoline.

2560 (5)~~(4)~~ Any licensed wholesaler or terminal supplier that
 2561 delivers undyed kerosene to a residence for home heating or
 2562 cooking may receive a credit or refund as the ultimate vendor of
 2563 the kerosene for the 4.27-cent excise tax previously paid.

2564 (6)~~(5)~~ Any licensed wholesaler or terminal supplier that
 2565 delivers undyed kerosene to a retail dealer not licensed as a
 2566 wholesaler or terminal supplier for sale as a home heating or
 2567 cooking fuel may receive a credit or refund as the ultimate
 2568 vendor of the kerosene for the 4.27-cent excise tax previously
 2569 paid, provided the retail dealer has no facility for fueling
 2570 highway vehicles from the tank in which the kerosene is stored.

2571 (7)~~(6)~~ Any person who fails to meet the requirements of
 2572 this section is subject to a backup tax as provided by s.
 2573 206.873.

2574 Section 52. Sections 33-36 are considered revenue laws for
 2575 the purposes of ss. 213.05 and 213.06, Florida Statutes, and the
 2576 provisions of s. 72.011, Florida Statutes, apply to those
 2577 sections of this act.

2578 Section 53. The amendments made by this act to ss. 220.13,
 2579 220.1875, and 1002.395, Florida Statutes, apply to taxable years
 2580 beginning on or after January 1, 2018.

2581 Section 54. The amendments made by this act to ss.
 2582 195.208, 197.572, and 197.573, Florida Statutes, and the
 2583 creation by this act of s. 193.0237, Florida Statutes, first
 2584 apply to taxes levied and special assessments levied in 2018.

2585 Section 55. (1) The Department of Revenue is authorized,
 2586 and all conditions are deemed to be met, to adopt emergency
 2587 rules pursuant to s. 120.54(4), Florida Statutes, for the
 2588 purpose of implementing the amendments made by this act to ss.
 2589 212.1831, 220.13, 220.1875, and 1002.395, Florida Statutes, and
 2590 the creation by this act of s. 212.099, Florida Statutes.

2591 (2) Notwithstanding any other provision of law, emergency
 2592 rules adopted pursuant to subsection (1) are effective for 6
 2593 months after adoption and may be renewed during the pendency of
 2594 procedures to adopt permanent rules addressing the subject of
 2595 the emergency rules.

2596 (3) This section shall take effect upon this act becoming
 2597 a law and shall expire January 1, 2020.



2598 Section 56. For the 2018-2019 fiscal year, the sum of

2599 | \$91,319 in nonrecurring funds is appropriated from the General
2600 | Revenue Fund to the Department of Revenue to implement the
2601 | provisions of this act.

2602 | Section 57. Except as otherwise expressly provided in this
2603 | act and except for this section, which shall take effect upon
2604 | this act becoming a law, this act shall take effect July 1,
2605 | 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7089 PCB JDC 18-03 Public Safety
SPONSOR(S): Judiciary Committee, Byrd
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee	18 Y, 1 N	Jones	Poche
1) Appropriations Committee		 Welty	Leznoff 

SUMMARY ANALYSIS

HB 7089 makes several changes to current law to increase public safety and assist offenders as they reintegrate into the workforce and the community. The bill:

- Increases the penalty for a second or subsequent offense of unlawfully exposing one’s sexual organs from a first degree misdemeanor to a third degree felony.
- Requires the Florida Department of Corrections (FDC) to input all of a probationer’s conditions of probation into the Florida Crime Information Center (FCIC),
- Clarifies that mutual aid agreements between law enforcement agencies may be used to increase the presence of law enforcement during a state of emergency.
- Provides that each county sheriff is responsible for providing security for trial court facilities in the manner each sheriff chooses.
- Prohibits the court from awarding attorney fees in proceedings for protective injunctions for repeat, sexual, or dating violence or stalking.
- Creates a statewide alternative sanctioning program for probationers and offenders on community control who commit “technical” violations – violations of the terms of supervision that do not involve the alleged commission of a new felony, misdemeanor or criminal traffic offense.
- Requires FDC transition staff to provide comprehensive information to inmates to help them reenter the community and the workforce.
- Directs the FDC to establish a registration process for organizations that provide inmate reentry services.
- Creates a process and criteria for the FDC to award a “certificate of achievement and employability” to an inmate and provides that such certificate constitutes a rebuttable presumption that the certificate holder’s conviction alone is insufficient evidence that he or she is unfit for the license or employment.
- Requires each judicial circuit to establish a Driver License Reinstatement Days program and provides eligibility criteria for participation.
- Authorizes each judicial circuit to create a voluntary “community court program” for defendants charged with certain misdemeanor offenses.

The bill has indeterminate fiscal impacts on state and local governments and the private sector. The Criminal Justice Impact Conference (CJIC) considered this bill on Monday, February 19, 2018, and determined:

- Increasing the penalty for a second or subsequent offense of unlawfully exposing one’s sexual organs will insignificantly increase the need for prison beds, and
- Implementing a statewide alternative sanctioning program, and the bill as a whole, will significantly decrease the need for prison beds.

See the Fiscal Analysis & Economic Impact Statement for additional fiscal impacts.

The bill provides an effective date of October 1, 2018.

FULL ANALYSIS
I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Probation

Background

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.¹ Probation is a form of community supervision requiring specified contacts with probation officers and other terms and conditions,² while community control is a more intensive form of supervision involving an individualized program, which restricts the offender's movement within the community, home, or residential placement.³ Several standard conditions of probation or community control attach automatically, including requirements to report to a probation officer as directed and to live without violating any law.⁴ The court may also impose special conditions as it considers proper.⁵ Examples of special conditions include community service hours, regular drug or alcohol testing, no contact orders, and treatment programs.⁶ Failure to meet any standard or special conditions of supervision is a violation of probation or community control (VOP).

Court Resolutions to VOPs

A VOP may come before the court for resolution either by:

- Affidavit and issuance of a warrant or notice to appear,⁷ or
- A warrantless arrest by a law enforcement officer with knowledge that the offender is on supervision.⁸

Generally, upon a finding that an offender violated probation or community control, the court may revoke, modify, or continue the supervision.⁹ If the court chooses to revoke, it may impose any sentence originally permissible before placing the offender on supervision.¹⁰ Upon revocation of supervision, the court is bound by the sentencing guidelines under the Criminal Punishment Code.¹¹ The sentencing guidelines provide a computation of the lowest permissible prison sentence, based on factors including the offender's current and prior offenses. The court must make written findings, contemporaneous with sentencing for the revocation of supervision, to justify a downward departure and sentence an offender to less than the lowest permissible sentence.¹²

¹ S. 948.01, F.S.

² S. 948.001(8), F.S.

³ S. 948.001(3), F.S.

⁴ S. 948.03(1), F.S.

⁵ S. 948.03(2), F.S.

⁶ Department of Corrections, *Order of Probation Form*, available at: <http://www.dc.state.fl.us/Conditions-of-Probation.pdf> (last visited February 20, 2018).

⁷ S. 948.06(1)(b), F.S.

⁸ S. 948.06(1)(a), F.S.

⁹ S. 948.06(2)(b), F.S.

¹⁰ Id.

¹¹ S. 921.0022, F.S.

¹² *State v. Roman*, 634 So.2d 291 (Fla. 1st DCA 1994)

If an offender qualifies as a violent felony offender of special concern (VFOSC), the court must revoke supervision, unless it makes written findings that the VFOSC does not pose a danger to the community.¹³ A VFOSC is any person who:

- Is on felony supervision related to the commission of a qualifying offense¹⁴ committed on or after March 12, 2007.
- Is on felony supervision for any offense committed on or after March 12, 2007, and has previously been convicted of a qualifying offense.
- Is on felony supervision for any offense committed on or after March 12, 2007, and is found to have violated that supervision by committing a qualifying offense.
- Is on felony supervision and has previously been found by a court to be a habitual violent felony offender,¹⁵ three-time violent offender,¹⁶ or sexual predator,¹⁷ and has committed a qualifying offense on or after March 12, 2007.¹⁸

VFOSC status also increases an offender's score under the sentencing guidelines, leading to a higher minimum permissible prison sentence.¹⁹

Release Pending Disposition of a VOP

When a person is arrested for committing a crime, he or she is generally entitled to pretrial release on reasonable conditions under the Florida Constitution.²⁰ However, a person taken into custody for a VOP does not have a constitutional right to release pending the disposition of the VOP.²¹ If the offender qualifies as a VFOSC, the court is prohibited from granting pretrial release.²² For other offenders, the court has discretion to grant or deny bail.²³ A court must exercise this discretion on a case-by-case basis and may not adopt a policy of never granting pretrial release on a VOP; however, this discretionary power leads to many offenders being detained at the county jail during the pendency of their VOP cases.

Alternative Sanctioning Programs

Section 948.06(1)(h), F.S., authorizes the chief judge of each judicial circuit to establish an alternative sanctioning program (ASP), which allows the Department of Corrections (FDC) to enforce technical violations with court approval. A technical violation is any alleged violation of supervision that is not a

¹³ S. 948.06(8)(e)2.b., F.S.

¹⁴ Section 948.06(8)(c), F.S., defines qualifying offense to include any of the following: kidnapping or attempted kidnapping, S. 787.01, F.S.; false imprisonment of a child under the age of 13, S. 787.02(3), F.S.; luring or enticing a child, S. 787.025(2)(b) or (b), F.S.; murder or attempted murder, S. 782.04, F.S.; attempted felony murder, S. 782.051, F.S.; manslaughter, S. 782.07, F.S.; aggravated battery or attempt, S. 784.045, F.S.; sexual battery or attempt; S. 794.011(2), (3), (4), or (8)(b) or (c), F.S.; lewd and lascivious battery or attempt, S. 800.04(4); lewd and lascivious molestation, S. 800.04(5)(b) or (c), F.S.; lewd and lascivious conduct, S. 800.04(6)(b), F.S.; lewd and lascivious exhibition, S. 800.04(7)(b); lewd and lascivious exhibition on computer, S. 847.0135(5)(b); robbery or attempt, S. 812.13, F.S.; carjacking or attempt, S. 812.133, F.S.; home invasion robbery or attempt, S. 812.135, F.S.; lewd and lascivious offense upon or in the presence of an elderly person or attempt, S. 825.1025, F.S.; sexual performance by a child or attempt, S. 827.071, F.S.; computer pornography, S. 847.0135(2) or (3), F.S.; transmission of child pornography, S. 847.0137, F.S.; selling or buying of minors, S. 847.0145, F.S.; poisoning food or water, S. 859.01, F.S.; abuse of a dead human body, S. 872.06, F.S.; any burglary offense that is a first or second degree felony, S. 810.02(2) or (3), F.S.; arson or attempt, S. 806.01(1), F.S.; aggravated assault, S. 784.021, F.S.; aggravated stalking, S. 784.048(3), (4), (5), or (7), F.S.; aircraft piracy, S. 860.16, F.S.; throwing a deadly missile, S. 790.161(2), (3), or (4), F.S.; and treason, S. 876.32, F.S.

¹⁵ S. 775.084(1)(b), F.S.

¹⁶ S. 775.084(1)(c), F.S.

¹⁷ S. 775.21, F.S.

¹⁸ S. 946.06(8)(b), F.S.

¹⁹ S. 921.0024, F.S.

²⁰ FLA. CONST. art. I, s. 14. Exceptions include when a person is charged with a capital offense or offense punishable by life and the proof of guilt is evident or the presumption is great, or if no conditions can reasonably protect the community from risk of physical harm.

²¹ *Bernhardt v. State*, 288 So.2d 490, 497 (Fla. 1974).

²² S. 903.0351, F.S.

²³ S. 948.06(2)(c), F.S.; Fla. R. Crim. P. 3.790(b).

new felony offense, misdemeanor offense, or criminal traffic offense.²⁴ In fiscal year 2016-2017, over half – 19,616 – of all resolved VOPs were technical violations.²⁵ Many of these violations resulted in the offender returning to some form of supervision or serving a county jail sentence.²⁶

The ASP allows for an alternative resolution of these technical violations, ensuring a swift and certain response to technical violations without initiating the court process or arresting and booking the offender. In establishing an ASP, the chief judge, in consultation with the state attorney, public defender and FDC, determines which technical violations are eligible for alternative sanctioning, offender eligibility criteria, permissible sanctions, and the process for reporting technical violations through the ASP.²⁷ Common sanctions issued through the ASP include increased reporting requirements, imposition or modification of a curfew, drug evaluation and treatment, and classes.²⁸ As of January 2018, three circuits had included short jail sentences²⁹ as a possible ASP sanction through administrative order.³⁰

After receiving written notice of an alleged technical violation and disclosure of the evidence supporting the violation, an offender who is eligible for the ASP may elect to either participate in the program or waive participation.³¹ If the offender waives participation, the violation proceeds through the court resolution process.³² If the offender elects to participate, he or she must admit to the technical violation, agree to comply with the probation officer's recommended sanction, and agree to waive the right:

- To be represented by counsel.
- To require the state to prove his or her guilt.
- To subpoena witnesses and present evidence to a judge in his or her defense.
- To confront and cross-examine witnesses.
- To receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.³³

Prior to 2016, the FDC developed and implemented the ASP in twelve counties within six judicial circuits.³⁴ Section 948.06(1)(h), F.S., codified the ASP option when it was passed into law in 2016.³⁵ ASP use has increased substantially since codification of the ASP option. As of December 2017, 46 of 67 counties in Florida had established an ASP by administrative order.³⁶ As of January 4, 2018, participating jurisdictions had resolved 2,272 cases through an ASP.³⁷

²⁴ S. 946.08(2)(h)1., F.S.

²⁵ Florida Department of Corrections, *Number of Violations by Type, Violation Completed FY 2016-2017*, (January 9, 2018) (on file with Judiciary Committee).

²⁶ *Id.*

²⁷ S. 948.06(1)(h)2., F.S.

²⁸ Eighteenth Judicial Circuit, Administrative Order No. 17-30-S (June 28, 2017); Sixth Judicial Circuit, Administrative Order No. 2016-058 PA/PI-CIR (September 9, 2016); Eighth Judicial Circuit, Administrative Order No. 4.16 (June 10, 2016); Tenth Judicial Circuit, Administrative Order No. 2-79.0 (June 27, 2016); Eighteenth Judicial Circuit, Administrative Order No. 16-17-B (June 7, 2016) (all on file with Judiciary Committee).

²⁹ Other states have found that brief periods of incarceration in response to VOPs are as effective at curbing new violations as longer stays, when the sentence is swiftly-imposed and certain. Scott Taylor, President of the American Probation and Parole Association, *Summit on Effective Responses to Violations of Probation and Parole*, at 13-14, (December 11, 2012) available at <https://www.appa-net.org/eWeb/Resources/SPSP/Lessons-Learned-P1.pdf> (last viewed February 12, 2018); National Institute of Justice, "Swift and Certain" Sanction in Probation are Highly Effective: Evaluation of the HOPE Program, available at: <https://www.nij.gov/topics/corrections/community/drug-offenders/pages/hawaii-hope.aspx> (last viewed February 12, 2018).

³⁰ Eighth Judicial Circuit, Administrative Order No. 4.16 (June 10, 2016); Tenth Judicial Circuit, Administrative Order No. 2-79.0 (June 27, 2016); Eighteenth Judicial Circuit, Administrative Order No. 16-17-B (June 7, 2016) (all on file with Judiciary Committee).

³¹ S. 948.06(1)(h)3., F.S.

³² S. 948.06(1)(h)3.a., F.S.

³³ S. 948.06(1)(h)3.b., F.S.

³⁴ Florida Department of Corrections, Agency Analysis 2016 House Bill 1149, at 2 (January 20, 2016).

³⁵ Ch. 2016-100, Laws of Fla.

³⁶ Email from Florida Department of Corrections staff, RE: ASP status 11/23/17 (December 5, 2017) (on file with Judiciary Committee).

³⁷ Email from Florida Department of Corrections staff, FW: ASP administrative orders (January 5, 2018) (on file with Judiciary Committee).

Administrative Probation

Administrative probation is a form of nonreporting supervision available to low-risk offenders upon successful completion of half of their probationary term.³⁸ Only the FDC has the authority to transfer a probationer to administrative probation.³⁹ FDC may develop procedures for transferring probationers to administrative probation.⁴⁰ Certain offenders are ineligible for conversion to administrative probation, including those on probation for enumerated sexual offenses or offenses involving minors and those qualifying as sexual predators.⁴¹

Effect of Proposed Changes

Alternative Sanctioning Program

HB 7089 creates a statewide ASP, identifying eligible offenders, eligible violations, and permissible sanctions. The bill classifies eligible violations as either low-risk or moderate-risk.

Low-risk violations only apply to probationers and include:

- A positive drug or alcohol test result;
- Failure to report to the probation office;
- Failure to report a change in address or other required information;
- Failure to attend a required class, treatment or counseling session, or meeting;
- Failure to submit to a drug or alcohol test;
- Violation of curfew;
- Failure to meet a monthly quota of any required probation condition, including making restitution payments, paying court costs, and completing community service hours;
- Leaving the county without permission;
- Failure to report a change in employment;
- Associating with people engaged in criminal activity; or
- Any other violation as determined by administrative order by the chief judge of the circuit.

Moderate-risk violations include:

- Any violation classified as low-risk when committed by an offender on community control;
- Failure to remain at an approved residence by an offender on community control;
- A third low-risk violation by a probationer; or
- Any other violation as determined by administrative order by the chief judge of the circuit.

The permissible sanctions correspond to the risk level of the violation. A probation officer may offer one or more of the following in response to a low-risk violation:

- Up to five days in the county jail;
- Up to fifty additional community service hours;
- Counseling or treatment;
- Support group attendance;
- Drug testing;
- Loss of travel or other privileges;
- Curfew for up to thirty days;
- House arrest for up to thirty days; or
- Any other sanction as determined by administrative order by the chief judge of the circuit.

³⁸ S. 948.01(1), F.S.

³⁹ Id.; *State v. Nazario*, 100 So.3d 1246 (Fla. 4th DCA 2012).

⁴⁰ S. 948.013(1), F.S.

⁴¹ S. 948.013(2), F.S.

The permissible sanctions for a moderate-risk violation include all sanctions available for a low-risk violation and:

- Up to twenty-one days in the county jail;
- Curfew for up to ninety days;
- House arrest for up to ninety days;
- Electronic monitoring for up to ninety days;
- Residential treatment for up to ninety days; or
- Any other sanction as determined by administrative order by the chief judge of the circuit.

The bill disqualifies offenders from alternative sanctioning under any of the following circumstances:

- The offender is a violent felony offender of special concern;
- The violation is a felony, misdemeanor, or criminal traffic offense;
- The violation is absconding;
- The violation is of a stay-away order or no-contact order;
- The violation is not identified as low- or moderate-risk by statute or administrative order;
- The offender has a prior moderate-risk level violation during the same term of supervision;
- The offender has three prior low-risk level violations in the same term of supervision;
- The term of probation is scheduled to terminate in less than 90 days; or
- The terms of the sentence prohibit alternative sanctioning.

The bill allows the individual circuits to add other eligible violations or permissible sanctions to the ASP so as to best meet local needs. A court may also disqualify a person from the ASP when initially sentencing him or her to probation.

As in current law, the bill allows an eligible offender to participate in the ASP or waive participation and proceed to a court resolution of the VOP. If the offender elects to participate, he or she must admit to the technical violation, agree to comply with the probation officer's recommended sanction, and agree to waive the right to:

- Be represented by counsel.
- Require the state to prove his or her guilt.
- Subpoena witnesses and present evidence to a judge in his or her defense.
- Confront and cross-examine witnesses.
- Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.

The ASP is voluntary, and the offender may withdraw from participation at any time. If the offender withdraws or fails to successfully complete the sanction within either 90 days or a timeframe determined in the agreed-upon sanction, the original VOP proceeds to the court resolution process.

Administrative Probation

The bill allows a court to impose an administrative probation sentence or convert supervision to administrative probation. FDC retains its authority to transfer a probationer meeting criteria to administrative probation as under current law.

Conditions of Probation in the Florida Crime Information Center

Background

The Florida Crime Information Center (FCIC) is the state's central database for tracking crime related information.⁴² FCIC was created in the mid-1970s within the Florida Department of Law Enforcement (FDLE).⁴³ A second, updated version, was installed in 1997.⁴⁴ Information contained in the FCIC database includes, but is not limited to, statewide information on persons and property, driver's license and registration information, wanted and missing persons, stolen guns, vehicles, and other property, and persons' status files, and computerized criminal history.⁴⁵ It is commonly used by law enforcement officers to gather relevant information when responding to a call for service or engaging in a citizen encounter.

Every criminal justice agency⁴⁶ within Florida is eligible for access to FCIC.⁴⁷ Access is divided into limited access and full access.⁴⁸ With limited access, the user is able to run a query in the system. With full access, the user is able to make modifications in the system.⁴⁹ In order to gain access to FCIC, the user must complete security awareness training and an online course on FCIC via FDLE.⁵⁰ Different courses and tests are available depending on whether the user wants limited or full access. Once the user completes the course and passes the examination, a user identification is issued to that individual. Users must recertify every two years to continue access to FCIC.⁵¹

Currently, an officer may run a driver license, warrant, or person query in FCIC and the results will include information on whether the individual is currently on probation.⁵² However, in general, a law enforcement officer will only see that the person is on probation. FCIC will not include the specific terms of probation.⁵³

When an offender is placed on probation with the state, the Department of Corrections (FDC) is responsible for oversight of the individual.⁵⁴ It is the responsibility of the court to determine the terms and conditions of probation.⁵⁵ Standard conditions do not require oral pronouncement by the court⁵⁶, but if the judge is imposing special probation conditions, those conditions must be clearly stated on the record and be reflected in writing.⁵⁷ Standard conditions of probation include:

- Report to probation officer as directed;
- Permit the probation officer to visit him or her at his or her home or elsewhere;
- Work faithfully at suitable employment insofar as may be possible;
- Remain within a specified place;
- Live without violated any law;

⁴² Department of Juvenile Justice, Florida Department of Juvenile Justice Procedure, pg. 2, available at: <http://www.djj.state.fl.us/docs/policies/fcic-ncic-cjnet-jis-and-david-access-use-procedures-fdjj-1805p.pdf?sfvrsn=4> (last visited February 9, 2018).

⁴³ Phone call with Florida Department of Law Enforcement and Judiciary Staff, February 9, 2018.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ FDLE defines "criminal justice agency" to include courts and governmental agencies that perform the administration of criminal justice pursuant to a statute or executive order.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ Email from Florida Sheriffs Association, November 30, 2017 (on file with Judiciary Committee).

⁵⁴ S. 948.03, F.S.

⁵⁵ S. 948.03, F.S.

⁵⁶ Id.

⁵⁷ S. 948.039, F.S.

- Make reparation or restitution to the aggrieved party for the damage or loss caused by his or her offense in an amount to be determined by the court;
- Support his or her legal dependents to the best of his or her ability;
- Pay any court fees or fines;
- Submit to random drug and alcohol testing as directed by the probation officer;
- Be prohibited from carrying a firearm or weapon without first procuring the consent of a probation officer;
- Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless properly prescribed; and
- Submit to the taking of a digitized photograph by FDC as a part of the offender's record.

When probation conditions are ordered, modified, or deleted by the court, that information is forwarded to FDC via the clerk of court.⁵⁸ Once the conditions are received by FDC, they are manually entered into the database.⁵⁹ Delays in this process may vary due to the volume of information, the manner in which information is received, and the variations in the process among the circuits.⁶⁰

FDC sends a probationer's data electronically to FDLE through a real time direct data pipe line.⁶¹ To include a probationer's conditions, FDC will enter the information into a "Miscellaneous Field of the Status Record" field available in FCIC.⁶² FDC currently includes the following relevant conditions of probation for each probationer in the data it sends to FDLE:

- Sex offender curfew;
- Curfew for non-sex offenders;
- Remain confined to approved residence;
- No unsupervised contact with minors;
- No work or volunteer work with children;
- Do not live or work within 1,000 feet of school or bus stop;
- Submit to search;
- No driving or drivers license revoked or suspended;
- Driving for employment only;
- No alcohol or illegal drugs;
- No contact with victim;
- No pornographic material;
- Restrictions to enter or leave a city;
- No employment that involves handling money;
- No post office box; and
- No checking account.⁶³

A court has authority to modify or alter conditions of probation based on a probationer's particular circumstances.⁶⁴ As a result, a probation officer may have permission to allow certain exceptions to conditions of probation on a case-by-case basis. For example, a court may allow a probation officer to give permission to a probationer to stay out past a designated curfew if the reason is for work, school or health care emergencies. When this occurs, probation officers may not have access to FDC databases in order to update in real time any exceptions to the individual's probation in FCIC.⁶⁵

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Id.

⁶¹ Email from Department of Corrections, February 9, 2018 (on file with Judiciary Committee).

⁶² Email from Department of Law Enforcement, February 9, 2018 (on file with Judiciary Committee).

⁶³ Supra, FN 61.

⁶⁴ Supra, FN 57.

⁶⁵ Supra, FN 61.

Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer has violated his or her probation in a material respect, any law enforcement officer who is aware of the probationer's status may arrest him or her without a warrant.⁶⁶ At first appearance or arraignment for a violation of probation, a judge may revoke bond if probable cause exists to believe the probationer violated conditions of his or her release.⁶⁷

Effect of Proposed Changes

HB 7089 requires FDC to input into FCIC all of a probationer's specific conditions of probation as determined by the court. If the court modifies the conditions of probation during the period of probation, FDC must update the changes in FCIC.

Reentry Programming

Background

Transition Assistance

Section 944.704, F.S., requires the Florida Department of Corrections (FDC) to provide a transition assistance specialist at each of its major prison institutions to provide the following services to inmates:

- Coordinating the delivery of transition assistance program services;
- Assisting in the development of a postrelease plan;
- Obtaining job placement information;
- Providing a written medical discharge plan and referral to a county health department;
- Providing a 30 day supply of HIV/AIDS medication, if taken prior to release by an inmate who is known to be HIV positive;
- Facilitating placement in a private transition housing program, if the inmate is eligible and makes such a request;⁶⁸ and
- Providing a photo identification card prior to release.

The law prohibits a correctional officer⁶⁹ or a correctional probation officer⁷⁰ from serving in the role of the transition assistance specialist.

Before release from incarceration, every inmate must complete a 100-hour comprehensive training course that focuses on job readiness and life management skills.⁷¹ In June 2017, FDC implemented statewide use of the Compass 100 program to meet this statutory training requirement. Inmates nearing release complete Compass 100's curriculum, which focuses on developing life skills in conjunction with other educational courses and substance abuse treatment.⁷² Topics include punctuality, workplace

⁶⁶ S. 948.06, F.S.

⁶⁷ S. 948.06(d), F.S.

⁶⁸ These placements may include contracted substance abuse transition housing or contracted faith-based substance abuse transition housing programs. S. 944.704, F.S.

⁶⁹ A "correctional officer" is defined as "any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correction institution." The term does not include any secretarial, clerical, or professionally trained staff. S. 943.10(2), F.S.

⁷⁰ A "correctional probation officer" is defined as "any person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controlees within institutions of the Department of Corrections or within the community." The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level. S. 943.10(3), F.S.

⁷¹ S. 944.7065, F.S.

⁷² Florida Department of Corrections, *Florida Department of Corrections Launches Compass 100*, June 5, 2017, <http://dc.state.fl.us/secretary/press/2017/06-05-Compass100.html> (last visited February 12, 2018).

etiquette, interpersonal communication, and problem solving.⁷³ Additionally, inmates are required to complete a cognitive behavioral curriculum called "Thinking for a Change" which is designed to help inmates change their way of thinking and provide effective communication and problem solving skills.⁷⁴ Upon completion of Compass 100, each inmate has a "Readiness Portfolio" that contains a resume, community resources, and program completion certificates.⁷⁵

In addition to institutional transition assistance, FDC employs four regional community transition specialists who collaborate with public, private, and community agencies to identify and develop employment opportunities for ex-offenders.⁷⁶ Transition specialists and ex-offenders may also use a statewide resource directory to search for reentry services. The resource directory is a searchable database available on FDC's website and contains over 6,000 state and local organizations that provide reentry services to offenders returning to the community.⁷⁷ Organizations that want to be included in the resource directory submit an application to FDC, who then enters the information into the directory. FDC verifies the resource directory on a routine basis to ensure the information provided remains current.⁷⁸

Release Orientation Programming

Section 944.705, F.S., requires FDC to establish a standard release orientation program available to every eligible inmate.⁷⁹ Release orientation must include instruction addressing:

- Employment skills;
- Money management skills;
- Personal development and planning;
- Special needs;
- Community reentry concerns;
- Community reentry support; and
- Any other appropriate instruction to ensure the inmate's successful reentry into the community.⁸⁰

As part of the release orientation program, FDC conducts a needs assessment of every inmate to determine any basic support services the inmate may need.⁸¹ To provide these services, FDC may contract with outside public or private entities, including faith-based service groups.⁸²

Educational Programming

Section 944.801, F.S., authorizes the Correctional Education Program to establish educational facilities and services in all FDC institutions. FDC is required to collect information relating to inmates' educational or vocational areas of interest, vocational skills, and level of education during the intake process. FDC must then approve educational programs of varying levels and types in the correctional institutions and establish procedures for the admission of inmates to those programs.⁸³ FDC must enter into agreements with certain entities to ensure the educational programs meet minimum performance

⁷³ Id.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Florida Department of Corrections, Agency Analysis of 2018 SB 226, pg. 3 (October 2, 2017) (on file with the Judiciary Committee).

⁷⁷ Id. at pg. 2.

⁷⁸ Id.

⁷⁹ All inmates released from the custody of FDC are eligible to receive transition services. However, the law instructs FDC to give priority for these services to substance abuse addicted inmates. The law provides that inmates released from private correctional facilities should be informed of and provided with the same level of transition assistance services as provided by FDC for an inmate in a state correctional facility. SS. 944.703 and 944.7031, F.S.

⁸⁰ S. 944.705, F.S.

⁸¹ S. 944.705(4), F.S.

⁸² S. 944.705(5), F.S.

⁸³ S. 944.801, F.S.

standards established by the Department of Education.⁸⁴ FDC may enter into agreements with public or private:

- School districts;
- Entities;
- Community colleges;
- Junior colleges;
- Colleges; or
- Universities.⁸⁵

Career and Technical Education Programming

FDC offers a variety of career and technical education programs for inmates, including:

- Air Conditioning, Refrigeration and Heating Technology;
- Applied Welding Technologies;
- Automotive Collision Repair and Refinishing;
- Automotive Technology Career Services;
- Cabinetmaking;
- Carpentry;
- Commercial Class "B" Driving;
- Computer Systems and Information Technology;
- Cosmetology;
- Culinary Arts;
- Digital Design;
- Drafting;
- Electricity;
- Environmental Design;
- Environmental Services;
- Equine Care Technology;
- Industrial Machine Repair;
- Janitorial Services;
- Landscape Management;
- Masonry, Brick and Block;
- Plumbing Technology;
- Printing and Graphic Communications;
- Technology Support Services;
- Wastewater/Water Treatment Technologies; and
- Web Development.⁸⁶

In FY 2015-2016, FDC awarded 1,829 vocational certificates and 2,027 industry certificates,⁸⁷ and in FY 2016-2017, FDC awarded 1,799 vocational certificates and 1,349 industry certifications.⁸⁸ FDC has since launched new credentialing programs for Canine Obedience and Beekeeping programs, and plans to expand credentialing to construction, horticulture, farm, and culinary programs in 30 institutions.⁸⁹

⁸⁴ S. 944.801(3)(e), F.S.

⁸⁵ *Id.*

⁸⁶ Florida Department of Corrections, *Annual Report Fiscal Year 2015-2016*, pg. 18-19, available at: http://www.dc.state.fl.us/pub/annual/1516/FDC_AR2015-16.pdf (last visited February 12, 2018).

⁸⁷ *Id.* at pg. 14.

⁸⁸ Florida Department of Corrections, *Agency Analysis of 2018 SB 226-Revised*, pg. 2 (October 25, 2017) (on file with the Judiciary Committee).

⁸⁹ *Id.*

Prison Entrepreneurship Program

In 2011, the University of Virginia's Darden School of Business implemented a prison entrepreneurship program at Virginia's Dillwyn Correctional Center, a medium-security prison housing more than 1,000 inmates.⁹⁰ The classes are taught by Darden students and volunteers.⁹¹ The program focuses on entrepreneurship skills, ethics, and business strategy. Students must complete math testing, develop a personal business plan, and complete a final exam.⁹²

Similar programs have had success in other states. Texas has a prison entrepreneurship program at the Cleveland Correctional Facility in Houston.⁹³ It was founded in 2004, with approximately 800 inmates graduating from the program annually.⁹⁴ Of its graduates, 106 have founded businesses and the recidivism rate of those inmates is less than 7 percent.⁹⁵

Though not statutorily mandated, FDC partners with the following educational institutions to offer inmates job training and readiness skills:

- Stetson University;
- Florida State University;
- University of Central Florida; and
- University of West Florida.⁹⁶

Effect of Proposed Changes

Release Orientation Programming

HB 7089 requires transition assistance staff to provide information to inmates identifying job assignment credentialing or industry certifications for which the inmate is eligible. The bill mandates that each inmate receive a community reentry resource directory. The directory must be organized by county and include the name, address, and telephone number of each provider, as well as a description of the services offered.

The bill requires FDC to allow nonprofit faith-based, business and professional, civic or community organizations to apply to be registered to provide reentry services. These services include, but are not limited to, providing information on housing and job placement, money management assistance, and counseling addressing substance abuse, mental health, and co-occurring conditions. FDC must adopt policies and procedures for screening, approving, and registering an organization that applies to be registered. FDC may deny registration if the organization does not meet such policies and procedures.

The bill also authorizes FDC to contract with Veteran Advocacy Clinics or Veteran Legal Clinics operated by colleges, universities or other nonprofit organizations, to assist qualified veteran inmates in applying for veteran's assistance benefits upon release.

⁹⁰ The Darden Report, *Second Chances: Darden's Fairchild Launches Prison Entrepreneurship Program*, January 4, 2013, available at: <https://news.virginia.edu/content/second-chances-darden-s-fairchild-launches-prison-entrepreneurship-program> (last visited February 10, 2018).

⁹¹ Id.

⁹² Id.

⁹³ Id. See also The Prison Entrepreneurship Program, available at: <http://www.pep.org/releasing-potential/> (last visited February 10, 2018).

⁹⁴ Id.

⁹⁵ Versus 25 percent statewide. Id. See also The Prison Entrepreneurship Program, *The Results*, available at: <http://www.pep.org/pep-results/> (last visited February 10, 2018).

⁹⁶ Email from Department of Corrections, February 9, 2018 (on file with Judiciary Committee).

Prison Entrepreneurship Program

The bill authorizes FDC to develop a Prison Entrepreneurship Program, to include 180 days of in-prison education. If the program is implemented in a facility, the curriculum must include a component on developing a business plan, procedures for graduation and certification of successful student inmates, and at least 90 days of transitional and post-release continuing education services. The bill authorizes FDC to enter into agreements with public or private community colleges, junior colleges, colleges, universities, or other non-profit entities to implement the program.

Certificate of Achievement and Employability

Background

In general, a person may only be denied employment by the state, any of its agencies or political subdivisions, or any municipality, based on a prior conviction for a crime if the crime was a felony or first-degree misdemeanor and directly related to the position of employment sought.⁹⁷ However, a person may be denied a license, permit, or certification to pursue, practice, or engage in an occupation, trade, vocation, profession, or business based on a prior conviction for a crime.⁹⁸ The crime must be a felony or first-degree misdemeanor and directly relate to the standard determined by the regulatory authority to be necessary and reasonably related to protect the public, health, safety, and welfare for the occupation, trade, vocation, profession, or business for which the license, permit or certificate is sought.⁹⁹ For example, s. 408.809, F.S., disqualifies some ex-offenders from employment in certain Agency of Health Care Administration licensed facilities.

Department of Business and Professional Regulation

The Department of Business and Professional Regulation (DBPR) disqualifies an individual from employment if he or she has been arrested for and awaiting final disposition of, have been found guilty of, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any of the following offenses¹⁰⁰:

- Sexual misconduct with certain developmentally disabled clients, mental health patients, forensic clients or youth in juvenile justice programs.
- Abuse, neglect, or exploitation of aged persons or disabled adults.
- Murder.
- Manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Vehicular homicide.
- Killing of an unborn child by injury to the mother.
- Aggravated assault.
- Aggravated battery.
- Battery on a detention or commitment facility staff member or a juvenile probation officer.
- Kidnapping.
- False imprisonment.
- Luring or enticing a child.
- Leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody or dependency proceedings.

⁹⁷ S. 112.011(1)(a), F.S.

⁹⁸ S. 112.011(1)(b), F.S.

⁹⁹ *Id.*

¹⁰⁰ Department of Bureau and Professional Regulation, Annual Report Jim King 2015, pg. 7 (on file with Judiciary Committee).

- Exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of school.
- Possessing an electric weapon or device, destructive device, or other weapon at a school-sponsored event or on school property.
- Sexual battery.
- Sexual activity with or solicitation of a child by a person in familial or custodial authority.
- Unlawful sexual activity with certain minors.
- Prostitution.
- Lewd and lascivious behavior.
- Lewdness and indecent exposure.
- Arson.
- Voyeurism.
- Coordinating the commission of theft in excess of \$3,000.
- Theft from persons 65 years or older.
- Dealing in stolen property.
- Robbery.
- Robbery by sudden snatching.
- Carjacking.
- Home-invasion robbery.
- Fraudulent sale of controlled substance.
- Abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- Incest.
- Child abuse, aggravated child abuse, or neglect of a child.
- Contributing to the delinquency or dependency of a child.
- Sexual performance by a child.
- Resisting arrest with violence.
- Obscenity.
- Causing, encouraging, soliciting, or recruiting another to join a criminal street gang.
- Any drug abuse charges under ch. 893, F.S., if offense was a second degree felony or higher.
- Fraudulent sale of controlled substances under s. 817.563, F.S.
- Introduction, removal, or possession of contraband at a correctional facility or juvenile detention facility or commitment program.
- Escape.
- Harboring, concealing or aiding an escaped prisoner.
- Inflicting cruel or inhumane treatment on an inmate resulting in great bodily harm.

Agency of Health Care Administration

The Agency of Health Care Administration (AHCA), disqualifies an individual from employment in certain facilities regulated by AHCA, such as nursing homes and hospices, based on an applicant's criminal history. Any individual considered for employment in a facility licensed by ch. 400 and 408, F.S., must complete a level 2 background screening pursuant to sections 435.04(2) and (3), F.S.¹⁰¹ In addition to the disqualifying offenses listed above for DBPR, the applicant may be disqualified by AHCA for any of the following offenses:

- Medicaid provider fraud;
- Medicaid fraud;
- Domestic violence;

- Fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems;
- False and fraudulent insurance claims;
- Obtaining good by using a false or expired credit card or other credit device;
- Fraudulently obtaining goods or services from a health care provider;
- Patient brokering;
- Criminal use of personal identification information;
- Obtaining a credit card through fraudulent means;
- Fraudulent use of credit cards;
- Forgery;
- Uttering forged instruments;
- Forging bank bills, checks, drafts, or promissory notes;
- Uttering forged bank bills, checks, drafts, or promissory notes;
- Fraud in obtaining medicinal drugs;
- Sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance;
- Racketeering and collection of unlawful debts;
- Acts committed under the Florida Money Laundering Act.¹⁰²

Licensure

A license means a franchise, permit, certification, registration, charter, or similar form of authorization required by law.¹⁰³ Divisions and boards within the Department of Health (DOH) license professions and occupations regulated by four offices:¹⁰⁴ Emergency Medical Oversight, Environmental Health, Medical Quality Assurance, and the Office of Medical Marijuana Use.¹⁰⁵ The Division of Medical Quality Assurance, the Bureau of Environmental Health, and the Office of Medical Marijuana Use have professions or occupations with statutory disqualifications for ex-offenders.¹⁰⁶

The Bureau of Environmental Health issues registrations for septic tank contractors.¹⁰⁷ To be eligible for registration for a septic tank contractor license, the applicant must be of good moral character.¹⁰⁸ In determining good moral character, the Bureau can consider whether an applicant has been found guilty of, or entered a plea to, a crime in any jurisdiction that relates to the practice of contracting or the ability to practice contracting.¹⁰⁹ If so, the applicant can be denied licensure.

The Office of Medical Marijuana Use requires all owners and managers of a low-THC dispensing organization¹¹⁰ to pass a level 2 background screening pursuant to sections 435.04(2) and (3), F.S.¹¹¹ As part of the screening, an applicant will be disqualified for any of the offenses listed previously that disqualify an applicant.¹¹²

The Division of Medical Quality Assurance licenses and regulates 44 health care professions and 7 types of facilities and establishments under ch. 456, F.S.¹¹³ DOH is prohibited from issuing or renewing

¹⁰² S. 408.809(4), F.S.

¹⁰³ S. 120.52(10), F.S.

¹⁰⁴ Supra, FN 100.

¹⁰⁵ Id.

¹⁰⁶ Id.

¹⁰⁷ S. 489.553(4)(a), F.S.

¹⁰⁸ Id.

¹⁰⁹ Id.

¹¹⁰ Dispensaries licensed to distribute low-THC cannabis for medical purposes pursuant to s. 381.986, F.S.

¹¹¹ Supra, FN 100.

¹¹² Id.

¹¹³ Supra, FN 100, pg. 9.

a license to a health care practitioner who has been convicted of, or entered a plea to, fraud under ch. 409, F.S., or ch. 817, F.S., or a felony drug offense under ch. 893, F.S.¹¹⁴ DOH is also prohibited from issuing or renewing a pharmacy permit if the applicant has been convicted of, or entered a plea to, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of pharmacy.¹¹⁵

In addition, a massage therapist will be barred from licensure if he or she has been convicted of, or entered a plea to, any of the following offenses:

- Kidnapping;
- False imprisonment;
- Luring or enticing a child;
- Human trafficking;
- Human smuggling;
- Sexual battery;
- Female genital mutilation;
- Procuring a person under the age of 18 for prostitution;
- Relating to selling or buying of minors into prostitution;
- Forcing, compelling, or coercing another to become a prostitute;
- Deriving support from the proceeds of prostitution;
- Third or subsequent violation of prostitution;
- Lewd or lascivious offenses committed upon or in the presence of a person less than 16 years of age;
- Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person;
- Sexual performance by a child;
- Computer child pornography;
- Transmission of harmful material to minors by electronic device or equipment; or
- Selling or buying of minors.¹¹⁶

Exemptions from Disqualification

Statute provides for exemptions from disqualification for prior criminal offenses.¹¹⁷ The head of the appropriate agency may grant an employee otherwise disqualified from employment an exemption from disqualification for:

- Disqualifying felonies for which at least 3 years have elapsed since the applicant has completed or been lawfully released from confinement, supervision, or a nonmonetary condition imposed by the court for the disqualifying felony;
- Disqualifying misdemeanors for which the applicant has completed or been lawfully released from confinement, supervision, or a nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but are now misdemeanors and for which the applicant has completed or been lawfully released from confinement, supervision, or a nonmonetary condition imposed by the court; or
- For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, the exemption may be granted after 3 years have elapsed since the applicant has completed or been lawfully released from confinement, supervision, or a nonmonetary condition imposed by the court.¹¹⁸

¹¹⁴ S. 456.0635(2)(a), F.S.

¹¹⁵ S. 465.0022, F.S.

¹¹⁶ S. 480.041(7), F.S.

¹¹⁷ S. 435.07, F.S.

¹¹⁸ S. 435.07(1)(a), F.S.

A person applying for exemption must pay any outstanding court fee, fine, fund, lien, civil judgment, application, costs of prosecution, trust, or restitution as part of the criminal case prior to being eligible for exemption.¹¹⁹

In order for the head of the agency to grant an exemption to an applicant, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.¹²⁰ The applicant has the burden of setting forth clear and convincing evidence of rehabilitation, including, but not limited to:

- The circumstances surrounding the criminal incident;
- The time period that has elapsed since the incident;
- The nature of the harm caused to the victim;
- Applicant's history since the incident; and
- Any other evidence or circumstances indicating that the applicant will not present a danger if employment or continued employment is allowed.¹²¹

The decision of the head of an agency regarding an exemption may be challenged pursuant to ch. 120, F.S.¹²² The standard of review by the administrative law judge is whether the agency head's action is an abuse of discretion.¹²³

Effect of Proposed Changes

HB 7089 creates a certificate of achievement and employability (CAE) that may remove most mandatory barriers to licensure and employment for ex-offenders.

Application for CAE

An eligible inmate is a person serving a prison term in a state correctional institution or who is under the supervision of FDC on probation or under a post-release control sanction. If the eligible inmate is incarcerated, he or she may apply for a CAE from one year prior to the date of his or her release up to the date of release. If the eligible inmate is under supervision or post-release control of FDC, he or she may apply anytime while under said probation or control.

The inmate may apply if he or she has:

- Successfully completed one or more in prison vocational programs approved by FDC;
- Demonstrated exemplary performance as determined by completion of one or more cognitive or behavioral improvement programs approved by FDC while incarcerated or under the supervision of FDC; and
- Shown evidence of achievement and rehabilitation.

The inmate is ineligible to apply for a certificate if he or she is currently serving time for, or has previously been convicted of, a dangerous crime,¹²⁴ or a predicate offense for registration as a sexual predator¹²⁵ or sexual offender.¹²⁶

¹¹⁹ S. 435.07(1)(b), F.S.

¹²⁰ S. 435.07(3)(a), F.S.

¹²¹ Id.

¹²² S. 435.07(3)(c), F.S.

¹²³ Id.

¹²⁴ Arson, aggravated assault, aggravated battery, illegal use of explosives, child abuse or aggravated child abuse, abuse of an elderly person, aircraft piracy, kidnapping, homicide, manslaughter, sexual battery, robbery, carjacking, lewd or lascivious assault upon or in the presence of a child under 16 years of age, sexual activity with a child, burglary of a dwelling, stalking and aggravated stalking, domestic violence, home invasion robbery, manufacturing controlled substances, and human trafficking. S. 907.041(4), F.S.

¹²⁵ Pursuant to s. 775.21, F.S.

¹²⁶ Pursuant to s. 943.0435, F.S.

Notice to Licensing Agency

The bill defines licensing agency as any regulatory or licensing entity with authority to issue, suspend or revoke any professional license or certification. When an eligible inmate applies for the certificate, FDC shall notify the licensing agency and allow the agency an opportunity to object in writing to the issuing of the certificate. FDC shall then consider the eligible inmate's application and all objections to issuing the certificate and, if FDC determines the inmate is eligible, the application was timely filed, and the objections are insufficient, it shall issue the certificate.

Effect of the CAE

An inmate that would otherwise be disqualified from employment or licensure due to a criminal offense shall be given individualized consideration by the licensing agency if the inmate was issued a certificate of achievement and employability from FDC.

The certificate constitutes a rebuttable presumption that the inmate's conviction is solely insufficient evidence that he or she is unfit for the license or employment. However, an agency may still deny the license or employment if it determines the inmate is otherwise unfit for licensure or certification after considering all relevant facts and circumstances.

Revocation

The bill requires FDC to adopt rules governing revocation of a certificate of achievement and employability. At a minimum, revocation is required if a certificate holder is convicted of, or pleads guilty to, a felony. FDC shall also determine which additional offenses will require revocation, considering the nature of the offense and the employment of a certificate holder.

Liability and Rulemaking Authority

The bill provides that FDC is not liable for a claim for damages arising from issuing, denying, or revoking a certificate of achievement and employability or for failing to revoke a certificate.

The bill provides rulemaking authority to FDC to implement the provisions set forth in the certificates of achievement and employability sections. It also requires the CAE program to be funded within existing resources of FDC.

Driver License Reinstatement Days

Background

Florida requires a person to hold a driver license¹²⁷ or be exempt from licensure to operate a motor vehicle on the state's roadways.¹²⁸ Exemptions to the licensure requirement include nonresidents who possess a valid driver license issued by their home states, federal government employees operating a government vehicle for official business, and people operating a road machine, tractor, or golf cart.¹²⁹ Both licensed drivers and exempted individuals have a driving privilege in Florida.¹³⁰

¹²⁷ Driver license means a certificate that, subject to all other requirements of law, authorizes an individual to drive a motor vehicle. S. 322.01(17), F.S.

¹²⁸ S. 322.03(1), F.S.

¹²⁹ S. 322.04, F.S.

¹³⁰ *State v. Miller*, 227 So.3d 562, 564 (Fla. 2017) ("the Legislature's use of 'driving privilege' refers to all individuals who may lawfully operate vehicles on Florida's roads, even if they do not possess a Florida driver license").

The Department of Highway Safety and Motor Vehicles (DHSMV) can revoke or suspend a driver license or driving privilege for several driving-related and non-driving-related reasons. Revocation means the driving privilege is terminated,¹³¹ while suspension means the driving privilege is temporary withdrawn.¹³² Both revocations and suspensions can be indefinite or for a defined period of time, but only revocations in certain circumstances can be permanent.¹³³ The base fee for driver license reinstatement after revocation is \$75, and the fee for reinstatement after suspension is \$45.¹³⁴ As both revocations and suspensions functionally prohibit a person from driving, the terms are often used interchangeably in statute.

Failure to Meet Court-Imposed Obligations

The clerk of the circuit court can notify DHSMV to suspend a license for several reasons, including failure to comply with civil penalties,¹³⁵ failure to appear,¹³⁶ and failure to pay criminal financial obligations.¹³⁷ These suspensions last until the individual is compliant with the court's requirements for reinstatement¹³⁸ or, in the case of criminal financial obligations, the court grants relief from the suspension.¹³⁹ In FY 2016-17, the clerks of the circuit court initiated over 1.32 million driver license suspensions for failure to meet court-imposed obligations.¹⁴⁰

Payment Plans, Community Service Options, and Collections

The clerk of court is required to accept partial payment of court-related fees, service charges, costs, or fines in accordance with the terms of an established payment plan.¹⁴¹ The court may review the reasonableness of the payment plan. A monthly payment amount is presumed to correspond to the person's ability to pay if the amount does not exceed two percent of the person's annual net income, divided by twelve.¹⁴²

The court may convert a statutory financial obligation in a criminal case or a noncriminal traffic infraction into a requirement to perform community service.¹⁴³ The hourly conversion rate for community service is equal to the federal minimum wage,¹⁴⁴ unless the person performing the community service has a trade or profession for which there is a community service need, in which case the rate is the prevailing wage rate for that trade or profession.¹⁴⁵

The clerk of the circuit court must pursue the collection of any unpaid financial obligations that remain unpaid after 90 days by referring the account to a private attorney or collection agent.¹⁴⁶ The clerk must have attempted to collect the unpaid obligation through a collection court, collections docket, or any

¹³¹ S. 322.01(36), F.S.

¹³² S. 322.01(40), F.S.

¹³³ See, e.g., SS. 322.26(1)(a) & 322.26(2), F.S.

¹³⁴ Department of Highway Safety and Motor Vehicles, *Fees*, available at: <https://www.flhsmv.gov/fees/> (last viewed February 12, 2018).

¹³⁵ S. 318.15, F.S.

¹³⁶ S. 318.15, F.S.

¹³⁷ S. 322.245, F.S.

¹³⁸ SS. 318.15(2) & 322.245(5), F.S.

¹³⁹ S. 322.245(5), F.S.

¹⁴⁰ Department of Highway Safety and Motor Vehicles, *Sanctions Created/Effective for FY 16/17* (January 3, 2018) (on file with Judiciary Committee staff).

¹⁴¹ S. 28.246(4), F.S.

¹⁴² S. 28.246(4), F.S.

¹⁴³ SS. 938.30(2) & 318.18(8)(b)1.a., F.S.

¹⁴⁴ 29 USC § 206.

¹⁴⁵ S. 318.18(8)(b)1.b., F.S.; Bureau of Labor Statistics, *May 2016 National Occupational Employment and Wage Estimates: United States*, available at: https://www.bls.gov/oes/current/oes_nat.htm#00-0000 (last viewed February 12, 2018) (e.g. the mean hourly wage for an electrician is \$27.24).

¹⁴⁶ S. 28.246(6), F.S.

other collections process prior to referring the account to a private attorney or collections agent, find the referral to be cost-effective, and follow any applicable procurement processes.¹⁴⁷ A collection fee of up to forty percent of the amount owed at the time the account is referred to the attorney or agent for collection may be added to the outstanding balance.¹⁴⁸

Reinstatement Clinics

Several counties have held events to assist individuals whose licenses are suspended for financial reasons related to civil penalties or criminal financial obligations. In April 2015, 60 out of 67 counties participated in Operation Green Light: a short-term event in which the clerk waived the forty percent collections surcharge in exchange for full payment of the financial obligation behind a person's driver license suspension.¹⁴⁹ Upon satisfaction of the obligation, the participants' licenses were reinstated. The total statewide cost for the event was \$132,707.21, and the clerks collected \$5,414,069.35 while reinstating 1,851 licenses.¹⁵⁰ Several counties have since conducted similar events.¹⁵¹

Effect of Proposed Changes

Reinstatement Clinics

HB 7089 requires each judicial circuit to establish a Driver License Reinstatement Days program for reinstating suspended driver licenses collaboratively with DHSMV, the state attorney's office, the public defender's office, the circuit and county courts, the clerk of court, and any interested community organization. Participants must pay the full license reinstatement fee; however, the clerk may compromise or waive other fees and costs to facilitate reinstatement.

A person is eligible for the Driver License Reinstatement Days program if his or her driver license or driving privilege was suspended for:

- Driving without a valid license;
- Driving with a suspended license;
- Failing to make a payment on penalties in collection;
- Failing to appear in court for a traffic violation; or
- Failing to comply with provisions of ch. 318 or ch. 322, F.S.

A person is not eligible for reinstatement under the program if his or her driver license or driving privilege is suspended or revoked:

- Because the person failed to fulfill a court-ordered child support obligation;
- For driving under the influence;
- Because the person has not completed a required driver training program, driver improvement course, or alcohol or substance abuse education or evaluation program;
- For a traffic-related felony; or
- Because the person is a habitual traffic offender.

¹⁴⁷ S. 28.246(6), F.S.

¹⁴⁸ S. 28.246(6), F.S.

¹⁴⁹ Harrison Barrus, *Operation green light gives ticket payers a break*, News 4 JAX, available at:

<https://www.news4jax.com/news/local/operation-green-light-gives-ticket-payers-a-break> (last viewed February 12, 2018).

¹⁵⁰ Florida Clerks of Court Operations Corporation, *Operation Green Light Success Story*, available at:

http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/Statewide_Collection_Initiat.pdf (last viewed February 12, 2018).

¹⁵¹ Wayne K. Roustan, *Operation Green Light to offer amnesty on unpaid fines, fees in Broward*, SUN SENTINEL (April 21, 2017), available at: <http://www.sun-sentinel.com/news/transportation/fl-sb-broward-ticket-amnesty-20170421-story.html> (last viewed February 12, 2018); Karl Etters, *Clinic hopes to restore driver's licenses*, Tallahassee Democrat (May 30, 2017), available at:

<http://www.tallahassee.com/story/news/2017/05/30/clinic-hopes-restore-drivers-licenses/102055664/> (last viewed February 12, 2018);

11th Jud. Cir., *Driver License Reinstatement Event Flyer*, available at:

<https://www.jud11.flcourts.org/DesktopModules/EasyDNNNews/DocumentDownload.ashx?portalid=0&moduleid=599&articleid=2744&documentid=11> (last viewed February 12, 2018).

Exposure of Sexual Organs

Background

Section 800.03, F.S., prohibits the following conduct:

- Exposure or exhibition of sexual organs in public in a vulgar or indecent manner;
- Exposure or exhibition of sexual organs on the private premises of another person, or so near thereto as to be seen from a private premises, in a vulgar or indecent manner; or
- Being naked in public, except when in a place provided for that purpose.

A violation of the law is a first degree misdemeanor punishable by up to one year in county jail and a \$1,000 fine.¹⁵² The law specifies that a mother's breastfeeding of her baby is not a violation.

The Florida Supreme Court has defined the term "indecent" in this context to be synonymous with a "wicked, lustful, unchaste, licentious, or sensual design on the part of the perpetrator."¹⁵³ Other Florida courts have clarified that public nudity alone does not violate s. 800.03, F.S.; rather, such nudity must be accompanied by a "lewd or lascivious exhibition or exposure of the sexual organs."¹⁵⁴

The law has been interpreted to include a distinction between conduct that occurs in public places and conduct occurring in private places. Generally, if the vulgar or indecent conduct occurs in a public place it is viewed as objectively offensive, and therefore, criminal. On the other hand, if the vulgar or indecent conduct takes place in a private place, the state must make the additional showing that someone was offended by the alleged conduct in order to obtain a conviction.¹⁵⁵

During Fiscal Year 2015-2016, there were 381 total convictions for exposure of sexual organs in Florida.¹⁵⁶ During Fiscal Year 2016-2017, the number of convictions for exposure of sexual organs totaled 331 in Florida.¹⁵⁷

Misdemeanor Offenses Eligible for Felony Enhancement

Current law allows for certain offenses normally classified as a misdemeanor to be enhanced to a felony if the offender has a prior or multiple prior convictions for the same crime. Examples of misdemeanor offenses which may be enhanced to a third degree felony because of relevant prior convictions include:

- Driving under the influence;¹⁵⁸
- Driving while driver license suspended, revoked, cancelled, or disqualified;¹⁵⁹
- Battery;¹⁶⁰
- Prostitution;¹⁶¹

¹⁵² SS. 775.082 and 775.083, F.S.

¹⁵³ *Boles v. State*, 158 Fla. 220, 221(Fla. 1946).

¹⁵⁴ *Goodmakers v. State*, 450 So. 2d 888, 891 (Fla. 2d 1984).

¹⁵⁵ *State v. Kees*, 919 So.2d 504, 506-507 (Fla. 5th 2005).

¹⁵⁶ Email from Sarah Naf Biehl, Chief of Legislative Affairs, Office of State Courts Administrator, RE: Arrest and Convictions-Exposure of Sexual Organs, (December 15, 2017)(on file with the Judiciary Committee).

¹⁵⁷ Id.

¹⁵⁸ A person convicted of a third or subsequent violation for DUI that occurs within 10 years of a prior conviction or a fourth or subsequent violation regardless of when the prior convictions occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. SS. 316.193(2)(b)1. and S. 316.193(2)(b)3., F.S.

¹⁵⁹ A third or subsequent conviction is a third degree felony punishable as provided in s. 775.082, s. 775.083, or s. 775.084. S. 322.34(2)(c), F.S.

¹⁶⁰ A person who has one prior conviction for battery, aggravated battery, or felony battery and who commits any second or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. S. 784.03(2), F.S.

¹⁶¹ A third or subsequent violation for prostitution is a third degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. S. 796.07(4)(a)3., F.S.

- Criminal mischief;¹⁶²
- Voyeurism;¹⁶³
- Petit theft.¹⁶⁴

Currently, if a person commits a second or subsequent offense of exposure of sexual organs, there is no felony enhancement available, and the offender may only be prosecuted with a first degree misdemeanor.

Criminal Punishment Code - Offense Severity Ranking Chart

The Criminal Punishment Code (Code) applies to all felony offenses, except capital felonies, committed on or after October 1, 1998.¹⁶⁵ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10), either by being specifically listed in the offense severity ranking chart¹⁶⁶ or by default.¹⁶⁷ Judges must use the Criminal Punishment Code worksheet to compute a sentence score for each felony offender.¹⁶⁸

Sentence points are assigned and accrue based on the level ranking assigned to the primary offense, additional offenses and prior offenses.¹⁶⁹ Sentence points increase as the offense severity level increases from Level 1 (least severe) to Level 10 (most severe). Sentence points are added for victim injury, and increase based on the type of injury and severity.¹⁷⁰ Sentence points may also be added or multiplied for other factors including possession of a firearm or the commission of certain offenses, such as drug trafficking.¹⁷¹

If total sentence points equal or are less than 44 points, the lowest permissible sentence is any nonstate prison sanction, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.¹⁷² Absent mitigation,¹⁷³ the permissible range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.¹⁷⁴

Currently, a violation of s. 800.03, F.S., is not a felony offense and the Criminal Punishment Code does not apply.

¹⁶² If the person has one or more previous convictions for criminal mischief, the offense shall be reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. S. 806.13(1)(b)4., F.S.

¹⁶³ A person who commits voyeurism and who has been previously convicted or adjudicated delinquent two or more times of voyeurism commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. S. 810.14(3), F.S.

¹⁶⁴ A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. S. 812.014(3)(c), F.S.

¹⁶⁵ s. 921.002, F.S.

¹⁶⁶ s. 921.0022, F.S.

¹⁶⁷ s. 921.0023, F.S., addresses ranking unlisted felony offenses. For example, an unlisted felony of the third degree is ranked within offense level 1.

¹⁶⁸ s. 921.0024, F.S.

¹⁶⁹ Id.

¹⁷⁰ Id.

¹⁷¹ Id.

¹⁷² s. 921.0022(2), F.S.

¹⁷³ The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

¹⁷⁴ s. 921.0022(2), F.S.

Effect of Proposed Changes

HB 7089 creates an enhanced felony offense when a person who has a prior conviction for exposure of sexual organs commits a second or subsequent violation. A second or subsequent offense will be a Level 3, third degree felony punishable by up to 5 years in prison and a fine up to \$5,000.¹⁷⁵ The bill specifies that any determination of guilt resulting from a plea or a trial, regardless of whether adjudication was withheld, qualifies as a conviction for the purposes of determining if the offender has the prior conviction necessary for the felony enhancement.

Additionally, the bill amends s. 921.0022, F.S., to rank the newly created felony offense for a second or subsequent conviction of exposure of sexual organs on the offense severity ranking chart as a level three offense. If a person is convicted of a felony exposure of sexual organs and has no other criminal history, other than the required prior misdemeanor conviction for exposure of sexual organs, he or she would not score a mandatory prison sentence under the Criminal Punishment Code scoresheet. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to prison.¹⁷⁶ It is more likely that an offender who scores a mandatory prison sentence for a conviction on a level three offense would have a number of prior felony convictions or additional secondary offenses.

Attorney Fees in Injunction Proceedings

Background

Protective Injunctions

Protective injunctions are available under Florida law for victims of:

- Domestic violence;¹⁷⁷
- Repeat violence;¹⁷⁸
- Sexual violence;¹⁷⁹
- Dating violence;¹⁸⁰ and
- Stalking.¹⁸¹

A protective injunction may prohibit a person from:

- Going to or being within 500 feet of the petitioner's residence, school, place of employment, or other specified place;
- Committing an act of violence against the petitioner;
- Telephoning, contacting, or otherwise communicating with the petitioner; and
- Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle.¹⁸²

The court may also require a respondent to surrender a firearm, vacate a shared dwelling with the petitioner, or complete a Batterer's Intervention Program.¹⁸³ Violation of a protective injunction is a first degree misdemeanor, punishable by up to 1 year in jail and a \$1,000 fine.¹⁸⁴

¹⁷⁵ A third degree felony is punishable up to five years imprisonment and a \$5,000 fine. SS. 775.082 and 775.083, F.S.

¹⁷⁶ S. 775.082(10), F.S.

¹⁷⁷ S. 741.30, F.S.

¹⁷⁸ S. 784.046.

¹⁷⁹ Id.

¹⁸⁰ Id.

¹⁸¹ S. 784.0485, F.S.

¹⁸² SS. 741.31, 784.047, & 784.0487, F.S.

¹⁸³ Id.; S. 741.30, F.S.

¹⁸⁴ SS. 741.31, 775.082, 775.083, 784.047, & 784.0487, F.S.

Procedure for Obtaining an Injunction

For a domestic violence injunction, the petitioner must allege in a sworn petition that:

- He or she is a victim of domestic violence; repeat, sexual, or dating violence; or stalking; or
- In the case of a petition for a domestic violence injunction, he or she has reasonable cause to believe he or she is in imminent danger of such violence.¹⁸⁵

As soon as possible following the filing of the petition, a court must set a hearing to determine whether an immediate and present danger of the violence alleged exists.¹⁸⁶ Upon finding an immediate and present danger, the court may grant an ex parte temporary injunction for 15 days.¹⁸⁷ A court must then set a hearing with notice to the respondent, and upon such hearing with notice, may grant protective injunctive relief as it deems proper.¹⁸⁸

Attorney's Fees

A court must award a reasonable attorney's fee to be paid by the losing party and the losing party's attorney on any claim or defense during a civil proceeding or action if the court finds that the losing party or losing party's attorney knew or should have known that a claim:

- Was not supported by the material facts necessary to establish the claim or defense; or
- Would not be supported by the application of then-existing law to those material facts.¹⁸⁹

Florida law prohibits attorney fee awards stemming from domestic violence injunction proceedings; however, there is no such explicit prohibition for repeat violence, sexual violence, dating violence, or stalking injunction proceedings. In *Lopez v. Hall*, the Florida Supreme Court held that an award of attorney's fees was permissible in dating, repeat, and sexual violence injunction proceedings, as they were not explicitly prohibited by statute.¹⁹⁰

Effect of the Bill

HB 7089 prohibits the court from awarding attorney fees in injunction proceedings for repeat violence, sexual violence, sexual violence, and stalking.

Mutual Aid Agreements

Background

A mutual aid agreement is an agreement between two or more law enforcement agencies to permit voluntary cooperation in routine matters or to render assistance in the event of a law enforcement emergency.¹⁹¹ A mutual aid agreement must generally be in writing and specify:

- The nature of the assistance to be rendered;
- The agency or entity that will bear liability in certain situations;
- Procedures for requesting and authorizing assistance;
- The agency or entity in charge of supervision;
- The time limit for the agreement;

¹⁸⁵ SS. 741.30(1)(a), 784.046, & 784.0485, F.S.

¹⁸⁶ SS. 741.30(5)(a), 784.046, & 784.0485, F.S.

¹⁸⁷ Id.

¹⁸⁸ S. 741.30(6)(a), 784.046, & 784.0485 F.S.

¹⁸⁹ S. 57.105, F.S.

¹⁹⁰ No. SC16-1921 (January 11, 2018).

¹⁹¹ S. 23.1225(1), F.S.

- The terms of compensation; and
- Any other terms necessary to give effect to the agreement.¹⁹²

If the Governor declares a state of emergency pursuant to chapter 252, F.S., the requirement that an agreement to render emergency assistance be in writing may be waived by the participating agencies for up to 90 days after the Governor's declaration.¹⁹³

Effect of Proposed Changes

HB 7089 specifies that in the event the Governor declares a state of emergency pursuant to chapter 252, F.S., a mutual aid agreement may be used to increase the presence of law enforcement to aid in:

- Traffic and crowd control;
- Emergency response; and
- Evacuation support.

Courthouse Security

Background

County Sheriffs

The Florida Constitution establishes five specific county officers, including the county sheriff.¹⁹⁴ Each sheriff is elected by county voters for a four-year term.¹⁹⁵ Abolishing the office of sheriff or revising the manner in which the sheriff is chosen may be provided by county charter or special law approved by a vote of the electors of the county under certain circumstances.¹⁹⁶

Section 30.15, F.S., provides for the powers and duties of sheriffs. Within their respective counties, sheriffs must, in person or by deputy, among other duties:

- Execute all process of the courts and board of county commissioners;
- Execute all orders of the board of county commissioners;
- Execute other writs, processes, warrants, and papers;
- Act as conservators of the peace and apprehend any person disturbing the peace;
- Suppress riots and unlawful assemblies;
- At the request of the board of county commissioners, attend all board meetings; and
- Attend sessions of the circuit court and county court.¹⁹⁷

If a sheriff fails to attend a session of the court, either in person or by deputy, the judge may appoint an interim sheriff to assume the sheriff's responsibilities and duties.¹⁹⁸ The sheriff is the executive officer of the county court and circuit court of the county.¹⁹⁹

Judicial Administration

¹⁹² Id.

¹⁹³ S. 23.1225(5), F.S.

¹⁹⁴ FLA. CONST. Art. VIII, s. 1.

¹⁹⁵ FLA. CONST. Art. VIII, s. 1(d).

¹⁹⁶ Id.

¹⁹⁷ S. 30.15, F.S.

¹⁹⁸ S. 30.12, F.S.

¹⁹⁹ SS. 26.49 and 34.07, F.S.

The Florida Constitution provides that the chief judge of each judicial circuit is responsible for the administrative supervision of the circuit courts and county courts in the circuit.²⁰⁰ The chief judge has authority to:

- Assign judges;
- Regulate the use of courtrooms;
- Supervise dockets and calendars;
- Require attendance of state attorneys, public defenders, clerks, bailiffs, and other officers of the court;
- Delegate to the trial court administrator the authority to bind the circuit in contract;
- Promote the prompt and efficient administration of justice; and
- Manage, operate, and oversee the jury system.²⁰¹

Failure of any judge, clerk, prosecutor, public defender, or other officer of the court to comply with an order or directive of the chief judge under s. 43.26, F.S., constitutes neglect of duty.²⁰² Additionally, Florida Rule of Judicial Administration 2.215 provides that the chief judge regulates the use of court facilities and directs the formation and implementation of policies and priorities for the operation of all courts and officers within the circuit.²⁰³

Effect of Proposed Changes

HB 7089 amends s. 30.15, F.S., to require the county sheriffs to provide security for trial court facilities. The bill clarifies that county sheriffs and their deputies, employees, and contractors are officers of the court when providing security for court facilities. The bill gives sheriffs the operational control over the manner in which security is provided. The sheriff must coordinate with the chief judge on all matters of security for trial court facilities.

The bill also states that each chief judge:

- Has decision-making authority to ensure the due process rights of all persons are protected; and
- Has authority to schedule and conduct trials and other judicial proceedings.

Community Courts

Background

Problem-solving courts are specialized, non-traditional courts addressing the underlying causes of crime to reduce recidivism and promote rehabilitation. Problem-solving courts build relationships in the community, address each defendant individually, and typically also include:

- A problem-solving team including judges, case managers, prosecutors, defense attorneys, treatment professionals, law enforcement officers, corrections personnel, and other community stakeholders.
- A non-adversarial approach.
- Individualized treatment services.
- Judicial leadership and interaction.
- Responses to defendant compliance.²⁰⁴

²⁰⁰ FLA. CONST. Art. V, s. 2(d).

²⁰¹ S. 43.26, F.S.; see also s. 40.001, F.S.

²⁰² S. 43.26(4), F.S.

²⁰³ Fla. R. Jud. Admin. 2.215(b).

²⁰⁴ <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/index.stml> (last visited Feb. 12, 2018).

Florida created the first drug court in the United States in Miami-Dade County in 1989.²⁰⁵ Today, Florida has over 170 problem-solving courts, including:

- Adult drug courts.
- Juvenile drug courts.
- Family dependency drug courts.
- Veterans' courts.
- Mental health courts.
- Early childhood courts.
- Permanency courts.
- DUI courts.²⁰⁶

Effect of Proposed Changes

HB 7089 allows each judicial circuit, in its discretion, to establish a community court program for defendants charged with certain misdemeanors. The chief judge of the circuit must issue an administrative order specifying what types of misdemeanor crimes will be addressed by the community court. In making the determination of which crimes to include, the chief judge must consider the needs and concerns of the communities within the circuit. This allows each judicial circuit to adapt its community court to its own particular needs. State government agencies involved in the criminal justice system are required to support community court programs, and entry into the program is voluntary for defendants. The bill requires each community court to:

- Adopt a non-adversarial approach;
- Establish an advisory committee to make recommendations in each case;
- Consider the needs of the victim;
- Consider individualized treatment services for the defendant;
- Provide for judicial leadership and interaction; and
- Monitor each defendant's compliance with the program.

Additionally, each community court must have a resource coordinator, to:

- Coordinate the participating agencies and service providers;
- Provide case management services;
- Monitor defendants' compliance with the program; and
- Manage data collection.

Each community court must also have an advisory committee selected by the chief judge and consisting, at a minimum, of:

- The chief judge or a judge designated by the chief judge (serving as chair);
- The state attorney;
- The public defender; and
- The resource coordinator.

The chief judge may appoint additional committee members, consisting of community stakeholders, treatment representatives, or any other persons the chair deems appropriate. The advisory committee reviews each defendant's case and makes recommendations to the judge for appropriate sanctions and treatment solutions. The judge has final decision making authority.

The bill requires each judicial circuit to report certain data to the Office of State Courts Administrator to support community court program evaluation. A community court program must be funded by sources

²⁰⁵ Id.

²⁰⁶ Id.

other than the state, except for costs already assumed by the state under s. 29.004, F.S.²⁰⁷ Funds provided by executive branch agencies for treatment and other services may also be used.

The bill provides an effective date of October 1, 2018.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 23.1225, F.S., relating to mutual aid agreements.
- Section 2:** Amends s. 30.15, F.S., relating to powers, duties, and obligations.
- Section 3:** Amends s. 57.105, F.S., relating to attorney's fee; sanctions for raising unsupported claims or defenses; exceptions; service of motions; damages for delay of litigation.
- Section 4:** Creates s. 322.75, F.S., relating to Driver License Reinstatement Days.
- Section 5:** Amends s. 784.046, F.S., relating to action by victim of repeat violence, sexual violence, or dating violence for protective injunction; dating violence investigations, notice to victims, and reporting; pretrial release violations; public records exemption.
- Section 6:** Amends s. 784.0485, F.S., relating to stalking; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.
- Section 7:** Amends s. 800.03, F.S., relating to exposure of sexual organs.
- Section 8:** Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
- Section 9:** Amends s. 944.704, F.S., relating to staff who provide transition assistance; duties.
- Section 10:** Amends s. 944.705, F.S., relating to release orientation program.
- Section 11:** Amends s. 944.801, F.S., relating to education for state prisoners.
- Section 12:** Creates s. 944.805, F.S., relating to certificate of achievement and employability; definitions.
- Section 13:** Creates s. 944.8055 F.S., relating to certificate of achievement and employability; eligibility.
- Section 14:** Creates s. 944.806, F.S., relating to certificate of achievement and employability; effect.
- Section 15:** Creates s. 944.8065, F.S., relating to certificate of achievement and employability; revocation.
- Section 16:** Amends s. 948.001, F.S., relating to definitions.
- Section 17:** Amends s. 948.013, F.S., relating to administrative probation.
- Section 18:** Amends s. 948.03, F.S., relating to terms and conditions of probation.
- Section 19:** Amends s. 948.06, F.S., relating to violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.
- Section 20:** Creates s. 948.081, F.S., relating to community court programs.
- Section 21:** Reenacts s. 447.203, F.S., relating to definitions.
- Section 22:** Reenacts s. 794.056, F.S., relating to the Rape Crisis Program Trust Fund.
- Section 23:** Reenacts s. 914.16, F.S., relating to child abuse and sexual abuse of victims under age of 16 or who have an intellectual disability; limits on interviews.
- Section 24:** Reenacts s. 933.18, F.S., relating to when warrant may be issued for search of private dwelling.
- Section 25:** Reenacts s. 938.085, F.S., relating to additional cost to fund rape crisis centers.
- Section 26:** Reenacts s. 943.051, F.S., relating to criminal justice information; collection and storage; fingerprinting.
- Section 27:** Reenacts s. 944.026, F.S., relating to community-based facilities and programs.
- Section 28:** Reenacts s. 944.4731, F.S., relating to Addiction-Recovery Supervision Program.
- Section 29:** Reenacts s. 985.11, F.S., relating to fingerprinting and photographing.
- Section 30:** Reenacts s. 985.441, F.S., relating to commitment.

²⁰⁷ This section provides that the general costs of running the court system (including providing for judges, jurors, court facilities, court administrators, and other needs) are funded from state revenues appropriated by general law.

Section 31: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Alternative Sanctioning Program

In Fiscal Year 2016-17, 5,443 technical violators were sentenced to prison.²⁰⁸ The alternative sanctioning program would apply to certain technical violators and result in greater non-prison sanctions for these violators. It is unknown how many of these technical violators would be eligible for the alternative sanctioning program or how many would volunteer for the program. The Criminal Justice Impact Conference (CJIC) considered this bill on February 19, 2018, and determined creating a statewide alternative sanctioning program will have a negative significant impact on the prison population, which is a decrease of more than 25 prison beds.

Probation and FCIC

The bill requires FDC to submit additional information to FCIC if the court modifies conditions of probation. This requirement will cost the department a nonrecurring amount of \$6,800 to modify their existing data feed to FDLE and a nonrecurring amount of \$13,600 to modify the Offender Based Information System.²⁰⁹ It is anticipated that these fiscal impacts can be absorbed within existing resources.

Entrepreneurship Program

The bill allows the FDC to develop an entrepreneurship program. If the department elects to do so, the bill requires the program to be implemented within existing resources. In its analysis, the department identifies the need to have one Correctional Services Consultant to coordinate program services at a total cost of \$68,989 (\$64,440 recurring; \$4,549 nonrecurring) and a recurring cost of \$200,000 to implement and provide services at one location.²¹⁰

Transition Assistance

The bill has a fiscal impact to FDC for the provisions relating to transition assistance. The department indicates that Transition Assistant Specialists have not been funded since 2003. To implement the provisions in the bill, the department indicates a need for 13 Correctional Services Assistant Consultant positions at a total cost of \$834,119 (\$774,982 recurring; \$59,137 nonrecurring).²¹¹

Currently, the FDC does not have the programming capability to provide for nonprofit faith-based, business and professional, civic or community organizations to apply to be registered to provide

²⁰⁸ Criminal Justice Impact Conference, February 19, 2018, available at: <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/PCBJDC1803.pdf>.

²⁰⁹ Florida Department of Corrections, Agency Analysis of 2018 HB 7089, pg. 8 (February, 20, 2018)

²¹⁰ Florida Department of Corrections, Agency Analysis of 2018 HB 7089, pg. 4 (February, 20, 2018)

²¹¹ Florida Department of Corrections, Agency Analysis of 2018 HB 7089, pg. 3 (February, 20, 2018)

inmate reentry services. In order to accomplish this, a new system/web portal would need to be created or purchased. The FDC indicates that the cost to create a new system/web portal is indeterminate and may require a procurement to identify possible solutions.²¹²

Certificate of Achievement and Employment

The bill requires FDC to fund the certificate of achievement and employability program within existing resources. The department indicates it will cost \$207,825 to develop a system to transmit the necessary information to the various licensing agencies in the state including the Department of Business and Regulation and the Agency for Healthcare Administration.

Exposure of Sexual Organs

In Fiscal Year 2016-17, 36 offenders were convicted for a repeat offense of exposure of sexual organs.²¹³ The incarceration rate for a level 3, third degree felony was 10.9% in Fiscal Year 2016-17. The Criminal Justice Impact Conference (CJIC) considered this bill on February 19, 2018, and determined the exposure of sexual organs enhancement will have a positive insignificant impact on prison populations, which means an increase of 10 or fewer prison beds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Probation

The bill establishes a statewide Alternative Sanctioning Program (ASP) that may decrease the need for jail beds, as more violations may be resolved through the ASP rather than through revocation of probation and fewer individuals are incarcerated pending court resolutions to probation violations. However, one of the alternative sanctions for a violation is up to 5 days in a county jail for a low-risk violation and up to 21 days for a moderate-risk violation. This section has an indeterminate fiscal impact on local government.

Courthouse Security

Currently, a sheriff must provide security at any court facility, which includes office space relating to court administration. By limiting the sheriff's responsibility to "trial court facilities," the bill may reduce the fiscal impact to local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certificate of Achievement and Employability

The bill may result in a greater number of state prisoners being able to find employment upon release from incarceration. This could have an indeterminate positive impact on the private sector.

²¹² Florida Department of Corrections, Agency Analysis of 2018 HB 7089, pg. 8 (February, 20, 2018)

²¹³ Criminal Justice Impact Conference, February 19, 2018, available at: <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/PCBJDC1803.pdf>.

Attorney Fees

The bill also prohibits the court from awarding attorney fees in proceedings for protective injunctions for repeat, sexual, or dating violence or stalking. This change may have an indeterminate, but likely insignificant, impact on attorneys.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

The Department of Corrections notes in its analysis that, "There could be a separation of powers issue with the alternative sanctions program as expanded in the bill. Although the sanctions may be subject to court review, the bill could, in practice, be determined to grant probation officers excessive authority to impose a variety of sanctions without sufficient input from a judge."²¹⁴

B. RULE-MAKING AUTHORITY:

The bill provides appropriate rulemaking authority to FDC to implement the release orientation programs and certificates of achievement and employability.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Florida Department of Corrections (FDC) does not monitor inmates after release from prison, unless there is a specific judicial order of post-release supervision. The bill requires the department to revoke a certificate of achievement and employability, if the certificate holder is convicted or pleads guilty to a felony. Unless a court sentences the certificate holder to prison or state probation, the department may not know of a new felony conviction.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 15, 2018, the Judiciary Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Required that the certificate of achievement and employability program be funded within the Department of Corrections' existing resources; and
- Specified that administrative probation may be imposed by court order or transfer by the Department of Corrections.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.

1 A bill to be entitled
2 An act relating to public safety; amending s. 23.1225,
3 F.S.; authorizing a mutual aid agreement for certain
4 law enforcement purposes during a declared state of
5 emergency; amending s. 30.15, F.S.; requiring sheriffs
6 to provide security for trial court facilities in
7 their respective counties and coordinate such security
8 with certain judges; providing that sheriffs and their
9 deputies, employees, and contractors are officers of
10 the court when providing such security; granting
11 certain judges decisionmaking authority to protect due
12 process rights in certain circumstances; amending s.
13 57.105, F.S.; limiting attorney fees in civil
14 proceedings in certain circumstances; creating s.
15 322.75, F.S.; requiring each judicial circuit to
16 establish a Driver License Reinstatement Days program
17 for reinstating suspended driver licenses in certain
18 circumstances; providing duties of the clerks of the
19 circuit courts and the Department of Highway Safety
20 and Motor Vehicles; authorizing such clerks to
21 compromise on or waive certain fees and costs;
22 providing eligibility requirements for such program;
23 amending ss. 784.046 and 784.0485, F.S.; prohibiting
24 attorney fees from being awarded in certain
25 proceedings; amending s. 800.03, F.S.; providing

26 | increased penalties for a second or subsequent
 27 | violation of exposing or exhibiting one's sexual
 28 | organs; providing a definition; amending s. 921.0022,
 29 | F.S.; ranking such violation on the Offense Severity
 30 | Ranking Chart of the Criminal Punishment Code;
 31 | amending s. 944.704, F.S.; requiring transition
 32 | assistance specialists to identify job assignment
 33 | credentialing or industry certifications for which
 34 | inmates are eligible; amending s. 944.705, F.S.;
 35 | requiring the Department of Corrections to provide a
 36 | reentry resource directory to each inmate before his
 37 | or her release; authorizing certain organizations to
 38 | apply for registration with the department to provide
 39 | inmate reentry services; requiring the department to
 40 | adopt policies and procedures for screening,
 41 | approving, and registering such organizations;
 42 | authorizing the department to contract with certain
 43 | clinics at public or private educational institutions
 44 | to assist veteran inmates in applying for benefits;
 45 | requiring the department to adopt rules; amending s.
 46 | 944.801, F.S.; authorizing the Correctional Education
 47 | Program to establish a Prison Entrepreneurship Program
 48 | and adopt certain procedures; authorizing the
 49 | department to develop such program; providing
 50 | requirements for such program; requiring the

51 department to enter into agreements with certain
 52 entities to implement the program; providing for
 53 funding for such program; creating s. 944.805, F.S.;
 54 providing definitions relating to a certificate of
 55 achievement and employability; creating s. 944.8055,
 56 F.S.; providing eligibility requirements and an
 57 application timeframe for such certificate; requiring
 58 the department to notify a licensing agency in certain
 59 circumstances; authorizing the department to issue
 60 such certificate; providing that such certificate does
 61 not affect certain mandatory civil impacts; providing
 62 for funding for such certificate; requiring the
 63 department to adopt rules; creating s. 944.806, F.S.;
 64 providing that such certificate converts a mandatory
 65 civil impact into a discretionary civil impact for
 66 certain purposes; creating s. 944.8065, F.S.;
 67 requiring the department to adopt certain rules;
 68 amending s. 948.001, F.S.; revising a definition;
 69 amending s. 948.013, F.S.; authorizing the department
 70 to transfer an offender to administrative probation in
 71 certain circumstances; amending s. 948.03, F.S.;
 72 requiring the department to include conditions of
 73 probation in the Florida Crime Information Center
 74 system; amending s. 948.06, F.S.; requiring each
 75 judicial circuit to establish an alternative

76 | sanctioning program; providing definitions;
 77 | establishing permissible sanctions for low-risk and
 78 | moderate-risk violations of probation under such
 79 | program; providing eligibility requirements for such
 80 | program; authorizing certain actions by a probationer
 81 | or offender on community control who is eligible for
 82 | such program; requiring a probation officer to submit
 83 | the recommended sanction and certain documentation to
 84 | the court in certain circumstances; authorizing the
 85 | court to impose the recommended sanction or direct the
 86 | department to perform certain actions; specifying that
 87 | participation in such program is voluntary;
 88 | authorizing a probation officer to perform certain
 89 | actions in certain circumstances; creating s. 948.081,
 90 | F.S.; authorizing the establishment of community court
 91 | programs; providing requirements for such programs;
 92 | reenacting ss. 447.203(2), 794.056(1), 914.16,
 93 | 933.18(7), 938.085, 943.051(3)(b), 944.026(3)(a),
 94 | 944.4731(6), 985.11(1)(b), and 985.441(2)(c), F.S.,
 95 | relating to definitions regarding labor organizations,
 96 | the Rape Crisis Program Trust Fund, limits on
 97 | interviews of child abuse and sexual abuse victims
 98 | under age 16 or who have an intellectual disability,
 99 | when a warrant may be issued for search of a private
 100 | dwelling, additional cost to fund rape crisis centers,

101 the collection and storage of criminal justice
 102 information and fingerprinting of minors, community-
 103 based facilities and programs, the Addiction-Recovery
 104 Supervision Program, fingerprinting and photographing
 105 of children, and commitment, respectively, to
 106 incorporate amendments made by the act; providing an
 107 effective date.

108

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

110

111 Section 1. Subsection (5) of section 23.1225, Florida
 112 Statutes, is amended to read:

113 23.1225 Mutual aid agreements.—

114 (5) In the event of a disaster or emergency such that a
 115 state of emergency is declared by the Governor pursuant to
 116 chapter 252, a mutual aid agreement may be used to increase the
 117 presence of law enforcement to aid in traffic and crowd control,
 118 emergency response, and evacuation support. The requirement that
 119 a requested operational assistance agreement be a written
 120 agreement for rendering of assistance in a law enforcement
 121 emergency may be waived by the participating agencies for a
 122 period of up to 90 days from the declaration of the disaster.

123 (a) When a law enforcement agency lends assistance
 124 pursuant to this subsection, all powers, privileges, and
 125 immunities listed in s. 23.127, except with regard to interstate

126 mutual aid agreements, apply to the agency or entity, if the law
 127 enforcement employees rendering services are being requested and
 128 coordinated by the affected local law enforcement executive in
 129 charge of law enforcement operations.

130 (b) A listing of such agencies or entities and the
 131 officers and employees of such agencies or entities rendering
 132 assistance pursuant to this subsection must be maintained by the
 133 agency or entity requesting such assistance and filed at the end
 134 of the 90-day period with the Florida Department of Law
 135 Enforcement.

136 Section 2. Subsection (4) is added to section 30.15,
 137 Florida Statutes, to read:

138 30.15 Powers, duties, and obligations.-

139 (4) (a) Sheriffs, in their respective counties, shall
 140 provide security for trial court facilities. Sheriffs shall
 141 coordinate with the chief judge of the judicial circuit in which
 142 their county is located on all security matters for such
 143 facilities, but they shall retain operational control over the
 144 manner in which such security is provided.

145 (b) Pursuant to s. 26.49, sheriffs and their deputies,
 146 employees, and contractors are officers of the court when
 147 providing security for trial court facilities under this
 148 subsection.

149 (c) The chief judge of the judicial circuit shall have
 150 decisionmaking authority to ensure the protection of due process

151 rights, including, but not limited to, the scheduling and
 152 conduct of trials and other judicial proceedings, as part of his
 153 or her responsibility for the administrative supervision of the
 154 trial courts pursuant to s. 43.26.

155 Section 3. Subsection (1) of section 57.105, Florida
 156 Statutes, is amended to read:

157 57.105 Attorney ~~Attorney's~~ fee; sanctions for raising
 158 unsupported claims or defenses; exceptions; service of motions;
 159 damages for delay of litigation.—

160 (1) Unless otherwise provided, upon the court's initiative
 161 or motion of any party, the court shall award a reasonable
 162 attorney's fee, including prejudgment interest, to be paid to
 163 the prevailing party in equal amounts by the losing party and
 164 the losing party's attorney on any claim or defense at any time
 165 during a civil proceeding or action in which the court finds
 166 that the losing party or the losing party's attorney knew or
 167 should have known that a claim or defense when initially
 168 presented to the court or at any time before trial:

169 (a) Was not supported by the material facts necessary to
 170 establish the claim or defense; or

171 (b) Would not be supported by the application of then-
 172 existing law to those material facts.

173 Section 4. Section 322.75, Florida Statutes, is created to
 174 read:

175 322.75 Driver License Reinstatement Days.—

176 (1) Each judicial circuit shall establish a Driver License
 177 Reinstatement Days program for reinstating suspended driver
 178 licenses. Participants shall include the Department of Highway
 179 Safety and Motor Vehicles, the state attorney's office, the
 180 public defender's office, the circuit and county courts, the
 181 clerk of the circuit court, and any interested community
 182 organization.

183 (2) The clerk of the circuit court, in consultation with
 184 other participants, shall select one or more days for an event
 185 at which a person may have his or her driver license reinstated.
 186 A person must pay the full license reinstatement fee; however,
 187 the clerk may compromise on or waive other fees and costs to
 188 facilitate reinstatement.

189 (3) (a) A person is eligible for reinstatement under the
 190 program if his or her driver license was suspended due to:

- 191 1. Driving without a valid driver license;
- 192 2. Driving with a suspended driver license;
- 193 3. Failing to make a payment on penalties in collection;
- 194 4. Failing to appear in court for a traffic violation; or
- 195 5. Failing to comply with provisions of chapter 318 or
 196 this chapter.

197 (b) Notwithstanding paragraphs (4) (a)-(c), a person is
 198 eligible for reinstatement under the program if the period of
 199 suspension or revocation has elapsed, the person has completed
 200 any required course or program as described in paragraph (4) (c),

201 and the person is otherwise eligible for reinstatement.

202 (4) A person is not eligible for reinstatement under the
 203 program if his or her driver license is suspended or revoked due
 204 to:

205 (a) Failing to fulfill a court-ordered child support
 206 obligation;

207 (b) A violation of s. 316.193;

208 (c) Not completing a driver training program, driver
 209 improvement course, or alcohol or substance abuse education or
 210 evaluation program required under s. 316.192, s. 316.193, s.
 211 322.2616, s. 322.264, or s. 322.271;

212 (d) A traffic-related felony; or

213 (e) Being a habitual traffic offender under s. 322.264.

214 (5) The clerk of the circuit court and the Department of
 215 Highway Safety and Motor Vehicles shall verify any information
 216 necessary for reinstatement of a driver license under the
 217 program.

218 Section 5. Paragraph (f) is added to subsection (2) of
 219 section 784.046, Florida Statutes, to read:

220 784.046 Action by victim of repeat violence, sexual
 221 violence, or dating violence for protective injunction; dating
 222 violence investigations, notice to victims, and reporting;
 223 pretrial release violations; public records exemption.—

224 (2) There is created a cause of action for an injunction
 225 for protection in cases of repeat violence, there is created a

226 separate cause of action for an injunction for protection in
 227 cases of dating violence, and there is created a separate cause
 228 of action for an injunction for protection in cases of sexual
 229 violence.

230 (f) Notwithstanding any other law, attorney fees may not
 231 be awarded in any proceeding under this section.

232 Section 6. Paragraph (d) is added to subsection (2) of
 233 section 784.0485, Florida Statutes, to read:

234 784.0485 Stalking; injunction; powers and duties of court
 235 and clerk; petition; notice and hearing; temporary injunction;
 236 issuance of injunction; statewide verification system;
 237 enforcement.-

238 (2)

239 (d) Notwithstanding any other law, attorney fees may not
 240 be awarded in any proceeding under this section.

241 Section 7. Section 800.03, Florida Statutes, is amended to
 242 read:

243 800.03 Exposure of sexual organs.-

244 (1)(a) It is unlawful to expose or exhibit one's sexual
 245 organs in public or on the private premises of another, or so
 246 near thereto as to be seen from such private premises, in a
 247 vulgar or indecent manner, or to be naked in public except in
 248 any place provided or set apart for that purpose. A mother's
 249 breastfeeding of her baby does not under any circumstances
 250 violate this section.

251 (b) Except as provided in subsection (2), a violation of
 252 this section is a misdemeanor of the first degree, punishable as
 253 provided in s. 775.082 or s. 775.083. ~~A mother's breastfeeding~~
 254 ~~of her baby does not under any circumstance violate this~~
 255 ~~section.~~

256 (2) A person who commits a second or subsequent violation
 257 of this section commits a felony of the third degree, punishable
 258 as provided in s. 775.082, s. 775.083, or s. 775.084. For
 259 purposes of this subsection, the term "conviction" means a
 260 determination of guilt that is the result of a plea or a trial,
 261 regardless of whether adjudication is withheld or a plea of nolo
 262 contendere is entered.

263 Section 8. Paragraph (c) of subsection (3) of section
 264 921.0022, Florida Statutes, is amended to read:

265 921.0022 Criminal Punishment Code; offense severity
 266 ranking chart.—

267 (3) OFFENSE SEVERITY RANKING CHART

268 (c) LEVEL 3

269

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.

270

271	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
272	316.193(2) (b)	3rd	Felony DUI, 3rd conviction.
273	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
274	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
275	319.33(1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
276	319.33(1) (c)	3rd	Procure or pass title on stolen vehicle.
277	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained

			title or registration.
278	327.35(2)(b)	3rd	Felony BUI.
279	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
280	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
281	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
282	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle

283	379.2431 (1) (e) 6.	3rd	Protection Act. Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
284	379.2431 (1) (e) 7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
285	400.9935(4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
286	400.9935(4) (e)	3rd	Filing a false license application or other required information or failing to report information.
287	440.1051(3)	3rd	False report of workers' compensation fraud or

			retaliation for making such a report.
288	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
289	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
290	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
291	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
292	697.08	3rd	Equity skimming.
293	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
294			

295	<u>800.03(2)</u>	<u>3rd</u>	<u>Second or subsequent exposure of sexual organs.</u>
296	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
297	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
298	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
299	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
300	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
	815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.

309	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
310	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
311	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
312	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
313	843.19	3rd	Injure, disable, or kill police dog or horse.
314	860.15 (3)	3rd	Overcharging for repairs and parts.
315	870.01 (2)	3rd	Riot; inciting or encouraging.

316	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
317	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
318	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled

			substances.
319	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
320	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
321	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
322	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
323	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
324			

325	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
326	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
327	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a

monetary benefit for the practitioner.

328

918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.

329

944.47 (1)(a)1. & 2. 3rd Introduce contraband to correctional facility.

330

944.47(1)(c) 2nd Possess contraband while upon the grounds of a correctional institution.

331

985.721 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

332

333 Section 9. Subsection (3) of section 944.704, Florida
334 Statutes, is amended to read:

335 944.704 Staff who provide transition assistance; duties.—

336 The department shall provide a transition assistance specialist
337 at each of the major institutions whose duties include, but are
338 not limited to:

339 (3) Obtaining job placement information, which must

340 include identifying any job assignment credentialing or industry
 341 certifications for which an inmate is eligible.

342

343 The transition assistance specialist may not be a correctional
 344 officer or correctional probation officer as defined in s.
 345 943.10.

346 Section 10. Subsections (3) through (5) of section
 347 944.705, Florida Statutes, are renumbered as subsections (4)
 348 through (6), respectively, subsection (6) is renumbered as
 349 subsection (10), and new subsections (3), (7), (8), (9), and
 350 (11) are added to that section to read:

351 944.705 Release orientation program.—

352 (3) Before an inmate's release, the department shall
 353 provide the inmate with a comprehensive community reentry
 354 resource directory organized by county that includes the name,
 355 address, and telephone number of each provider and a description
 356 of services offered by each provider. The directory must also
 357 include the name, address, and telephone number of existing
 358 starting points for using such resources.

359 (7) A nonprofit faith-based business and professional,
 360 civic, or community organization may apply for registration with
 361 the department to provide inmate reentry services. Reentry
 362 services include, but are not limited to, counseling; providing
 363 information on housing and job placement; money management
 364 assistance; and programs addressing substance abuse, mental

365 health, or co-occurring conditions.

366 (8) The department shall adopt policies and procedures for
 367 screening, approving, and registering an organization that
 368 applies under subsection (7). The department may deny approval
 369 and registration of an organization or a representative of an
 370 organization if it determines that the organization or
 371 representative does not meet the department's policies or
 372 procedures.

373 (9) The department may contract with a public or private
 374 educational institution's Veterans Advocacy Clinic or Veterans
 375 Legal Clinic to assist qualified veteran inmates in applying for
 376 veteran's benefits upon release.

377 (11) The department shall adopt rules to implement this
 378 section.

379 Section 11. Subsections (4) and (5) of section 944.801,
 380 Florida Statutes, are renumbered as subsections (5) and (6),
 381 respectively, and a new subsection (4) is added to that section
 382 to read:

383 944.801 Education for state prisoners.—

384 (4) The Correctional Education Program may establish a
 385 Prison Entrepreneurship Program and adopt procedures for
 386 admitting student inmates. If the department elects to develop
 387 the program, it must include at least 180 days of in-prison
 388 education. Program curriculum must include a component on
 389 developing a business plan, procedures for graduation and

390 certification of successful student inmates, and at least 90
 391 days of transitional and postrelease continuing education
 392 services. Transitional and postrelease continuing education
 393 services may be offered to graduate student inmates on a
 394 voluntary basis and shall not be a requirement for completion of
 395 the program. The department shall enter into agreements with
 396 public or private colleges, universities, or other nonprofit
 397 entities to implement the program. The program shall be funded
 398 within existing resources.

399 Section 12. Section 944.805, Florida Statutes, is created
 400 to read:

401 944.805 Certificate of achievement and employability;
 402 definitions.-

403 (1) As used in this section and ss. 944.8055-944.8065, the
 404 term:

405 (a) "Discretionary civil impact" means any state statute
 406 or rule that creates a penalty, disability, or disadvantage to
 407 which all of the following apply:

408 1. The impact is triggered in whole or in part by a
 409 person's conviction of an offense, whether or not the penalty,
 410 disability, or disadvantage is included in the judgment or
 411 sentence.

412 2. The impact is imposed on a person, licensing agency, or
 413 employer.

414 3. The impact permits, but does not require, a convicted

415 person's license to be denied or revoked, permits a licensing
 416 agency to deny or revoke a convicted person's license or
 417 certification, or permits a business to refuse to employ a
 418 convicted person.

419

420 The term does not include imprisonment, probation, parole,
 421 supervised release, forfeiture, restitution, fine, assessment,
 422 or costs of prosecution.

423 (b) "Eligible inmate" means a person serving a prison term
 424 in a state correctional institution, or a person under the
 425 supervision of the department on probation or under a
 426 postrelease control sanction, who is eligible to apply to the
 427 department for a certificate of achievement and employability.

428 (c) "Licensing agency" means any regulatory or licensing
 429 entity with authority to issue, suspend, or revoke any
 430 professional license or certification.

431 (d) "Mandatory civil impact" means any state statute or
 432 rule that creates a penalty, disability, or disadvantage to
 433 which all of the following apply:

434 1. The impact is triggered automatically solely by a
 435 person's conviction of an offense, whether or not the penalty,
 436 disability, or disadvantage is included in the judgment or
 437 sentence.

438 2. The impact is imposed on a person, licensing agency, or
 439 employer.

440 3. The impact precludes a convicted person from
 441 maintaining or obtaining licensure or employment, precludes a
 442 licensing agency from issuing a license or certification to a
 443 convicted person, or precludes a business from being certified
 444 or from employing a convicted person.

445
 446 The term does not include imprisonment, probation, parole,
 447 supervised release, forfeiture, restitution, fine, assessment,
 448 or costs of prosecution.

449 Section 13. Section 944.8055, Florida Statutes, is created
 450 to read:

451 944.8055 Certificate of achievement and employability;
 452 eligibility.-

453 (1) An eligible inmate may apply to the department at a
 454 time specified in paragraph (2)(a) for a certificate of
 455 achievement and employability if the inmate:

456 (a) Has satisfactorily completed one or more in-prison
 457 vocational programs approved by the department.

458 (b) Has demonstrated exemplary performance as determined
 459 by completion of one or more cognitive or behavioral improvement
 460 programs approved by the department while incarcerated in a
 461 state correctional institution or under supervision, or during
 462 both periods of time.

463 (c) Shows other evidence of achievement and
 464 rehabilitation.

465 (d) Is not currently serving a sentence for or has not
 466 been previously convicted of a violation of a dangerous crime as
 467 defined in s. 907.041, or a violation specified as a predicate
 468 offense for registration as a sexual predator under s. 775.21 or
 469 for registration as a sexual offender under s. 943.0435.

470 (2) (a) An eligible inmate may apply for a certificate of
 471 achievement and employability no earlier than 1 year before the
 472 date of his or her release from department custody and no later
 473 than the actual date of his or her release.

474 (b) An inmate released from a state correctional
 475 institution, or a person under the supervision of the department
 476 on probation or postrelease control sanction, who satisfies all
 477 the criteria set forth in subsection (1) is eligible to apply to
 478 the department for a certificate of achievement and
 479 employability at any time while under supervision or postrelease
 480 control sanction.

481 (3) When applying for a certificate of achievement and
 482 employability, an eligible inmate shall specify the mandatory
 483 civil impacts for which he or she is seeking relief through such
 484 certificate. If a mandatory civil impact of a licensing agency
 485 is affected by issuing such certificate, the department shall
 486 notify the licensing agency, provide the licensing agency with a
 487 copy of the application and documentation that the department
 488 has concerning the eligible inmate, and afford the licensing
 489 agency an opportunity to object in writing to issuing such

490 certificate.

491 (4) The department shall consider the eligible inmate's
 492 application and all objections to issuing the certificate of
 493 achievement and employability. If the department determines that
 494 the inmate is eligible, the application was filed timely, and
 495 all objections to issuing such certificate are insufficient, it
 496 shall issue such certificate to the eligible inmate.

497 (5) A certificate of achievement or employability does not
 498 affect the mandatory civil impacts under s. 4, Art. VI of the
 499 State Constitution or ss. 775.13, 775.21, 943.0435, and 944.292.

500 (6) The department is not liable for a claim for damages
 501 arising from issuing, denying, or revoking a certificate of
 502 achievement and employability or for failing to revoke such
 503 certificate under the circumstances described in s. 944.8065.

504 (7) The certificate of achievement and employability
 505 program shall be funded within existing resources.

506 (8) The department shall adopt rules to implement this
 507 section.

508 Section 14. Section 944.806, Florida Statutes, is created
 509 to read:

510 944.806 Certificate of achievement and employability;
 511 effect.—

512 (1) A certificateholder who applies to a licensing agency
 513 and has a conviction or guilty plea that otherwise would bar
 514 licensure or certification because of a mandatory civil impact

515 shall be given individualized consideration by the licensing
 516 agency. Such certificate constitutes a rebuttable presumption
 517 that the certificateholder's conviction alone is insufficient
 518 evidence that he or she is unfit for the license or
 519 certification. Notwithstanding the presumption established under
 520 this section, the licensing agency may deny the license or
 521 certification if it determines that the certificateholder is
 522 unfit for licensure or certification after considering all
 523 relevant facts and circumstances.

524 (2) If an employer that has hired a certificateholder
 525 applies to a licensing agency and the certificateholder has a
 526 conviction or guilty plea that otherwise would bar his or her
 527 employment with the employer, or would bar the employer's
 528 licensure or certification because of a mandatory civil impact,
 529 the agency shall give the certificateholder individualized
 530 consideration for licensure or certification. The mandatory
 531 civil impact shall be deemed a discretionary civil impact, and
 532 such certificate constitutes a rebuttable presumption that the
 533 certificateholder's criminal convictions are insufficient
 534 evidence that he or she is unfit for the employment, or that the
 535 employer is unfit for the licensure or certification. The agency
 536 may deny the employer licensure or certification if it
 537 determines that the certificateholder is unfit for employment or
 538 that the employer is unfit for licensure or certification.

539 Section 15. Section 944.8065, Florida Statutes, is created

540 to read:

541 944.8065 Certificate of achievement and employability;
 542 revocation.—The department shall adopt rules governing
 543 revocation of a certificate of achievement and employability
 544 issued under s. 944.8055. The rules shall, at a minimum, require
 545 revocation if a certificateholder is convicted of or pleads
 546 guilty to a felony. The department shall determine which
 547 additional offenses require revocation taking into consideration
 548 the nature of the offense and the employment of a
 549 certificateholder.

550 Section 16. Subsection (1) of section 948.001, Florida
 551 Statutes, is amended to read:

552 948.001 Definitions.—As used in this chapter, the term:

553 (1) "Administrative probation" means a form of no contact,
 554 nonreporting supervision that may be imposed by order of the
 555 court or transfer by the Department of Corrections as provided
 556 in s. 948.013 in which an offender who presents a low risk of
 557 ~~harm to the community may, upon satisfactory completion of half~~
 558 ~~the term of probation, be transferred by the Department of~~
 559 ~~Corrections to this type of reduced level of supervision, as~~
 560 ~~provided in s. 948.013.~~

561 Section 17. Subsection (1) of section 948.013, Florida
 562 Statutes, is amended to read:

563 948.013 Administrative probation.—

564 (1) The Department of Corrections may transfer an offender

565 to administrative probation if he or she presents a low risk of
 566 harm to the community and has satisfactorily completed at least
 567 half of his or her probation term. The department ~~of Corrections~~
 568 may establish procedures for transferring an offender to
 569 administrative probation. The department may collect an initial
 570 processing fee of up to \$50 for each probationer transferred to
 571 administrative probation. The offender is exempt from further
 572 payment for the cost of supervision as required in s. 948.09.

573 Section 18. Subsection (3) is added to section 948.03,
 574 Florida Statutes, to read:

575 948.03 Terms and conditions of probation.—

576 (3) The Department of Corrections shall include all
 577 conditions of probation for each probationer, as determined by
 578 the court, in the Florida Crime Information Center system.

579 Section 19. Paragraphs (c) through (g) of subsection (1)
 580 of section 948.06, Florida Statutes, are redesignated as
 581 paragraphs (d) through (h), respectively, present paragraph (h)
 582 of that subsection is amended, paragraph (c) is added to
 583 subsection (1), and subsection (9) is added to that section, to
 584 read:

585 948.06 Violation of probation or community control;
 586 revocation; modification; continuance; failure to pay
 587 restitution or cost of supervision.—

588 (1)

589 (c) If a probationer or offender on community control

590 commits a technical violation, the probation officer shall
 591 determine whether he or she is eligible for the alternative
 592 sanctioning program under subsection (9). If the probationer or
 593 offender on community control is eligible, the probation officer
 594 may proceed with the alternative sanctioning program in lieu of
 595 filing an affidavit of violation with the court. For purposes of
 596 this section, the term "technical violation" means an alleged
 597 violation of supervision that is not a new felony offense,
 598 misdemeanor offense, or criminal traffic offense.

599 ~~(h)1. The chief judge of each judicial circuit, in~~
 600 ~~consultation with the state attorney, the public defender, and~~
 601 ~~the department, may establish an alternative sanctioning program~~
 602 ~~in which the department, after receiving court approval, may~~
 603 ~~enforce specified sanctions for certain technical violations of~~
 604 ~~supervision. For purposes of this paragraph, the term "technical~~
 605 ~~violation" means any alleged violation of supervision that is~~
 606 ~~not a new felony offense, misdemeanor offense, or criminal~~
 607 ~~traffic offense.~~

608 ~~2. To establish an alternative sanctioning program, the~~
 609 ~~chief judge must issue an administrative order specifying:~~

610 ~~a. Eligibility criteria.~~

611 ~~b. The technical violations that are eligible for the~~
 612 ~~program.~~

613 ~~c. The sanctions that may be recommended by a probation~~
 614 ~~officer for each technical violation.~~

615 ~~d. The process for reporting technical violations through~~
 616 ~~the alternative sanctioning program, including approved forms.~~

617 ~~3. If an offender is alleged to have committed a technical~~
 618 ~~violation of supervision that is eligible for the program, the~~
 619 ~~offender may:~~

620 ~~a. Waive participation in the alternative sanctioning~~
 621 ~~program, in which case the probation officer may submit a~~
 622 ~~violation report, affidavit, and warrant to the court in~~
 623 ~~accordance with this section; or~~

624 ~~b. Elect to participate in the alternative sanctioning~~
 625 ~~program after receiving written notice of an alleged technical~~
 626 ~~violation and a disclosure of the evidence against the offender,~~
 627 ~~admit to the technical violation, agree to comply with the~~
 628 ~~probation officer's recommended sanction if subsequently ordered~~
 629 ~~by the court, and agree to waive the right to:~~

630 ~~(I) Be represented by legal counsel.~~

631 ~~(II) Require the state to prove his or her guilt before a~~
 632 ~~neutral and detached hearing body.~~

633 ~~(III) Subpoena witnesses and present to a judge evidence~~
 634 ~~in his or her defense.~~

635 ~~(IV) Confront and cross-examine adverse witnesses.~~

636 ~~(V) Receive a written statement from a factfinder as to~~
 637 ~~the evidence relied on and the reasons for the sanction imposed.~~

638 ~~4. If the offender admits to committing the technical~~
 639 ~~violation and agrees with the probation officer's recommended~~

640 ~~sanction, the probation officer must, before imposing the~~
 641 ~~sanction, submit the recommended sanction to the court as well~~
 642 ~~as documentation reflecting the offender's admission to the~~
 643 ~~technical violation and agreement with the recommended sanction.~~

644 ~~5. The court may impose the recommended sanction or may~~
 645 ~~direct the department to submit a violation report, affidavit,~~
 646 ~~and warrant to the court in accordance with this section.~~

647 ~~6. An offender's participation in an alternative~~
 648 ~~sanctioning program is voluntary. The offender may elect to~~
 649 ~~waive or discontinue participation in an alternative sanctioning~~
 650 ~~program at any time before the issuance of a court order~~
 651 ~~imposing the recommended sanction.~~

652 ~~7. If an offender waives or discontinues participation in~~
 653 ~~an alternative sanctioning program, the probation officer may~~
 654 ~~submit a violation report, affidavit, and warrant to the court~~
 655 ~~in accordance with this section. The offender's prior admission~~
 656 ~~to the technical violation may not be used as evidence in~~
 657 ~~subsequent proceedings.~~

658 (9) (a) For a first or second low-risk violation, as
 659 defined in paragraph (b), within the current term of
 660 supervision, a probation officer may offer an eligible
 661 probationer one or more of the following as an alternative
 662 sanction:

- 663 1. Up to 5 days in the county jail.
- 664 2. Up to 50 additional community service hours.

- 665 3. Counseling or treatment.
- 666 4. Support group attendance.
- 667 5. Drug testing.
- 668 6. Loss of travel or other privileges.
- 669 7. Curfew for up to 30 days.
- 670 8. House arrest for up to 30 days.
- 671 9. Any other sanction as determined by administrative
- 672 order by the chief judge of the circuit.
- 673 (b) When committed by a probationer, a low-risk violation
- 674 includes any of the following:
- 675 1. A positive drug or alcohol test result.
- 676 2. Failure to report to the probation office.
- 677 3. Failure to report a change in address or other required
- 678 information.
- 679 4. Failure to attend a required class, treatment or
- 680 counseling session, or meeting.
- 681 5. Failure to submit to a drug or alcohol test.
- 682 6. A violation of curfew.
- 683 7. Failure to meet a monthly quota on any required
- 684 probation condition, including, but not limited to, making
- 685 restitution payments, paying court costs, or completing
- 686 community service hours.
- 687 8. Leaving the county without permission.
- 688 9. Failure to report a change in employment.
- 689 10. Associating with a person engaged in criminal

690 activity.

691 11. Any other violation as determined by administrative
 692 order of the chief judge of the circuit.

693 (c) For a first moderate-risk violation, as defined in
 694 paragraph (d), within the current term of supervision, a
 695 probation officer, with a supervisor's approval, may offer an
 696 eligible probationer or offender on community control one or
 697 more of the following as an alternative sanction:

- 698 1. Up to 21 days in the county jail.
- 699 2. Curfew for up to 90 days.
- 700 3. House arrest for up to 90 days.
- 701 4. Electronic monitoring for up to 90 days.
- 702 5. Residential treatment for up to 90 days.
- 703 6. Any other sanction available for a low-risk violation.
- 704 7. Any other sanction as determined by administrative
 705 order of the chief judge of the circuit.

706 (d) A moderate-risk violation includes any of the
 707 following:

- 708 1. A violation listed in paragraph (b) when committed by
 709 an offender on community control.
- 710 2. Failure to remain at an approved residence by an
 711 offender on community control.
- 712 3. A third violation listed in paragraph (b) by a
 713 probationer within the current term of supervision.
- 714 4. Any other violation as determined by administrative

715 order by the chief judge of the circuit.

716 (e) A probationer or offender on community control is not
 717 eligible for an alternative sanction if:

718 1. He or she is a violent felony offender of special
 719 concern as defined in paragraph (8) (b);

720 2. The violation is a felony, misdemeanor, or criminal
 721 traffic offense;

722 3. The violation is absconding;

723 4. The violation is of a stay-away order or no-contact
 724 order;

725 5. The violation is not identified as low-risk or
 726 moderate-risk under this subsection or by administrative order;

727 6. He or she has a prior moderate-risk level violation
 728 during the current term of supervision;

729 7. He or she has three prior low-risk level violations
 730 during the same term of supervision;

731 8. The term of supervision is scheduled to terminate in
 732 less than 90 days; or

733 9. The terms of the sentence prohibit alternative
 734 sanctioning.

735 (f) If a probationer or offender on community control is
 736 eligible for the alternative sanctioning program under this
 737 subsection, he or she may:

738 1. Waive participation in the program, in which case the
 739 probation officer may submit a violation report, affidavit, and

740 warrant to the court; or
 741 2. Elect to participate in the program after receiving
 742 written notice of an alleged technical violation and disclosure
 743 of the evidence against him or her, admit to the technical
 744 violation, agree to comply with the probation officer's
 745 recommended sanction if subsequently ordered by the court, and
 746 agree to waive the right to:
 747 a. Be represented by legal counsel.
 748 b. Require the state to prove his or her guilt before a
 749 neutral and detached hearing body.
 750 c. Subpoena witnesses and present to a judge evidence in
 751 his or her defense.
 752 d. Confront and cross-examine adverse witnesses.
 753 e. Receive a written statement from a judge as to the
 754 evidence relied on and the reasons for the sanction imposed.
 755 3. If the probationer or offender on community control
 756 admits to committing the technical violation and agrees with the
 757 probation officer's recommended sanction, the probation officer
 758 must, before imposing the sanction, submit the recommended
 759 sanction to the court with documentation reflecting the
 760 probationer's admission to the technical violation and agreement
 761 with the recommended sanction.
 762 (g) The court may impose the recommended sanction or
 763 direct the department to submit a violation report, affidavit,
 764 and warrant to the court.

765 (h) A probationer's or offender on community control's
 766 participation in the program is voluntary. The probationer or
 767 offender on community control may waive or discontinue
 768 participation in the program at any time before the court
 769 imposes a recommended sanction.

770 (i) If a probationer or offender on community control
 771 waives or discontinues participation in the program or fails to
 772 successfully complete all alternative sanctions within 90 days
 773 after imposition or within the timeframe specified in the agreed
 774 upon sanction, the probation officer may submit a violation
 775 report, affidavit, and warrant to the court. A prior admission
 776 by the probationer or offender on community control to a
 777 technical violation may not be used as evidence in subsequent
 778 proceedings.

779 (j) Each judicial circuit shall establish an alternative
 780 sanctioning program as provided in this subsection. The chief
 781 judge of each judicial circuit may, by administrative order,
 782 define additional sanctions or eligibility criteria and specify
 783 the process for reporting technical violations through the
 784 alternative sanctioning program.

785 Section 20. Section 948.081, Florida Statutes, is created
 786 to read:

787 948.081 Community court programs.-

788 (1) Each judicial circuit may establish a community court
 789 program for defendants charged with certain misdemeanor

790 offenses. Each community court shall, at a minimum:
 791 (a) Adopt a nonadversarial approach.
 792 (b) Establish an advisory committee to recommend solutions
 793 and sanctions in each case.
 794 (c) Consider the needs of the victim.
 795 (d) Consider individualized treatment services for the
 796 defendant.
 797 (e) Provide for judicial leadership and interaction.
 798 (f) Monitor the defendant's compliance.
 799 (2) The chief judge of the judicial circuit shall, by
 800 administrative order, specify each misdemeanor crime eligible
 801 for the community court program. In making such determination,
 802 the chief judge shall consider the particular needs and concerns
 803 of the communities within the judicial circuit.
 804 (3) The Department of Corrections, the Department of
 805 Juvenile Justice, the Department of Health, the Department of
 806 Law Enforcement, the Department of Education, law enforcement
 807 agencies, and other governmental entities involved in the
 808 criminal justice system shall support such community court
 809 programs.
 810 (4) A defendant's entry into a community court program
 811 shall be voluntary.
 812 (5) Each community court program shall have a resource
 813 coordinator who:
 814 (a) Coordinates the responsibilities of the participating

815 agencies and service providers;
 816 (b) Provides case management services;
 817 (c) Monitors compliance by defendants with court
 818 requirements; and
 819 (d) Manages the collection of data for program evaluation
 820 and accountability.
 821 (6) The chief judge of the judicial circuit shall appoint
 822 an advisory committee for each community court program.
 823 Membership must include, at a minimum:
 824 (a) The chief judge or a community court judge designated
 825 by the chief judge, who shall serve as chair;
 826 (b) The state attorney;
 827 (c) The public defender; and
 828 (d) The community court program resource coordinator.
 829
 830 The committee may also include community stakeholders, treatment
 831 representatives, and other persons deemed appropriate by the
 832 chair.
 833 (7) The advisory committee shall review each defendant's
 834 case. Each committee member may make recommendations to the
 835 judge, including appropriate sanctions and treatment solutions
 836 for the defendant. The judge shall consider such recommendations
 837 and make the final decision concerning sanctions and treatment
 838 with respect to each defendant.
 839 (8) Each judicial circuit shall annually report client-

840 level and programmatic data to the Office of State Courts
 841 Administrator for program evaluation. Client-level data include
 842 data relating to primary offenses resulting in the community
 843 court referral or sentence, treatment compliance, completion
 844 status, reasons for failing to complete the program, offenses
 845 committed during treatment and sanctions imposed, frequency of
 846 court appearances, and units of service. Programmatic data
 847 include data relating to referral and screening procedures,
 848 eligibility criteria, type and duration of treatment offered,
 849 and residential treatment resources.

850 (9) Community court program funding must be secured from
 851 sources other than the state for costs not assumed by the state
 852 under s. 29.004. However, this subsection does not preclude the
 853 use of funds provided for treatment and other services through
 854 state executive branch agencies.

855 Section 21. For the purpose of incorporating the amendment
 856 made by this act to section 944.801, Florida Statutes, in a
 857 reference thereto, subsection (2) of section 447.203, Florida
 858 Statutes, is reenacted to read:

859 447.203 Definitions.—As used in this part:

860 (2) "Public employer" or "employer" means the state or any
 861 county, municipality, or special district or any subdivision or
 862 agency thereof which the commission determines has sufficient
 863 legal distinctiveness properly to carry out the functions of a
 864 public employer. With respect to all public employees determined

865 | by the commission as properly belonging to a statewide
 866 | bargaining unit composed of State Career Service System
 867 | employees or Selected Professional Service employees, the
 868 | Governor shall be deemed to be the public employer; and the
 869 | Board of Governors of the State University System, or the
 870 | board's designee, shall be deemed to be the public employer with
 871 | respect to all public employees of each constituent state
 872 | university. The board of trustees of a community college shall
 873 | be deemed to be the public employer with respect to all
 874 | employees of the community college. The district school board
 875 | shall be deemed to be the public employer with respect to all
 876 | employees of the school district. The Board of Trustees of the
 877 | Florida School for the Deaf and the Blind shall be deemed to be
 878 | the public employer with respect to the academic and academic
 879 | administrative personnel of the Florida School for the Deaf and
 880 | the Blind. The Governor shall be deemed to be the public
 881 | employer with respect to all employees in the Correctional
 882 | Education Program of the Department of Corrections established
 883 | pursuant to s. 944.801.

884 | Section 22. For the purpose of incorporating the amendment
 885 | made by this act to section 800.03, Florida Statutes, in a
 886 | reference thereto, subsection (1) of section 794.056, Florida
 887 | Statutes, is reenacted to read:

888 | 794.056 Rape Crisis Program Trust Fund.—

889 | (1) The Rape Crisis Program Trust Fund is created within

890 the Department of Health for the purpose of providing funds for
 891 rape crisis centers in this state. Trust fund moneys shall be
 892 used exclusively for the purpose of providing services for
 893 victims of sexual assault. Funds credited to the trust fund
 894 consist of those funds collected as an additional court
 895 assessment in each case in which a defendant pleads guilty or
 896 nolo contendere to, or is found guilty of, regardless of
 897 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 898 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 899 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 900 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 901 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 902 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 903 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
 904 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 905 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
 906 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 907 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
 908 fund also shall include revenues provided by law, moneys
 909 appropriated by the Legislature, and grants from public or
 910 private entities.

911 Section 23. For the purpose of incorporating the amendment
 912 made by this act to section 800.03, Florida Statutes, in a
 913 reference thereto, section 914.16, Florida Statutes, is
 914 reenacted to read:

915 914.16 Child abuse and sexual abuse of victims under age
 916 16 or who have an intellectual disability; limits on
 917 interviews.—The chief judge of each judicial circuit, after
 918 consultation with the state attorney and the public defender for
 919 the judicial circuit, the appropriate chief law enforcement
 920 officer, and any other person deemed appropriate by the chief
 921 judge, shall order reasonable limits on the number of interviews
 922 which a victim of a violation of s. 794.011, s. 800.04, s.
 923 827.03, or s. 847.0135(5) who is under 16 years of age or a
 924 victim of a violation of s. 794.011, s. 800.02, s. 800.03, or s.
 925 825.102 who has an intellectual disability as defined in s.
 926 393.063 must submit to for law enforcement or discovery
 927 purposes. To the extent possible, the order must protect the
 928 victim from the psychological damage of repeated interrogations
 929 while preserving the rights of the public, the victim, and the
 930 person charged with the violation.

931 Section 24. For the purpose of incorporating the amendment
 932 made by this act to section 800.03, Florida Statutes, in a
 933 reference thereto, subsection (7) of section 933.18, Florida
 934 Statutes, is reenacted to read:

935 933.18 When warrant may be issued for search of private
 936 dwelling.—No search warrant shall issue under this chapter or
 937 under any other law of this state to search any private dwelling
 938 occupied as such unless:

939 (7) One or more of the following child abuse offenses is

940 being committed there:

941 (a) Interference with custody, in violation of s. 787.03.

942 (b) Commission of an unnatural and lascivious act with a
943 child, in violation of s. 800.02.

944 (c) Exposure of sexual organs to a child, in violation of
945 s. 800.03.

946

947 If, during a search pursuant to a warrant issued under this
948 section, a child is discovered and appears to be in imminent
949 danger, the law enforcement officer conducting such search may
950 remove the child from the private dwelling and take the child
951 into protective custody pursuant to chapter 39. The term
952 "private dwelling" shall be construed to include the room or
953 rooms used and occupied, not transiently but solely as a
954 residence, in an apartment house, hotel, boardinghouse, or
955 lodginghouse. No warrant shall be issued for the search of any
956 private dwelling under any of the conditions hereinabove
957 mentioned except on sworn proof by affidavit of some creditable
958 witness that he or she has reason to believe that one of said
959 conditions exists, which affidavit shall set forth the facts on
960 which such reason for belief is based.

961 Section 25. For the purpose of incorporating the amendment
962 made by this act to section 800.03, Florida Statutes, in a
963 reference thereto, section 938.085, Florida Statutes, is
964 reenacted to read:

965 938.085 Additional cost to fund rape crisis centers.—In
 966 addition to any sanction imposed when a person pleads guilty or
 967 nolo contendere to, or is found guilty of, regardless of
 968 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 969 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 970 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 971 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 972 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
 973 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
 974 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 975 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
 976 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
 977 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
 978 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
 979 \$151. Payment of the surcharge shall be a condition of
 980 probation, community control, or any other court-ordered
 981 supervision. The sum of \$150 of the surcharge shall be deposited
 982 into the Rape Crisis Program Trust Fund established within the
 983 Department of Health by chapter 2003-140, Laws of Florida. The
 984 clerk of the court shall retain \$1 of each surcharge that the
 985 clerk of the court collects as a service charge of the clerk's
 986 office.

987 Section 26. For the purpose of incorporating the amendment
 988 made by this act to section 800.03, Florida Statutes, in a
 989 reference thereto, paragraph (b) of subsection (3) of section

990 943.051, Florida Statutes, is reenacted to read:
 991 943.051 Criminal justice information; collection and
 992 storage; fingerprinting.—
 993 (3)
 994 (b) A minor who is charged with or found to have committed
 995 the following offenses shall be fingerprinted and the
 996 fingerprints shall be submitted electronically to the
 997 department, unless the minor is issued a civil citation pursuant
 998 to s. 985.12:
 999 1. Assault, as defined in s. 784.011.
 1000 2. Battery, as defined in s. 784.03.
 1001 3. Carrying a concealed weapon, as defined in s.
 1002 790.01(1).
 1003 4. Unlawful use of destructive devices or bombs, as
 1004 defined in s. 790.1615(1).
 1005 5. Neglect of a child, as defined in s. 827.03(1)(e).
 1006 6. Assault or battery on a law enforcement officer, a
 1007 firefighter, or other specified officers, as defined in s.
 1008 784.07(2)(a) and (b).
 1009 7. Open carrying of a weapon, as defined in s. 790.053.
 1010 8. Exposure of sexual organs, as defined in s. 800.03.
 1011 9. Unlawful possession of a firearm, as defined in s.
 1012 790.22(5).
 1013 10. Petit theft, as defined in s. 812.014(3).
 1014 11. Cruelty to animals, as defined in s. 828.12(1).

1015 12. Arson, as defined in s. 806.031(1).

1016 13. Unlawful possession or discharge of a weapon or
 1017 firearm at a school-sponsored event or on school property, as
 1018 provided in s. 790.115.

1019 Section 27. For the purpose of incorporating the amendment
 1020 made by this act to section 944.704, Florida Statutes, in a
 1021 reference thereto, paragraph (a) of subsection (3) of section
 1022 944.026, Florida Statutes, is reenacted to read:

1023 944.026 Community-based facilities and programs.—

1024 (3)(a) The department shall develop and implement
 1025 procedures to diagnose offenders prior to sentencing, for the
 1026 purpose of recommending to the sentencing court suitable
 1027 candidates for placement in a community-based residential drug
 1028 treatment facility or probation and restitution center as
 1029 provided in this section. The department shall also develop and
 1030 implement procedures to properly identify inmates prior to
 1031 release who demonstrate the need for or interest in and
 1032 suitability for placement in a community-based substance abuse
 1033 transition housing program as provided in this section and
 1034 pursuant to ss. 944.4731 and 944.704.

1035 Section 28. For the purpose of incorporating the amendment
 1036 made by this act to section 944.705, Florida Statutes, in a
 1037 reference thereto, subsection (6) of section 944.4731, Florida
 1038 Statutes, is reenacted to read:

1039 944.4731 Addiction-Recovery Supervision Program.—

1040 (6) Six months before an offender is released, the
1041 chaplain and transition assistance specialist at the institution
1042 where the offender is incarcerated shall initiate the prerelease
1043 screening process in addition to the basic release orientation
1044 required under s. 944.705.

1045 (a) The transition assistance specialist and the chaplain
1046 shall provide a list of contracted private providers, including
1047 faith-based providers, to the offender and facilitate the
1048 application process. The transition assistance specialist shall
1049 inform the offender of program availability and assess the
1050 offender's need and suitability for substance abuse transition
1051 housing assistance. If an offender is approved for placement,
1052 the specialist shall assist the offender and coordinate the
1053 release of the offender with the selected program. If an
1054 offender requests and is approved for placement in a contracted
1055 faith-based substance abuse transition housing program, the
1056 specialist must consult with the chaplain prior to such
1057 placement. A right to substance abuse program services is not
1058 stated, intended, or otherwise implied by this section.

1059 (b) If an offender has participated in a faith-based
1060 program while incarcerated or housed at a community correctional
1061 center and the same or a similar faith-based provider offers a
1062 contracted substance abuse transition housing program, the
1063 department shall make every attempt to maintain this continuum
1064 of care.

1065 Section 29. For the purpose of incorporating the amendment
 1066 made by this act to section 800.03, Florida Statutes, in a
 1067 reference thereto, paragraph (b) of subsection (1) of section
 1068 985.11, Florida Statutes, is reenacted to read:

1069 985.11 Fingerprinting and photographing.—

1070 (1)

1071 (b) Unless the child is issued a civil citation or is
 1072 participating in a similar diversion program pursuant to s.
 1073 985.12, a child who is charged with or found to have committed
 1074 one of the following offenses shall be fingerprinted, and the
 1075 fingerprints shall be submitted to the Department of Law
 1076 Enforcement as provided in s. 943.051(3)(b):

1077 1. Assault, as defined in s. 784.011.

1078 2. Battery, as defined in s. 784.03.

1079 3. Carrying a concealed weapon, as defined in s.

1080 790.01(1).

1081 4. Unlawful use of destructive devices or bombs, as
 1082 defined in s. 790.1615(1).

1083 5. Neglect of a child, as defined in s. 827.03(1)(e).

1084 6. Assault on a law enforcement officer, a firefighter, or
 1085 other specified officers, as defined in s. 784.07(2)(a).

1086 7. Open carrying of a weapon, as defined in s. 790.053.

1087 8. Exposure of sexual organs, as defined in s. 800.03.

1088 9. Unlawful possession of a firearm, as defined in s.

1089 790.22(5).

- 1090 10. Petit theft, as defined in s. 812.014.
- 1091 11. Cruelty to animals, as defined in s. 828.12(1).
- 1092 12. Arson, resulting in bodily harm to a firefighter, as
- 1093 defined in s. 806.031(1).
- 1094 13. Unlawful possession or discharge of a weapon or
- 1095 firearm at a school-sponsored event or on school property as
- 1096 defined in s. 790.115.

1097

1098 A law enforcement agency may fingerprint and photograph a child

1099 taken into custody upon probable cause that such child has

1100 committed any other violation of law, as the agency deems

1101 appropriate. Such fingerprint records and photographs shall be

1102 retained by the law enforcement agency in a separate file, and

1103 these records and all copies thereof must be marked "Juvenile

1104 Confidential." These records are not available for public

1105 disclosure and inspection under s. 119.07(1) except as provided

1106 in ss. 943.053 and 985.04(2), but shall be available to other

1107 law enforcement agencies, criminal justice agencies, state

1108 attorneys, the courts, the child, the parents or legal

1109 custodians of the child, their attorneys, and any other person

1110 authorized by the court to have access to such records. In

1111 addition, such records may be submitted to the Department of Law

1112 Enforcement for inclusion in the state criminal history records

1113 and used by criminal justice agencies for criminal justice

1114 purposes. These records may, in the discretion of the court, be

1115 open to inspection by anyone upon a showing of cause. The
 1116 fingerprint and photograph records shall be produced in the
 1117 court whenever directed by the court. Any photograph taken
 1118 pursuant to this section may be shown by a law enforcement
 1119 officer to any victim or witness of a crime for the purpose of
 1120 identifying the person who committed such crime.

1121 Section 30. For the purpose of incorporating the amendment
 1122 made by this act to section 800.03, Florida Statutes, in a
 1123 reference thereto, paragraph (c) of subsection (2) of section
 1124 985.441, Florida Statutes, is reenacted to read:

1125 985.441 Commitment.—

1126 (2) Notwithstanding subsection (1), the court having
 1127 jurisdiction over an adjudicated delinquent child whose offense
 1128 is a misdemeanor, or a child who is currently on probation for a
 1129 misdemeanor, may not commit the child for any misdemeanor
 1130 offense or any probation violation that is technical in nature
 1131 and not a new violation of law at a restrictiveness level other
 1132 than minimum-risk nonresidential. However, the court may commit
 1133 such child to a nonsecure residential placement if:

1134 (c) The child is before the court for disposition for a
 1135 violation of s. 800.03, s. 806.031, or s. 828.12; or

1136 Section 31. This act shall take effect October 1, 2018.