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# Finance and Tax Committee

Wednesday, January 27, 2016

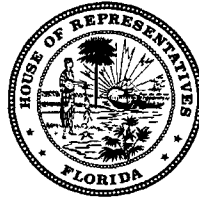
12:00 p.m. – 3:00 p.m.

Morris Hall

MEETING PACKET

# The Florida House of Representatives

## Finance and Tax Committee



**Steve Crisafulli**  
Speaker

**Matt Gaetz**  
Chair

### AGENDA



January 27, 2016  
12:00 p.m. – 3:00 p.m.  
Morris Hall

- I. Call to Order/Roll Call
- II. Chair's Opening Remarks
- III. **Consideration on the following bills:**  
CS/HB 707 Fantasy Contests by Business & Professions Subcommittee, Gaetz, Workman  
HB 1297 Discretionary Sales Surtaxes by Cummings, Ray  
PCS for HB 1297 Discretionary Sales Surtaxes
- IV. **Workshop on the following:**  
House Tax Reduction Package
- V. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 707 Fantasy Contests  
**SPONSOR(S):** Business & Professions Subcommittee; Gaetz and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 832

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	10 Y, 3 N, As CS	Anderson	Anstead
2) Finance & Tax Committee		Pewitt 	Langston 

### SUMMARY ANALYSIS

A fantasy contest (also called a fantasy sport or fantasy game) is a type of contest where participants assemble, own, and manage imaginary teams made up of actual professional sports players. The fantasy teams compete based on the statistical performance of actual players in an actual sports game. Participants can play fantasy contests at home or online, through a servicer or with friends, with or without an entry fee, and over a full season or over a shorter period of time.

The bill creates s. 501.935, F.S., to regulate fantasy contests. The bill provides requirements for fantasy contest operators and outlines civil penalties for violations of the provisions which may be recovered through civil action brought by the Department of Agriculture and Consumer Services (DACCS).

The bill defines "fantasy contest" as a fantasy or simulated game or contest where the contest participant manages and owns a fantasy or simulation sports team made up of human athletes or players that are members of an amateur or professional sports organization and that meets the following conditions:

- The membership of the fantasy or simulation sports team may not be based on the current membership of an actual team.
- The value of all prizes and awards must be established and made known in advance of the contest.
- Winning outcomes must reflect the relative knowledge and skill of the players and are determined by accumulated statistical results of the performance of human athletes.
- Winning outcomes must not be based on the score, point spread, or any performance of a sports team or solely on a single performance of an individual human athlete in a single sporting event.

The bill defines the term "fantasy contest operator" to mean a person or entity that offers fantasy contests for a cash prize to 750 or more members of the general public per year. A fantasy contest operator must register with the department to offer fantasy contests in the state and pay an initial registration fee of \$500,000 and an annual renewal fee of \$100,000. The bill requires procedures for fantasy contest operators related to age verification, restrictions on who can participate in contests, a prohibition against the sharing of confidential information, and employee training for responsible play. The bill also requires contest operators to work with and fund a compulsive or addictive behavior prevention program.

The bill provides that "fantasy contests" would be exempt from regulation under ch. 849, F.S., entitled "Gambling." It also provides that a person or entity that offers fantasy contests to fewer than 750 members of the public per year is not considered a "contest operator" and is exempt from regulation under ch. 849, F.S., and from contest operator requirements imposed in the bill.

The bill results in a significant fiscal impact on the state government. However, the revenue generated from registration fees required under the bill is estimated to exceed the cost of administration.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background of fantasy contest industry:**

A fantasy contest (also called a fantasy sport or fantasy game) is a type of contest where participants assemble, own, and manage imaginary teams made up of actual professional sports players. The teams compete based on the statistical performance generated by the actual players in an actual sports game. The players' performances are converted into points that are compiled according to the participant's team roster. In fantasy contests, participants draft, trade, and cut players similar to a real team owner.

The online fantasy contest industry is a \$4 billion dollar industry in the United States.<sup>1</sup> Fantasy NFL football is the most popular fantasy contest, and in 2015 an estimated 56.8 million people competed in fantasy contests in the United States and Canada.<sup>2</sup>

Although fantasy contests began as a contest played amongst friends or co-workers, new technology in the mid-1990s allowed for broader access to the public to pursue fantasy contests because statistics could be easily and quickly compiled online. Additionally, news and information about players was more readily available through growing access to the Internet.

Daily fantasy contests are an accelerated version of fantasy contests, which are played across a shorter period of time. For example, daily fantasy contests may be played over a single week in a season, rather than the entire season. Daily fantasy contests typically require an entry fee. The fee funds an advertised prize pool from which the servicer takes a percentage of fees collected as revenue.<sup>3</sup>

The legality of daily fantasy contests has been challenged nationwide with critics arguing that the contests more closely resemble proposition wagering on athlete performance than traditional fantasy contests.

##### **Current situation:**

In general, gambling is illegal in Florida.<sup>4</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>5</sup> running a lottery,<sup>6</sup> or the manufacture, sale, lease, play, or possession of slot machines.<sup>7</sup> Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,<sup>8</sup> bingo,<sup>9</sup> cardrooms,<sup>10</sup> charitable drawings,<sup>11</sup> game promotions (sweepstakes),<sup>12</sup> and bowling tournaments.<sup>13</sup>

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<sup>1</sup> FANTASY SPORTS TRADE ASSOCIATION, <http://fsta.org/about> (last visited January 8, 2016).

<sup>2</sup> FANTASY SPORTS TRADE ASSOCIATION, <http://fsta.org/research/industry-demographics/> (last visited January 8, 2016).

<sup>3</sup> THE WASHINGTON POST, *Daily fantasy sports Web sites find riches in Internet gaming law loophole*, [https://www.washingtonpost.com/sports/daily-fantasy-sports-web-sites-find-riches-in-internet-gaming-law-loophole/2015/03/27/92988444-d172-11e4-a62f-ee745911a4ff\\_story.html](https://www.washingtonpost.com/sports/daily-fantasy-sports-web-sites-find-riches-in-internet-gaming-law-loophole/2015/03/27/92988444-d172-11e4-a62f-ee745911a4ff_story.html) (last visited January 8, 2016).

<sup>4</sup> s. 849.08, F.S.

<sup>5</sup> s. 849.01, F.S.

<sup>6</sup> s. 849.09, F.S.

<sup>7</sup> s. 849.16, F.S.

<sup>8</sup> s. 849.085, F.S.

<sup>9</sup> s. 849.0931, F.S.

<sup>10</sup> s. 849.086, F.S.

<sup>11</sup> s. 849.0935, F.S.

<sup>12</sup> s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

<sup>13</sup> s. 546.10, F.S.

In 2013, the Legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prize are prohibited slot machines.<sup>14</sup>

In 2015, the Legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida law and prevent the expansion of casino-style gambling. The Legislature clarified the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.<sup>15</sup>

### *Lotteries*

Lotteries are prohibited by the Florida Constitution.<sup>16</sup> The constitutional prohibition is codified in statute at s. 849.09, F.S. Other than the statement in the Florida Constitution that indicates that the term "lottery" does not include "types of pari-mutuel pools authorized by law as of the effective date of this constitution," the term "lottery" is not defined by the Florida Constitution or statute. Generally, a lottery is a scheme which contains three elements: consideration, chance, and prize. As to consideration, while most states view consideration narrowly as a tangible asset, such as money, Florida views consideration broadly, as the conferring of any benefit.<sup>17</sup> Thus, even if players do not pay to participate in a game where they have a chance to win a prize, it may be an illegal lottery.

In 1986, Florida voters approved an amendment to the Florida Constitution to allow the state to operate a lottery. This lottery is known as the Florida Education Lotteries and directs proceeds to the State Education Lotteries Trust Fund.

To allow activities that would otherwise be illegal lotteries, the Legislature has carved out several narrow exceptions to the statutory lottery prohibition. Statutory exceptions are provided for charitable bingo, charitable drawings, and game promotions. Charities use drawings or raffles as a fundraising tool. Organizations suggest a donation, collect entries, and randomly select an entry to win a prize. Under s. 849.0935, F.S., qualified organizations may conduct drawings by chance, provided the organization has complied with all applicable provisions of ch. 496, F.S. Game promotions, often called sweepstakes, are advertising tools by which businesses promote their goods or services. As they contain the three elements of a lottery: consideration, chance, and prize, they are generally prohibited by Florida law unless they meet a statutory exception.<sup>18</sup>

### *Slot machines*

Slot machines have been generally prohibited in Florida since 1937.<sup>19</sup> Section 849.16, F.S., defines a slot machine as a machine or device that requires the insertion of a piece of money, coin, account number, code, or other object or information to operate and allows the user, whether by application of skill or by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, to receive money, credit, allowance, or thing of value, or secure additional chances or rights to use such machine, apparatus, or device. Slot machines are authorized at certain facilities in Broward and Miami-Dade counties by constitutional amendment or statute and are regulated under ch. 551, F.S.<sup>20</sup>

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<sup>14</sup> Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

<sup>15</sup> s. 546.10, F.S.

<sup>16</sup> Article X, s. 7, Fla. Const. *But, see*, Article X, s. 15, Fla. Const., authorizing lotteries operated by the state.

<sup>17</sup> *Little River Theatre Corp. v. State ex rel. Hodge*, 135 Fla. 854 (1939).

<sup>18</sup> *Little River Theatre Corp.*, *supra* at 868.

<sup>19</sup> s. 849.15, F.S., originally enacted by s. 1, ch. 18143, L.O.F. (1937).

<sup>20</sup> *See* Article X, Section 23, Florida Constitution; ch. 2010-29, L.O.F. and chapter 551, F.S.

## *Gaming Compact*

Chapter 285, F.S., ratified the gaming compact with the Seminole Tribe of Florida (the "2010 Compact"). It provides that it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the compact.<sup>21</sup> The 2010 Compact provides for revenue sharing. For the exclusive authority to offer banked card games on tribal lands at five locations and to offer slot machine gaming outside Miami-Dade and Broward Counties, the Seminole Tribe pays the State of Florida a share of "net win" (approximately \$240 million per year). Section 285.710(1)(f), F.S., designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation as the "state compliance agency" having authority to carry out the state's oversight responsibilities under the 2010 Compact. The 2010 Compact took effect when published in the Federal Register on July 6, 2010 and lasts for 20 years, expiring July 31, 2030, unless renewed.

The 2010 Compact provides for a reduction in revenue sharing if "internet/online gaming (or any functionally equivalent remote gaming system that permits a person to game from home or any other location that is remote from a casino or other commercial gaming facility)" is offered in the state.<sup>22</sup> However, revenue sharing is only reduced during the Guaranteed Minimum Revenue Sharing Cycle, which has expired. If fantasy contests are not considered internet gaming, the 2010 Compact also provides that if Florida law is amended to allow the operation of a new type of class III gaming that was not in operation as of February 1, 2010 ("new games"), the payments due to the State shall cease when the newly authorized gaming begins to be offered. Class III gaming is defined as any gaming that is not class I or class II gaming under the federal law.<sup>23</sup>

A new compact was executed by the Governor and the Tribe on December 7, 2015 (the "2015 Compact"), but must be ratified by the Legislature and approved by the United States Secretary of the Interior to become effective.<sup>24</sup> If the 2015 Compact is ratified and approved, it will provide the Tribe exclusivity to operate certain games, with certain exceptions.<sup>25</sup> In exchange, the Tribe will share revenue with the state with a Guaranteed Minimum Compact Term Payment of \$3 billion over 7 years. The 2015 Compact contains "internet/online gaming" and "new games" provisions similar to the 2010 Compact. If state law is amended to permit "internet/on-line gaming," the Tribe will no longer be required to make payments to the state based on the Guaranteed Minimum Compact Term Payment (\$3 billion), but will be required to make Revenue Share Payments.<sup>26</sup> Internet gaming is not defined in the 2015 Compact and fantasy contests are not specifically mentioned. Although the 2015 Compact does not specifically discuss fantasy contests, the 2015 Compact payment reduction may be triggered if fantasy contests are considered internet gaming and fantasy contests are authorized after July 1, 2015.<sup>27</sup> If fantasy contests are not considered "internet/on-line gaming" under the 2015 Compact, the "new games" provision may apply. If the "new games" provision applies, revenue sharing would end.<sup>28</sup>

## *Pari-mutuel wagering*

Chapter 550, F.S., authorizes pari-mutuel wagering at licensed tracks and frontons and provides for state regulation. Pari-mutuel is defined as "a system of betting on races or games in which the winners

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<sup>21</sup> s. 285.710, F.S.

<sup>22</sup> *2010 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, p. 37 (April 7, 2010), on file with the Business & Professions Subcommittee.

<sup>23</sup> 25 U.S.C. 2703(8).

<sup>24</sup> s. 285.710, F.S.

<sup>25</sup> *2015 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, p. 43 (Dec. 7, 2015), on file with the Business & Professions Subcommittee.

<sup>26</sup> *Id.* at 50.

<sup>27</sup> LEGAL SPORTS REPORT, *Daily Fantasy Sports Industry Increasingly Running Into Tribal Gaming Concerns*, <http://www.legalsportsreport.com/6950/dfs-and-tribal-gaming/> (last accessed Jan. 14, 2016).

<sup>28</sup> *2015 Gaming Compact*, p. 44.

divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes."<sup>29</sup>

Chapter 551, F.S., authorizes slot machine gaming at the location of certain licensed pari-mutuel locations in Miami-Dade County or Broward County and provides for state regulation. Chapter 849, F.S., authorizes cardrooms at certain pari-mutuel facilities.<sup>30</sup> A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.<sup>31</sup>

Except for the Seminole casinos authorized in the 2010 Compact, free-standing, commercial casinos are not authorized, and gaming activity, other than what is expressly authorized, is illegal.

### *Fantasy contests in Florida*

The Florida Constitution, Florida Statutes, and Florida courts have not specifically addressed fantasy contests. Regardless of whether fantasy contests are games of skill or games of chance, they may be subject to the state's gambling laws and anti-bookmaking statute. Section 849.14, F.S., provides that a stake, bet, or wager of money or another thing of value placed "upon the result of any trial or contest of skill, speed, power, or endurance of human or beast" is unlawful. Receiving money or acting as the custodian or depository of money as part of such a stake, bet, or wager is also unlawful.

Section 849.25, F.S., Florida's anti-bookmaking statute, defines bookmaking as "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever." The statute includes factors that are to be considered evidence of bookmaking, including charging a percentage on accepted wagers, receiving more than five wagers in a day, and receiving over \$500 in total wagers in a single day or over \$1500 in a single week.<sup>32</sup>

On January 8<sup>th</sup>, 1991, Florida Attorney General Robert A. Butterworth provided an advisory legal opinion<sup>33</sup> regarding whether participation in a fantasy sports league violated Florida's gambling laws. Butterworth concluded that the operation of a fantasy league would violate s. 849.14, F.S. Butterworth concluded that since the fantasy sports league's entry fee was used to make up the prizes, it qualified as a "stake, bet, or wager" under Florida law.<sup>34</sup> He stated that, "while the skill of the individual contestant picking the members of the fantasy team is involved, the prizes are paid to the contestants based upon the performance of the individual professional football players in actual games."<sup>35</sup>

Butterworth concluded that contests, in which the skill of the contestant predominates over the element of chance, such as in certain sports contests, are not prohibited lotteries. As an example, he noted that golf and bowling tournaments were contests of skill and were not prohibited. He considered that "it might well be argued that skill is involved in the selection of a successful fantasy team by requiring knowledge of the varying abilities and skills of the professional football players who will be selected to make up the fantasy team."<sup>36</sup>

Fantasy contests may be subject to Florida's anti-lottery laws. Players in daily fantasy contests are competing for a distribution of a prize that may be made from a pool of funds that are made up of

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<sup>29</sup> s. 550.002(22), F.S.

<sup>30</sup> s. 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.

<sup>31</sup> See s. 550.1625(1), F.S., "...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state."

<sup>32</sup> s. 849.25(1)(b), F.S.

<sup>33</sup> 91-03 Fla. Op. Att'y Gen. (1991).

<sup>34</sup> *Creash v. State*, 131 Fla. 111, 118 (Fla. 1938).

<sup>35</sup> 91-03 Fla. Op. Att'y Gen. (1991).

<sup>36</sup> *Id.*



players' contributions. It is unknown whether all fantasy contest operators conduct fantasy contests similarly. Numerous types of contests are currently being offered, including, but not limited to, cash games, guaranteed prize pool games, double-up or 50/50 games, and head-to-head games. Most prizes appear to be based on the accumulation of entry fees and contests have been cancelled when the number of required participants has not been met and operators reserve the right to cancel contests at their discretion.<sup>37</sup>

These types of games may be considered pool betting or pari-mutuel betting. The Attorney General of Nevada has determined that daily fantasy contests constitute sports pools.<sup>38</sup> Daily fantasy contest sites may apply to the Nevada Gaming Control Board for a license to operate a sports pool in the state. Internationally, some daily fantasy contest sites are licensed for pool betting.<sup>39</sup> The Florida Constitution<sup>40</sup> prohibits lotteries other than pari-mutuel pools authorized by law as of the effective date of the 1968 Constitution.

### *Fantasy contests in the United States*

The federal Unlawful Internet Gambling Enforcement Act of 2006<sup>41</sup> ("UIGEA") prohibits the processing of certain online financial wagering to prevent payment systems from being used in illegal online gambling. The UIGEA prohibits gambling businesses from knowingly accepting payments in connection with a "bet or wager" that involves the use of the Internet and that is unlawful under any federal or state law.

The UIGEA expressly states that participation in fantasy or simulation sports contests is not included in the definition of "bet or wager"<sup>42</sup> when certain conditions are met. For purposes of the UIGEA, participation in a fantasy or simulation sports contest is not a bet or wager when:

- Prizes and awards offered to winning participants are established and made known in advance of the game or contest and the value is not determined by the number of participants or amount of fees paid by the participants.
- Winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals.
- Winning outcomes are not based on the score, point spread, or any performance of any single sports team or combination of such teams or solely on a single performance of an individual athlete in a single sporting event.

Contest operators argue that they are legal under the UIGEA. In *Humphrey v. Viacom, Inc.*, the district court determined that because the entry fee was paid "unconditionally," the owner did not participate, and the prizes were guaranteed and determined in advance, the fantasy contest entry fees were not "wagers" under the act.<sup>43</sup> However, although the UIGEA exempts fantasy and simulation sports contests from the application of the UIGEA, it does not make such contests legal generally. The UIGEA does not change or preempt any other federal or state law. As expressed in the Rule of Construction in the UIGEA, "no provision of this subchapter shall be construed as altering, limiting, or extending any federal or state law or tribal-state compact prohibiting, permitting, or regulating gambling within the United States."<sup>44</sup> Therefore, any other state or federal law could apply.

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<sup>37</sup> FANDUEL, Terms of Use, <https://www.fanduel.com/terms> (last visited January 16, 2016).

<sup>38</sup> 2015-102 Nev. Op. Att'y Gen. 8 (2015).

<sup>39</sup> DraftKings, Inc. is licensed for Pool Betting and Gambling Software by the UK Gambling Commission.

<https://secure.gamblingcommission.gov.uk/gccustomweb/PublicRegister/PRAccountDetails.aspx?accountNo=42475> (last visited January 6, 2015).

<sup>40</sup> FLA. CONST. art. X, s. 7.

<sup>41</sup> 31 U.S.C. § 5361-5366 (2006).

<sup>42</sup> 31 U.S.C. § 5362(1) (2006).

<sup>43</sup> *Humphrey v. Viacom, Inc.*, 2007 WL 1797648 (D.N.J. June 20, 2007).

<sup>44</sup> 31 U.S.C. § 5361(b) (2006).

The federal Professional and Amateur Sports Protection Act of 1992 ("PASPA") states that it is unlawful for a governmental entity or person to operate or promote any gambling that is based directly or indirectly on one or more competitive sports games or on the performance of an amateur or professional athlete in a competitive sports game.<sup>45</sup> States are prohibited from authorizing or licensing sports betting not already legal as of 1992.<sup>46</sup> A professional or amateur sports organization whose competitive game is alleged to be the basis of a violation of PASPA has standing to bring a civil action in federal district court to enjoin a violation. Currently, the NCAA and others are suing the state of New Jersey for attempting to repeal an anti-sports betting statute.<sup>47</sup>

Because many fantasy contests are operated in partnership with a professional sports league, it may be unlikely that such contests would face legal challenge under PASPA.<sup>48</sup> However, the National Collegiate Athletic Association has historically been fearful of online gambling, so college-related fantasy contests may be open to a higher risk of a legal challenge under PASPA.<sup>49</sup> Additionally, contests that offer the opportunity for users to bet on game results rather than player performance are at an elevated risk of a legal challenge due to PASPA language that provides that it is unlawful to operate or promote gambling indirectly on a sports game or performance.<sup>50</sup> PASPA prohibits betting, gambling, or wagering on one or more performances of professional or amateur athletes in a competitive game.<sup>51</sup>

The federal Illegal Gambling Business Act of 1970 ("IGBA")<sup>52</sup> defines an "illegal gambling business" as a gambling business that is in violation of the law of the state in which it is conducted, involves five or more persons who conduct or manage all or part of such business, and that has been in continuous operation for a period of more than 30 days or has a gross revenue of \$2000 in a single day. The IGBA specifically exempts savings promotion raffles and bingo games, lotteries, or other games of chance operated by certain non-profit corporations.<sup>53</sup> An employee or company that has violated the IGBA is subject to penalties including fines, forfeiture of profits and assets, and imprisonment for up to 5 years.

Several states, including Arizona, Iowa, Louisiana, Montana, and Washington have current laws that have been interpreted to make fantasy contests illegal in their jurisdictions, though some of those states have recently proposed legislation to legalize and regulate fantasy contests.<sup>54</sup> Several other states, including California, Illinois, Massachusetts, and Pennsylvania, have proposed legislation to clarify and regulate fantasy contests.<sup>55</sup> Proposed legislation in Florida, Illinois, Louisiana, Missouri, Pennsylvania, and Washington uses language from the UIGEA to legalize and regulate fantasy contests. The proposed Illinois legislation is similar to the Florida bill.<sup>56</sup> Maryland and Kansas expressly legalized fantasy contests in 2012 and 2015, respectively. Currently, there is not a regulatory framework for fantasy contests in the State of Florida.

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<sup>45</sup> 28 U.S.C. § 3702 (1992).

<sup>46</sup> Nevada, Delaware, Montana, and Oregon allowed sports betting in 1992 and met the criteria under the law.

<sup>47</sup> *NCAA v. Governor of the State of N.J.*, 730 F.3d 208 (3d Cir. Sept. 17, 2013). The Court determined that New Jersey's law violated PASPA because it authorizes sports gambling, but has since granted a re-hearing of the case which vacates the original decision.

<sup>48</sup> Marc Edelman, *Navigating the Legal Risks of Daily Fantasy Sports: A Detailed Primer in Federal and State Gambling Law*, U. Ill. L. Rev. (accepted for publication in January 2016 edition).

<sup>49</sup> See Marissa Lankester, *Time to Fight against Sports Gambling*, Star Ledger (Newark, NJ), May 29, 2014, at 17.

<sup>50</sup> Edelman at 34.

<sup>51</sup> SPORTS LAW BLOG, *No Question, PASPA Applies to Daily Fantasy Sports*, <http://sports-law.blogspot.com/2016/01/no-question-paspa-applies-to-daily.html> (last visited Jan. 14, 2016).

<sup>52</sup> 18 U.S.C. § 1995 (1970).

<sup>53</sup> See 26 U.S.C. § 501.

<sup>54</sup> Iowa, Louisiana, and Montana brought forth unsuccessful legislation to clarify and regulate fantasy contests in 2015. Washington held a committee hearing on a bill to be introduced in the 2016 session.

<sup>55</sup> See LEGAL SPORTS REPORT, <http://www.legalsportsreport.com/dfs-bill-tracker/> (last visited Jan. 6, 2016).

<sup>56</sup> HB 4323 (IL 2016).

## Effect of the bill:

The bill creates s. 501.935, F.S., to regulate fantasy contests. Chapter 501 is entitled "Consumer Protection" and is regulated by DACS. The bill provides requirements for fantasy contest operators, including registration requirements, and outlines penalties for violations of the provisions.

The bill defines the term "fantasy contest" to mean a fantasy or simulation sports or contest where the contest participant manages and owns a fantasy or simulation sports team made up of human athletes or players that are members of an amateur or professional sports organization and that meets the following conditions:

- The membership of the fantasy or simulation sports team may not be based on the current membership of an actual team.
- The value of all prizes and awards offered to winning players must be established and made known in advance of contest.
- Winning outcomes must reflect the relative knowledge and skill of the players and are determined by accumulated statistical results of the performance of human athletes or players.
- Winning outcomes may not be based on the score, point spread, or any performance of any single sports team or combination of such teams or solely on a single performance of a single human athlete or player in a single sporting event.

Although this definition generally follows the exception provided in the UIGEA, the requirement that the value of the prize "is not determined by the number of participants or the amount of fees paid by those participants" is not included.<sup>57</sup>

The bill defines the term "fantasy contest operator" to mean a person or entity that offers fantasy contests for a cash prize to 750 or more members of the general public per year. A fantasy contest operator must register with the department to offer fantasy contests in the state and pay an initial registration fee of \$500,000 and an annual renewal fee of \$100,000.

A fantasy contest operator is required to implement the following procedures:

- Restrict employees of the fantasy contest operator and certain relatives of such employees from competing in fantasy contests with a cash prize of more than \$5.
- Restrict fantasy contest operators from being a contest participant in the contest offered by the operator.
- Prevent employees of the contest operator from sharing confidential information that could affect fantasy contest play.
- Verify that contest players are 18 years of age or older.
- Restrict a person from entering a fantasy contest that is determined on the accumulated statistical results of a team of individuals in which the person is a player, game official or other participant.
- Allow a person to restrict or prevent his or her own access to a fantasy contest upon request.
- Disclose the number of entries that a fantasy contest player may submit to a fantasy contest and provide steps to prevent players from submitting more than the allowable number.
- Separate contest players' funds from operational funds and maintain a reserve.
- Contract with a third party to perform an annual independent audit to ensure compliance with this section and submit the results to the Department Agriculture and Consumer Services (DACS).
- Offer training to employees on responsible play and work with and fund a compulsive or addictive behavior prevention program.

The bill provides that a person, firm, corporation, association, agent, or employee who violates the provisions in this bill is subject to a civil penalty not to exceed \$1,000 which shall accrue to the state

and may be recovered through civil action brought by DACS. The bill provides rulemaking authority to DACS.

The bill provides that "fantasy contests" as defined in the bill would be exempt from regulation under ch. 849, F.S., entitled "Gambling." The bill provides that a person or entity that offers fantasy contests to fewer than 750 members of the public per year is not considered a "contest operator" and is exempt from regulation under ch. 849, F.S., and from the requirements on contest operators imposed in the bill.

#### B. SECTION DIRECTORY:

Section 1 amends s. 501.935, F.S., to provide requirements for the operation of fantasy contests, provide that violation of such requirements will result in a civil penalty, specify that fantasy contests are excluded from gambling regulation, and provide that certain persons or entities are not considered contest operators and are exempt from certain regulations.

Section 2 provides an effective date of July 1, 2016.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

DACS assumes that there will be two registrants based on the number of registrations in other states that have enacted similar legislation. DACS estimates \$1,000,000 in non-recurring revenues for 2016-17 and \$200,000 in annual recurring revenues for 2017-18 and 2018-19.<sup>58</sup>

##### 2. Expenditures:

\$281,427 for 2016-17 and \$178,868 for 2017-18 and 2018-19 per DACS analysis.<sup>59</sup> This includes the cost of DACS's estimated need of hiring one additional Senior Attorney. The bill also requires DACS to use 7.5% of the initial registration fee (\$35,500) and subsequent renewal registration fee (\$7,500) to fund a compulsive or addictive play prevention program.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Game operators would be required to pay an initial registration fee of \$500,000 with an annual renewal fee of \$100,000. The fees may preclude new operators from entering the fantasy contest market.

#### D. FISCAL COMMENTS:

Members expressed concerns regarding the effectiveness of a compulsive or addictive play prevention program and the amount of funds that would be directed toward such a program under the bill. A similar provision was enacted in 2005 that requires slot machine licensees to pay an annual fee of \$250,000 to fund a compulsive or addictive gambling prevention program to the Division of Pari-Mutuel Wagering under the Department of Business and Professional Regulation.<sup>60</sup>

<sup>58</sup> Department of Agriculture and Consumer Services, Agency Analysis of 2015 Senate Bill 832, p. 3 (Nov. 25, 2015).

<sup>59</sup> *Id.*

<sup>60</sup> s. 551.118, F.S.

The bill does not require the fantasy contest operator to pay tax on revenues collected. Currently, amusement games and machines are taxed at a rate of 4%, slot machines at 35%, cardrooms at 10%, and pari-mutuel wagering at 1.5%. In addition, these businesses may pay licensing fees. Wagers placed on sports events or contests, in a wagering pool on a sports event or contest, or in a lottery conducted for profit are taxed by the Internal Revenue Service at a rate of 0.25% for wagers authorized under the law of the state in which the wager was accepted and a rate of 2% for wagers not authorized under the law of the state in which the wager was accepted.<sup>61</sup> It is unknown whether existing contest operators are currently paying the excise tax for wagers to the Internal Revenue Service.

The initial response from many states as to how to tax fantasy contests and winnings has been to treat winnings as income and require taxpayers to report those winnings. The question of whether and when fantasy contest operators are required to report the winnings, and when and how losses may be claimed against winnings, varies according to state. Other states are presently determining if and how to tax fantasy contest operators. Massachusetts and Nevada have indicated that contest operators will have to comply with relevant tax laws.<sup>62</sup> Pennsylvania proposed a 5% tax on the monthly gross tournament revenue in 2015.<sup>63</sup>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

Indeterminate.

#### B. RULE-MAKING AUTHORITY:

DACS is given rulemaking authority under the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### *DACS recommendations*

The bill currently requires DACS to review audits, assess penalties, and file a civil action for infractions. DACS recommends that administrative remedies be made available for smaller infractions.<sup>64</sup> For example, in similar regulatory programs under DACS, the department may provide a cease and desist order, issue a notice of noncompliance, place a registrant on probation, or revoke or suspend a registration before taking further action.<sup>65</sup> Further, the bill could be amended to specify where the funds from civil penalties should be paid.

##### *General comments*

Concerns were raised about whether DACS would be able to revoke the registration of a contest operator who has violated a provision of the bill, whether DACS could prohibit felons from becoming contest operators, and whether background checks would be required.

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<sup>61</sup> 26 U.S.C § 4401.

<sup>62</sup> BLOOMBERG BNA, *Fantasy Sports New Tax Issue For States*, <http://www.bna.com/fantasy-sports-new-n57982066133/> (last visited Jan. 14, 2016).

<sup>63</sup> HB 1197 (PA 2015).

<sup>64</sup> Department of Agriculture and Consumer Services, Agency Analysis of 2015 Senate Bill 832, p. 2 (Nov. 25, 2015).

<sup>65</sup> See s. 496.419(5) (solicitation of contributions), s. 559.921(4) (motor vehicle repair), s. 507.09 (intrastate movers), s. 501.612(2) (telemarketing), and s. 559.9355 (sellers of travel).

Other consumer protection concerns have been raised around the country. Massachusetts has proposed rules to provide consumer protection including limiting each player to a deposit of \$1000 per month, requiring prominent disclaimers, requiring advertising indicating where problem participants can get help, prohibiting fantasy contests based on the performance of high school and college athletes, limiting certain games to beginner participants,<sup>66</sup> and requiring participants from the state to be at least 21 years old.<sup>67</sup>

The bill states that one of the conditions required to meet the definition of the term "fantasy contest" is that the value of all prizes and awards offered to winning players must be established and made known in advance of the contest. This condition differs from similar language in the UIGEA which states that additionally, the value of such prizes "is not determined by the number of participants or the amount of any fees paid by those participants". If the bill language is intended to conform to the UIGEA language, this could be amended.

Also in conformance with the Court's interpretation of the UIGEA,<sup>68</sup> a requirement could be added that requires fantasy contest operators to guarantee the prize once the contest is offered. Currently, game operators reserve the right to cancel contests after entry. Other games in Florida such as sweepstakes and raffles require such guarantee.

The bill does not restrict a contest participant from filling his or her fantasy team with a majority of players from the same actual team, which could create an argument that the participant has created a team based on the current membership of an actual team and thus is seeking a winning outcome based indirectly on a sports game or performance, which may violate PASPA.

Currently, the bill only categorizes fantasy contests into two areas: those run by a contest operator who offers games to more than 750 people and those offered by a contest operator to less than 750 people. Considerations such as the amount of the entry fee, or whether the contest operator is operating the contest for free or collecting part of the entry fee as payment for the contest operation, are not considered. Language could be clarified to indicate that only persons or entities that offer cash prizes for a profit are subject to certain regulations and a tiered approach to regulation could allow smaller contest operators to function without requiring a \$500,000 licensing fee, while at the same time ensuring consumer protection.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 12, 2016, the Business & Professions Subcommittee adopted a strike-all amendment and an amendment to the strike-all and reported the bill favorably as a committee substitute. The amendments:

- Define the term "confidential information" to mean information related to fantasy contests which is obtained solely as a result of a person's employment with a contest operator;
- Revise the definition of fantasy contest to require that the membership of the fantasy or simulation sports team not be based on the current membership of an actual amateur or professional sports team;
- Clarify that athletes or players chosen as part of a fantasy contest team must be human;
- Revise the definition of the term "contest operator" to specify that contests must be offered by such operator to 750 or more members of the public per year in order to qualify as a "contest operator;"

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<sup>66</sup> Some have argued that professional fantasy contest participants have an unfair advantage over regular participants. Statistics show that 91% of contest prizes were won by 1.3% of the participants. See McKinsey & Company, *For daily fantasy-sports operators, the curse of too much skill*,

[http://www.mckinsey.com/insights/media\\_entertainment/for\\_daily\\_fantasy\\_sports\\_operators\\_the\\_curse\\_of\\_too\\_much\\_skill](http://www.mckinsey.com/insights/media_entertainment/for_daily_fantasy_sports_operators_the_curse_of_too_much_skill) (last visited Jan. 16, 2016).

<sup>67</sup> Boston Globe, *Mass. AG proposes age limit for daily fantasy sports*, <https://www.bostonglobe.com/business/2015/11/19/healey-proposes-fantasy-sports-regulations-amid-scrutiny/iCzChEn1pfAduKuNuqLtM/story.html> (last visited January 13, 2016).

<sup>68</sup> *Humphrey v. Viacom, Inc.*, 2007 WL 1797648 (D.N.J. June 20, 2007).

- Require the contest operator to register with the Department of Agriculture and Consumer Services and pay a registration fee to operate in the state;
- Prohibit game officials from participating in fantasy contests;
- Prohibit employees from sharing confidential information that could affect fantasy contest play until the information is publicly available;
- Require that the annual audit be done in compliance with specified accounting principles;
- Require the contest operator to offer training to employees on responsible play and to work with and fund a compulsive or addictive behavior prevention program;
- Provide an exemption for persons or entities that offer fantasy contests to fewer than 750 members of the public per year from regulation under chapter 849 and the registration fee; and
- Provide rulemaking authority to DACS.

The staff analysis is drafted to reflect the committee substitute.

1                                   A bill to be entitled  
 2           An act relating to fantasy contests; creating s.  
 3           501.935, F.S.; providing definitions; providing  
 4           requirements for the operation of fantasy contests;  
 5           directing the Department of Agriculture and Consumer  
 6           Services to contract with a private provider for  
 7           services related to the prevention of compulsive or  
 8           addictive behavior; providing penalties; specifying  
 9           that chapter 849, F.S., relating to gambling offenses,  
 10          does not apply to fantasy contests; specifying  
 11          conditions under which a person or entity offering  
 12          fantasy contests is not considered a contest operator  
 13          and is exempt from certain regulation; authorizing the  
 14          department to adopt rules; providing an effective  
 15          date.

16  
 17 Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Section 501.935, Florida Statutes, is created  
 20 to read:

21           501.935 Fantasy contests.-

22           (1) DEFINITIONS.-As used in this section, the term:

23           (a) "Confidential information" means information related  
 24 to the playing of fantasy contests by contest participants which  
 25 is obtained solely as a result of a person's employment with or  
 26 work as an agent or employee of a contest operator.



27 (b) "Contest operator" means a person or entity that  
 28 offers fantasy contests for a cash prize to 750 or more members  
 29 of the public per year.

30 (c) "Contest participant" means a person who participates  
 31 in a fantasy contest offered by a contest operator.

32 (d) "Department" means the Department of Agriculture and  
 33 Consumer Services.

34 (e) "Fantasy contest" means a fantasy or simulated game or  
 35 contest in which the contest participant manages and owns a  
 36 fantasy or simulation sports team consisting of athletes or  
 37 players that are members of an amateur or professional sports  
 38 organization and that meets the following conditions:

39 1. The membership of the fantasy or simulation sports team  
 40 is not based on the current membership of an actual team that is  
 41 a member of an amateur or professional sports organization.

42 2. The value of all prizes and awards offered to winning  
 43 contest participants is established and made known to the  
 44 contest participants in advance of the fantasy contest.

45 3. All winning outcomes reflect the relative knowledge and  
 46 skill of contest participants and are determined predominantly  
 47 by accumulated statistical results of the performance of human  
 48 athletes or players in a sporting event or game.

49 4. Winning outcomes are not based on the score, point  
 50 spread, or performance of a single actual team or combination of  
 51 such teams or on any single performance of a single human  
 52 athlete or player in a single sporting event or game.

53        (2) CONSUMER PROTECTION.—A contest operator offering  
 54 fantasy contests in the state must:  
 55        (a) Register with the department. The initial registration  
 56 fee is \$500,000 and the annual renewal fee is \$100,000.  
 57        (b) Implement procedures that are intended to:  
 58            1. Prevent an employee or agent of the contest operator, a  
 59 relative of the contest operator who resides in the same  
 60 household as the contest operator, or a relative of such  
 61 employee or agent who resides in the same household as the  
 62 employee or agent from competing in a fantasy contest in which  
 63 the cash prize is more than \$5.  
 64            2. Prohibit the contest operator from being a contest  
 65 participant in a fantasy contest offered by the contest  
 66 operator.  
 67            3. Prevent an employee or agent of the contest operator  
 68 from sharing confidential information with third parties that  
 69 could affect fantasy contests until the information is made  
 70 publicly available.  
 71            4. Verify that a contest participant is 18 years of age or  
 72 older.  
 73            5. Restrict a person who is a player, game official, or  
 74 other participant in an actual sporting event or game from  
 75 participating in a fantasy contest that is determined in whole  
 76 or in part on his or her performance, the performance of his or  
 77 her actual team, or the accumulated statistical results of the  
 78 sporting event or game in which he or she is a player, game

79 official, or other participant.

80 6. Allow persons to restrict their own access to a fantasy  
 81 contest and take reasonable steps to prevent themselves from  
 82 entering a fantasy contest.

83 7. Disclose the number of fantasy contests that a single  
 84 contest participant may enter and take reasonable steps to  
 85 prevent contest participants from entering more than the  
 86 allowable number of fantasy contests.

87 8. Segregate contest participants' funds from operational  
 88 funds and maintain a reserve in the form of cash, cash  
 89 equivalents, an irrevocable letter of credit, a bond, or a  
 90 combination thereof, in the total amount of the deposits in  
 91 contest participants' accounts, for the benefit and protection  
 92 of authorized contest participants' funds held in the contest  
 93 participants' accounts.

94 (c) Annually contract with a third party to perform an  
 95 independent audit, consistent with standards established by the  
 96 Public Company Accounting Oversight Board, to ensure compliance  
 97 with this section. The contest operator must annually submit the  
 98 results of the independent audit to the department.

99 (d) Offer training to employees and agents of the contest  
 100 operator on responsible play and practices, and work with the  
 101 compulsive or addictive behavior prevention program under  
 102 subsection (3) to recognize problem situations, implement  
 103 responsible play and practices, and implement protections for  
 104 underage participants.

105 (3) COMPULSIVE OR ADDICTIVE BEHAVIOR PREVENTION PROGRAM.—

106 (a) The department shall, subject to competitive bidding,  
 107 contract with a private provider for services related to the  
 108 prevention of compulsive or addictive behavior. The contract  
 109 shall provide for an advertising program to encourage  
 110 responsible play and practices and to publicize a telephone help  
 111 line and shall include accountability standards that must be met  
 112 by the private provider. Failure of the private provider to meet  
 113 any material terms of the contract, including the accountability  
 114 standards, constitutes a breach of contract or grounds for  
 115 nonrenewal.

116 (b) The compulsive or addictive behavior prevention  
 117 program shall be funded by the allocation of 7.5 percent of the  
 118 initial registration fee and any subsequent annual renewal fee  
 119 paid by the contest operator to the department.

120 (4) PENALTIES.—A contest operator, or an employee or agent  
 121 thereof, who violates this section is subject to a civil penalty  
 122 not to exceed \$1,000 for each violation, which shall accrue to  
 123 the state and may be recovered in a civil action brought by the  
 124 department.

125 (5) EXEMPTIONS.—

126 (a) Fantasy contests are exempt from regulation under  
 127 chapter 849.

128 (b) A person or entity that offers fantasy contests to  
 129 fewer than 750 members of the public per year is not considered  
 130 a contest operator and is exempt from regulation under

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131     subsection (2) and chapter 849.

132             (6) ADMINISTRATION.—The department may adopt rules to  
133     administer this section.

134             Section 2. This act shall take effect July 1, 2016.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1297 Discretionary Sales Surtaxes  
**SPONSOR(S):** Cummings and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1652

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Aldridge <i>WA</i>	Langston <i>SL</i>
2) State Affairs Committee			

### SUMMARY ANALYSIS

The bill provides that a county, upon approval by a majority vote of the electors of the county, may levy a pension liability discretionary sales surtax to fund underfunded defined benefit plans or systems at a rate not to exceed 0.5 percent. A county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The surtax may be imposed only if:

- The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, may not enroll in a defined benefit retirement plan or system that will receive the surtax proceeds.
- The county currently levies a local government infrastructure surtax which is scheduled to terminate and is not subject to renewal.
- The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

The Revenue Estimating Conference has not estimated the potential revenue impact of the bill on state and local government. However, staff estimates the revenue impact of the bill is zero on state government and positive indeterminate on local government because it requires future county governing board action and voter approval.

The bill has an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Local Discretionary Sales Surtaxes

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>1</sup> The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

The eight discretionary sales surtaxes and their maximum rates are:

- Charter County and Regional Transportation System Surtax, 1 percent
- Emergency Fire Rescue Services and Facilities Surtax, 1 percent
- Local Government Infrastructure Surtax, 1 percent
- Small County Surtax, 1 percent
- Indigent Care and Trauma Center Surtax, 0.5 percent
- County Public Hospital Surtax, 0.5 percent
- School Capital Outlay Surtax, 0.5 percent
- Voter-Approved Indigent Care Surtax, 1 percent

Every county is eligible to levy the School Capital Outlay and Local Government Infrastructure Surtaxes, the others have varying requirements. Section 212.055, F.S., further provides caps on the combined rates. The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility. Currently, the highest surtax imposed is 1.5 percent in several counties;<sup>2</sup> however, the theoretical maximum combined rate ranges between 1.5 percent and 3.5 percent, depending on the specifics of each individual county.<sup>3</sup>

Section 212.054, F.S., requires that any increase or decrease in a discretionary sales surtax must take effect on January 1.

##### Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax is one of the surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county after a favorable vote of the electorate through a local referendum.<sup>4</sup> The rate imposed may be 0.5 percent or 1.0 percent.<sup>5</sup> Proceeds are

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<sup>1</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

<sup>2</sup> See DOR Form DR-15 DSS, "Discretionary Sales Surtax Information", available at [http://dor.myflorida.com/Forms\\_library/current/dr15dssr15.pdf](http://dor.myflorida.com/Forms_library/current/dr15dssr15.pdf) (last visited 1/24/2016).

<sup>3</sup> See pp. 158-159 of the REC's 2013 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/local-government/reports/lghih15.pdf> (last visited 1/24/16)

<sup>4</sup> Section 212.055(2)(a)1., F.S.

<sup>5</sup> However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent.



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 municipal population.<sup>6</sup>

Proceeds and accrued interest may be expended for any of the following purposes:<sup>7</sup>

- By school districts to finance, plan, and construct infrastructure;<sup>8</sup>
- To acquire land for public recreation, conservation, or protection of natural resources;
- To provide loans, grants, or rebates to commercial or residential property owners who make energy efficiency improvements, provided a local government ordinance authorizing such use is approved by referendum; or
- To finance the closure of county or municipal solid waste landfills.

Eighteen counties currently levy the surtax. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2016-17 fiscal year, these counties are expected to receive combined county revenues of \$748,024,282.<sup>9</sup> Counties are not allowed to levy a combination of the Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax in excess of a combined rate of 1 percent.

### Actuarial Soundness of Retirement Systems

Part VII of Chapter 112 of the Florida Statutes governs the actuarial soundness of retirement systems. The intent of this part is to ensure that governmental retirement systems or plans are “managed, administered, operated, and funded in such a manner as to maximize the protection of public employee benefits.”<sup>10</sup> The part establishes minimum standards for the operation and funding of public employee retirement systems and plans.<sup>11</sup> The provisions of part VII are applicable to “any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds.”<sup>12</sup> Each retirement system or plan under part VII must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary.<sup>13</sup> The actuarial report must include, but is not limited to, the following:<sup>14</sup>

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability.
- A description and explanation of actuarial assumptions.
- A schedule illustrating the amortization of unfunded liabilities, if any.

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<sup>6</sup> Section 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.

<sup>7</sup> Section 212.055(2)(d), F.S.

<sup>8</sup> Infrastructure is defined in Section 212.055(2)(d)1.a-e, F.S.

<sup>9</sup> Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, at 226 (2016).

<sup>10</sup> Section 112.61, F.S.

<sup>11</sup> Section 112.61, F.S.

<sup>12</sup> Section 112.62, F.S.

<sup>13</sup> Section 112.63(1), F.S.

<sup>14</sup> Section 112.63(1), F.S.

- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.
- The mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.
- A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of the act.

Section 112.64, F.S., governs the amortization of unfunded liability for such retirement systems or plans. For those plans in existence on October 1, 1980, the total contributions to the retirement system or plan shall be sufficient to meet the normal cost of the retirement system or plan and to amortize the unfunded liability, if any, within 40 years; however nothing contained in this subsection permits any retirement system or plan to amortize its unfunded liabilities over a period longer than that which remains under its current amortization schedule.<sup>15</sup> For a retirement system or plan which comes into existence after October 1, 1980, the unfunded liability, if any shall be amortized within 40 years of the first plan year.<sup>16</sup> The net increase, if any, in unfunded liability under the plan arising from significant plan amendments adopted, changes in actuarial assumptions, changes in funding methods, or actuarial gains or losses shall be amortized within 30 plan years.<sup>17</sup>

## **Effect of the Proposed Changes**

### Local Discretionary Sales Surtaxes

The bill amends s. 212.055, F.S., authorizing the governing body of a county to levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems, pursuant to an ordinance conditioned to take effect upon approval by a majority vote of the electors of the county voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63, F.S., must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may only impose the surtax if:

- The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, are prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds.
- The county currently levies a local government infrastructure surtax pursuant to s. 212.055(2), F.S., which is scheduled to terminate and is not subject to renewal.
- The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

The bill provides that a referendum to adopt a pension liability surtax must meet the requirements of s. 101.161, F.S., and must include a brief and general description of the purposes for which the surtax proceeds will be used. Section 101.161, F.S., requires the public measure to include a ballot summary that is printed in clear and unambiguous language on the ballot. The ballot summary must be an explanatory statement of the chief purpose of the measure and may not exceed 75 words in length.

<sup>15</sup> Section 112.62, F.S.

<sup>16</sup> Section 112.63, F.S.

<sup>17</sup> Section 112.64, F.S.

The bill provides that pursuant to s. 212.054(4), F.S., the proceeds of the surtax collected under the newly created s. 212.055(9), F.S., less an administrative fee that may be retained by the DOR, shall be distributed by the DOR to the local government. The local government shall distribute the proceeds it receives from the DOR, less an administrative fee not to exceed 2 percent of the surtax collected, to an eligible defined benefit retirement plan or system, except the Florida Retirement System. The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The pension liability surtax proceeds may only be used to reduce or amortize the unfunded actuarial liability of the defined benefit retirement plan or system. A defined benefit retirement plan or system may no longer receive the surtax proceeds once the plan or system reaches or exceeds 100 percent of actuarial funding. If the local government makes advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system which are secured by future revenues associated with the surtax, the local government may fully reimburse itself from the surtax proceeds for such payments.

The bill provides that, notwithstanding s. 212.054(5), F.S., a pension liability surtax imposed pursuant to this subsection shall terminate for any defined benefit retirement plan or system when the actuarial funding level of that plan or system reaches or exceeds 100 percent.

### Actuarial Soundness of Retirement Systems

The bill amends s. 112.64, F.S., providing that the proceeds of a pension liability surtax imposed by a county pursuant to s. 212.055, F.S., which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

The bill also amends s. 112.64, F.S., providing that the payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 112.64, F.S., specifying the how the proceeds of the newly created pension liability surtax shall be recognized and amending how the unfunded liability amortization schedule must be adjusted.

**Section 2.** Creates s. 212.055(9), F.S., allowing a pension liability discretionary sales surtax under specified conditions.

**Section 3.** The bill has an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the potential revenue impact of the bill on local government. However, staff estimates the revenue impact of the bill is positive indeterminate because it requires future county governing board action and voter approval.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



27 Statutes, is renumbered as subsection (7), and a new subsection  
 28 (6) is added to that section, to read:

29 112.64 Administration of funds; amortization of unfunded  
 30 liability.-

31 (6) (a) Notwithstanding any other provision of this part,  
 32 the proceeds of a pension liability surtax imposed by a county  
 33 pursuant to s. 212.055, which is levied for the purpose of  
 34 funding or amortizing the unfunded liability of a defined  
 35 benefit retirement plan or system, excluding the Florida  
 36 Retirement System, shall be actuarially recognized, and the  
 37 county shall apply the present value of the total projected  
 38 proceeds of the surtax to reduce the unfunded liability or to  
 39 amortize it as part of the county's annual required  
 40 contribution, beginning with the fiscal year immediately  
 41 following approval of the pension liability surtax. The unfunded  
 42 liability amortization schedule must be adjusted beginning with  
 43 the fiscal year immediately following approval of the pension  
 44 liability surtax and amortized over a period of 30 years.

45 (b) The payroll of all employees in classifications  
 46 covered by a closed retirement plan or system that receives  
 47 funds from the pension liability surtax must be included in  
 48 determining the unfunded liability amortization schedule for the  
 49 closed plan, regardless of the plan in which the employees  
 50 currently participate, and the payroll growth assumption must be  
 51 adjusted to reflect the payroll of those employees when  
 52 calculating the amortization of the unfunded liability.

53 Section 2. Subsection (9) is added to section 212.055,  
 54 Florida Statutes, to read:

55 212.055 Discretionary sales surtaxes; legislative intent;  
 56 authorization and use of proceeds.—It is the legislative intent  
 57 that any authorization for imposition of a discretionary sales  
 58 surtax shall be published in the Florida Statutes as a  
 59 subsection of this section, irrespective of the duration of the  
 60 levy. Each enactment shall specify the types of counties  
 61 authorized to levy; the rate or rates which may be imposed; the  
 62 maximum length of time the surtax may be imposed, if any; the  
 63 procedure which must be followed to secure voter approval, if  
 64 required; the purpose for which the proceeds may be expended;  
 65 and such other requirements as the Legislature may provide.  
 66 Taxable transactions and administrative procedures shall be as  
 67 provided in s. 212.054.

68 (9) PENSION LIABILITY SURTAX.—

69 (a) The governing body of a county may levy a pension  
 70 liability surtax to fund underfunded defined benefit retirement  
 71 plans or systems, pursuant to an ordinance conditioned to take  
 72 effect upon approval by a majority vote of the electors of the  
 73 county voting in a referendum, at a rate that may not exceed 0.5  
 74 percent. The county may not impose a pension liability surtax  
 75 unless the underfunded defined benefit retirement plan or system  
 76 is below 80 percent of actuarial funding at the time the  
 77 ordinance or referendum is passed. The most recent actuarial  
 78 report submitted to the Department of Management Services

79 pursuant to s. 112.63 must be used to establish the level of  
 80 actuarial funding for purposes of determining eligibility to  
 81 impose the surtax. The governing body of a county may only  
 82 impose the surtax if:

83 1. The employees, including police officers and  
 84 firefighters, who enter employment on or after the date that the  
 85 local government meets the requirements for enacting the pension  
 86 liability surtax, may not enroll in a defined benefit retirement  
 87 plan or system that will receive the surtax proceeds.

88 2. The county currently levies a local government  
 89 infrastructure surtax pursuant to subsection (2) which is  
 90 scheduled to terminate and is not subject to renewal.

91 3. The pension liability surtax does not take effect until  
 92 the local government infrastructure surtax described in  
 93 subparagraph 2. is terminated.

94 (b) A referendum to adopt a pension liability surtax must  
 95 meet the requirements of s. 101.161 and must include a brief and  
 96 general description of the purposes for which the surtax  
 97 proceeds will be used.

98 (c) Pursuant to s. 212.054(4), the proceeds of the surtax  
 99 collected under this subsection, less an administrative fee that  
 100 may be retained by the department, shall be distributed by the  
 101 department to the local government. The local government shall  
 102 distribute the proceeds it receives from the department, less an  
 103 administrative fee not to exceed 2 percent of the surtax  
 104 collected, to an eligible defined benefit retirement plan or



105 system, except the Florida Retirement System. The ordinance  
106 providing for the imposition of the pension liability surtax  
107 must specify the method of determining the percentage of the  
108 proceeds, and the frequency of such payments, distributed to  
109 each eligible defined benefit retirement plan or system. The  
110 pension liability surtax proceeds may be used only to reduce or  
111 amortize the unfunded actuarial liability of the defined benefit  
112 retirement plan or system. A defined benefit retirement plan or  
113 system may no longer receive the surtax proceeds once the plan  
114 or system reaches or exceeds 100 percent of actuarial funding.  
115 If the local government makes advanced payments toward the  
116 unfunded liability of an underfunded defined benefit retirement  
117 plan or system which are secured by future revenues associated  
118 with the surtax, the local government may fully reimburse itself  
119 from the surtax proceeds for such payments.



120 (d) Notwithstanding s. 212.054(5), a pension liability  
121 surtax imposed pursuant to this subsection shall terminate for  
122 any defined benefit retirement plan or system when the actuarial  
123 funding level of that plan or system reaches or exceeds 100  
124 percent.

125 Section 3. This act shall take effect July 1, 2016.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 1297 Discretionary Sales Surtaxes  
**SPONSOR(S):** Finance & Tax Committee  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Aldridge 	Langston 

### SUMMARY ANALYSIS

The bill provides that a county, upon approval by a majority vote of the electors of the county, may levy a pension liability discretionary sales surtax to fund underfunded defined benefit plans or systems at a rate not to exceed 0.5 percent. A county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The surtax may be imposed only if:

- The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, are prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds.
- The local government provides a uniform retirement benefit to employees, regardless of position held, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax.
- The elected local government officers do not accrue service credit towards their retirement benefit for the period beginning on the date that the local government meets the requirements for enacting the pension liability surtax and ending on the date such surtax is no longer collected.
- The county currently levies a local government infrastructure surtax pursuant to s. 212.055(2), F.S., which is scheduled to terminate and is not subject to renewal.
- The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

The Revenue Estimating Conference has not estimated the potential revenue impact of the bill on state and local government. However, staff estimates the revenue impact of the bill is zero on state government and positive indeterminate on local government because it requires future county governing board action and voter approval.

The bill has an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Local Discretionary Sales Surtaxes

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S., and on communications services as defined in ch. 202, F.S.<sup>1</sup> The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

The eight discretionary sales surtaxes and their maximum rates are:

- Charter County and Regional Transportation System Surtax, 1 percent
- Emergency Fire Rescue Services and Facilities Surtax, 1 percent
- Local Government Infrastructure Surtax, 1 percent
- Small County Surtax, 1 percent
- Indigent Care and Trauma Center Surtax, 0.5 percent
- County Public Hospital Surtax, 0.5 percent
- School Capital Outlay Surtax, 0.5 percent
- Voter-Approved Indigent Care Surtax, 1 percent

Every county is eligible to levy the School Capital Outlay and Local Government Infrastructure Surtaxes, the others have varying requirements. Section 212.055, F.S., further provides caps on the combined rates. The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility. Currently, the highest surtax imposed is 1.5 percent in several counties;<sup>2</sup> however, the theoretical maximum combined rate ranges between 1.5 percent and 3.5 percent, depending on the specifics of each individual county.<sup>3</sup>

Section 212.054, F.S., requires that any increase or decrease in a discretionary sales surtax must take effect on January 1.

##### Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax is one of the surtaxes authorized by s. 212.055, F.S., which may be levied by the governing authority in each county after a favorable vote of the electorate through a local referendum.<sup>4</sup> The rate imposed may be 0.5 percent or 1.0 percent.<sup>5</sup> Proceeds are distributed to the county and the municipalities within the county according to an interlocal agreement

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<sup>1</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

<sup>2</sup> See DOR Form DR-15 DSS, "Discretionary Sales Surtax Information", available at [http://dor.myflorida.com/Forms\\_library/current/dr15dssr15.pdf](http://dor.myflorida.com/Forms_library/current/dr15dssr15.pdf) (last visited 1/24/2016).

<sup>3</sup> See pp. 158-159 of the REC's 2013 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih15.pdf> (last visited 1/24/16)

<sup>4</sup> Section 212.055(2)(a)1., F.S.

<sup>5</sup> However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent.

between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population.<sup>6</sup>

Proceeds and accrued interest may be expended for any of the following purposes:<sup>7</sup>

- By school districts to finance, plan, and construct infrastructure;<sup>8</sup>
- To acquire land for public recreation, conservation, or protection of natural resources;
- To provide loans, grants, or rebates to commercial or residential property owners who make energy efficiency improvements, provided a local government ordinance authorizing such use is approved by referendum; or
- To finance the closure of county or municipal solid waste landfills.

Eighteen counties currently levy the surtax. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2016-17 fiscal year, these counties are expected to receive combined county revenues of \$748,024,282.<sup>9</sup> Counties are not allowed to levy a combination of the Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax in excess of a combined rate of 1 percent.

#### Actuarial Soundness of Retirement Systems

Part VII of Chapter 112 of the Florida Statutes governs the actuarial soundness of retirement systems. The intent of this part is to ensure that governmental retirement systems or plans are “managed, administered, operated, and funded in such a manner as to maximize the protection of public employee benefits.”<sup>10</sup> The part establishes minimum standards for the operation and funding of public employee retirement systems and plans.<sup>11</sup> The provisions of part VII are applicable to “any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds.”<sup>12</sup> Each retirement system or plan under part VII must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary.<sup>13</sup> The actuarial report must include, but is not limited to, the following:<sup>14</sup>

- Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability.
- A description and explanation of actuarial assumptions.
- A schedule illustrating the amortization of unfunded liabilities, if any.

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<sup>6</sup> Section 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.

<sup>7</sup> Section 212.055(2)(d), F.S.

<sup>8</sup> Infrastructure is defined in Section 212.055(2)(d)1.a-e, F.S.

<sup>9</sup> Dollar amounts are estimates. Florida Revenue Estimating Conference, *Florida Tax Handbook*, at 226 (2016).

<sup>10</sup> Section 112.61, F.S.

<sup>11</sup> Section 112.61, F.S.

<sup>12</sup> Section 112.62, F.S.

<sup>13</sup> Section 112.63(1), F.S.

<sup>14</sup> Section 112.63(1), F.S.

- A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.
- The mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.
- A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of the act.

Section 112.64, F.S., governs the amortization of unfunded liability for such retirement systems or plans. For those plans in existence on October 1, 1980, the total contributions to the retirement system or plan shall be sufficient to meet the normal cost of the retirement system or plan and to amortize the unfunded liability, if any, within 40 years; however nothing contained in this subsection permits any retirement system or plan to amortize its unfunded liabilities over a period longer than that which remains under its current amortization schedule.<sup>15</sup> For a retirement system or plan which comes into existence after October 1, 1980, the unfunded liability, if any shall be amortized within 40 years of the first plan year.<sup>16</sup> The net increase, if any, in unfunded liability under the plan arising from significant plan amendments adopted, changes in actuarial assumptions, changes in funding methods, or actuarial gains or losses shall be amortized within 30 plan years.<sup>17</sup>

## **Effect of the Proposed Changes**

### Local Discretionary Sales Surtaxes

The bill amends s. 212.055, F.S., authorizing the governing body of a county to levy a pension liability surtax to fund underfunded defined benefit retirement plans or systems, pursuant to an ordinance conditioned to take effect upon approval by a majority vote of the electors of the county voting in a referendum, at a rate that may not exceed 0.5 percent. The county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The most recent actuarial report submitted to the Department of Management Services pursuant to s. 112.63, F.S., must be used to establish the level of actuarial funding for purposes of determining eligibility to impose the surtax. The governing body of a county may only impose the surtax if:

- The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, are prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds.
- The local government provides a uniform retirement benefit to employees, regardless of position held, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax.
- The elected local government officers do not accrue service credit towards their retirement benefit for the period beginning on the date that the local government meets the requirements for enacting the pension liability surtax and ending on the date such surtax is no longer collected.
- The county currently levies a local government infrastructure surtax pursuant to s. 212.055(2), F.S., which is scheduled to terminate and is not subject to renewal.
- The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

<sup>15</sup> Section 112.62, F.S.

<sup>16</sup> Section 112.63, F.S.

<sup>17</sup> Section 112.64, F.S.

The bill provides that a referendum to adopt a pension liability surtax must meet the requirements of s. 101.161, F.S., and must include a brief and general description of the purposes for which the surtax proceeds will be used. Section 101.161, F.S., requires the public measure to include a ballot summary that is printed in clear and unambiguous language on the ballot. The ballot summary must be an explanatory statement of the chief purpose of the measure and may not exceed 75 words in length.

The bill provides that pursuant to s. 212.054(4), F.S., the proceeds of the surtax collected under the newly created s. 212.055(9), F.S., less an administrative fee that may be retained by the DOR, shall be distributed by the DOR to the local government. The local government shall distribute the proceeds it receives from the DOR, less an administrative fee not to exceed 2 percent of the surtax collected, to an eligible defined benefit retirement plan or system, except the Florida Retirement System. The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The pension liability surtax proceeds may only be used to reduce or amortize the unfunded actuarial liability of the defined benefit retirement plan or system. A defined benefit retirement plan or system may no longer receive the surtax proceeds once the plan or system reaches or exceeds 100 percent of actuarial funding. If the local government makes advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system which are secured by future revenues associated with the surtax, the local government may fully reimburse itself from the surtax proceeds for such payments.

The bill provides that, notwithstanding s. 212.054(5), F.S., a pension liability surtax imposed pursuant to this subsection shall terminate for any defined benefit retirement plan or system when the actuarial funding level of that plan or system reaches or exceeds 100 percent.

#### Actuarial Soundness of Retirement Systems

The bill amends s. 112.64, F.S., providing that the proceeds of a pension liability surtax imposed by a county pursuant to s. 212.055, F.S., which is levied for the purpose of funding or amortizing the unfunded liability of a defined benefit retirement plan or system, excluding the Florida Retirement System, shall be actuarially recognized, and the county shall apply the present value of the total projected proceeds of the surtax to reduce the unfunded liability or to amortize it as part of the county's annual required contribution, beginning with the fiscal year immediately following approval of the pension liability surtax. The unfunded liability amortization schedule must be adjusted beginning with the fiscal year immediately following approval of the pension liability surtax and amortized over a period of 30 years.

The bill also amends s. 112.64, F.S., providing that the payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 112.64, F.S., specifying the how the proceeds of the newly created pension liability surtax shall be recognized and amending how the unfunded liability amortization schedule must be adjusted.

**Section 2.** Creates s. 212.055(9), F.S., allowing a pension liability discretionary sales surtax under specified conditions.

**Section 3.** The bill has an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the potential revenue impact of the bill on local government. However, staff estimates the revenue impact of the bill is positive indeterminate because it requires future county governing board action and voter approval.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



1                   A bill to be entitled  
 2           An act relating to discretionary sales surtaxes;  
 3           amending s. 112.64, F.S.; authorizing a county to  
 4           apply proceeds of a pension liability surtax toward  
 5           reducing the unfunded liability of a defined benefit  
 6           retirement plan or system; specifying the method of  
 7           determining the amortization schedule if a surtax is  
 8           approved; amending s. 212.055, F.S.; authorizing a  
 9           county to levy a pension liability surtax by ordinance  
 10          if certain conditions are met; prescribing the form of  
 11          the ballot statement if the ordinance is conditioned  
 12          on a referendum; requiring the Department of Revenue  
 13          and participating local governments to distribute the  
 14          surtax proceeds, less administrative fees; requiring  
 15          the ordinance to specify the method and frequency of  
 16          distributing proceeds; prohibiting a defined benefit  
 17          retirement plan or system from receiving surtax  
 18          proceeds after a certain level of actuarial funding is  
 19          reached; requiring that surtax proceeds be used to  
 20          reduce or amortize the unfunded liability of the  
 21          system or plan; specifying conditions under which the  
 22          surtax terminates; providing an effective date.

23  
 24    Be It Enacted by the Legislature of the State of Florida:

25  
 26          Section 1.   Subsection (6) of section 112.64, Florida

27 Statutes, is renumbered as subsection (7), and a new subsection  
 28 (6) is added to that section, to read:

29 112.64 Administration of funds; amortization of unfunded  
 30 liability.-

31 (6)(a) Notwithstanding any other provision of this part,  
 32 the proceeds of a pension liability surtax imposed by a county  
 33 pursuant to s. 212.055, which is levied for the purpose of  
 34 funding or amortizing the unfunded liability of a defined  
 35 benefit retirement plan or system, excluding the Florida  
 36 Retirement System, shall be actuarially recognized, and the  
 37 county shall apply the present value of the total projected  
 38 proceeds of the surtax to reduce the unfunded liability or to  
 39 amortize it as part of the county's annual required  
 40 contribution, beginning with the fiscal year immediately  
 41 following approval of the pension liability surtax. The unfunded  
 42 liability amortization schedule must be adjusted beginning with  
 43 the fiscal year immediately following approval of the pension  
 44 liability surtax and amortized over a period of 30 years.

45 (b) The payroll of all employees in classifications  
 46 covered by a closed retirement plan or system that receives  
 47 funds from the pension liability surtax must be included in  
 48 determining the unfunded liability amortization schedule for the  
 49 closed plan, regardless of the plan in which the employees  
 50 currently participate, and the payroll growth assumption must be  
 51 adjusted to reflect the payroll of those employees when  
 52 calculating the amortization of the unfunded liability.

53 Section 2. Subsection (9) is added to section 212.055,  
 54 Florida Statutes, to read:

55 212.055 Discretionary sales surtaxes; legislative intent;  
 56 authorization and use of proceeds.—It is the legislative intent  
 57 that any authorization for imposition of a discretionary sales  
 58 surtax shall be published in the Florida Statutes as a  
 59 subsection of this section, irrespective of the duration of the  
 60 levy. Each enactment shall specify the types of counties  
 61 authorized to levy; the rate or rates which may be imposed; the  
 62 maximum length of time the surtax may be imposed, if any; the  
 63 procedure which must be followed to secure voter approval, if  
 64 required; the purpose for which the proceeds may be expended;  
 65 and such other requirements as the Legislature may provide.  
 66 Taxable transactions and administrative procedures shall be as  
 67 provided in s. 212.054.

68 (9) PENSION LIABILITY SURTAX.—

69 (a) The governing body of a county may levy a pension  
 70 liability surtax to fund underfunded defined benefit retirement  
 71 plans or systems, pursuant to an ordinance conditioned to take  
 72 effect upon approval by a majority vote of the electors of the  
 73 county voting in a referendum, at a rate that may not exceed 0.5  
 74 percent. The county may not impose a pension liability surtax  
 75 unless the underfunded defined benefit retirement plan or system  
 76 is below 80 percent of actuarial funding at the time the  
 77 ordinance or referendum is passed. The most recent actuarial  
 78 report submitted to the Department of Management Services

79 pursuant to s. 112.63 must be used to establish the level of  
 80 actuarial funding for purposes of determining eligibility to  
 81 impose the surtax. The governing body of a county may only  
 82 impose the surtax if:

83 1. The employees, including police officers and  
 84 firefighters, who enter employment on or after the date that the  
 85 local government meets the requirements for enacting the pension  
 86 liability surtax, may not enroll in a defined benefit retirement  
 87 plan or system that will receive the surtax proceeds.

88 2. The local government provides a uniform retirement  
 89 benefit to employees, regardless of position held, who enter  
 90 employment on or after the date that the local government meets  
 91 the requirements for enacting the pension liability surtax.

92 3. The elected local government officers do not accrue  
 93 service credit towards their retirement benefit for the period  
 94 beginning on the date that the local government meets the  
 95 requirements for enacting the pension liability surtax and  
 96 ending on the date such surtax is no longer collected.

97 4. The county currently levies a local government  
 98 infrastructure surtax pursuant to subsection (2) which is  
 99 scheduled to terminate and is not subject to renewal.

100 5. The pension liability surtax does not take effect until  
 101 the local government infrastructure surtax described in  
 102 subparagraph 2. is terminated.

103 (b) A referendum to adopt a pension liability surtax must  
 104 meet the requirements of s. 101.161 and must include a brief and

105 general description of the purposes for which the surtax  
 106 proceeds will be used.

107 (c) Pursuant to s. 212.054(4), the proceeds of the surtax  
 108 collected under this subsection, less an administrative fee that  
 109 may be retained by the department, shall be distributed by the  
 110 department to the local government. The local government shall  
 111 distribute the proceeds it receives from the department, less an  
 112 administrative fee not to exceed 2 percent of the surtax  
 113 collected, to an eligible defined benefit retirement plan or  
 114 system, except the Florida Retirement System. The ordinance  
 115 providing for the imposition of the pension liability surtax  
 116 must specify the method of determining the percentage of the  
 117 proceeds, and the frequency of such payments, distributed to  
 118 each eligible defined benefit retirement plan or system. The  
 119 pension liability surtax proceeds may be used only to reduce or  
 120 amortize the unfunded actuarial liability of the defined benefit  
 121 retirement plan or system. A defined benefit retirement plan or  
 122 system may no longer receive the surtax proceeds once the plan  
 123 or system reaches or exceeds 100 percent of actuarial funding.  
 124 If the local government makes advanced payments toward the  
 125 unfunded liability of an underfunded defined benefit retirement  
 126 plan or system which are secured by future revenues associated  
 127 with the surtax, the local government may fully reimburse itself  
 128 from the surtax proceeds for such payments.

129 (d) Notwithstanding s. 212.054(5), a pension liability  
 130 surtax imposed pursuant to this subsection shall terminate for

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131 | any defined benefit retirement plan or system when the actuarial  
132 | funding level of that plan or system reaches or exceeds 100  
133 | percent.

134 |       Section 3. This act shall take effect July 1, 2016.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** Tax Reduction Package --DRAFT CONCEPTS  
**SPONSOR(S):** Finance & Tax Committee  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Aldridge	Langston

### SUMMARY ANALYSIS

The bill provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration.

The bill permanently reduces the state sales tax rate on rental of commercial real estate (business rent tax) from 6% to 5%, beginning January 1, 2017, with an additional one percentage point reduction (to 4%) in calendar year 2018 only. The bill includes new, extended or expanded sales tax exemptions for: machinery and equipment for certain manufacturing and agricultural postharvest activities and metals recycling; sales at school book fairs for one year; sales of college textbooks and instructional materials for one year; building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity; certain equipment, electricity and building materials used by datacenters; sales of food and drink by military veterans service organizations to their members, and certain resales of admissions for three years. The bill also clarifies the requirements for the current exemption on sales of aircraft that will be registered in a foreign jurisdiction. The bill includes the following sales tax holidays: a ten-day "back-to-school" holiday for clothing, footwear, school supplies, and computers; a one-day "technology" holiday sales of computers and related accessories; a one-day "small business" holiday, for sales by certain small businesses; and a one day "hunting and fishing" holiday for certain firearms, ammunition, camping tents, and fishing supplies.

For property taxes, the bill: clarifies that for a limited period, economic development tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015; expands the homestead exemption available for the surviving spouses of totally and permanently disabled veterans; creates a property tax discount on certain property used for affordable housing; and allows a midyear transfer of the disabled veteran homestead exemption.

For corporate income tax, the bill: temporarily increases total tax credits available for voluntary brownfields clean-up, research and development tax credits, and renewable energy technology and production tax credits. The bill adopts the Internal Revenue Code as in effect on January 1, 2016, but decouples from certain federal bonus depreciation provisions and changes certain filing dates to conform with federal filing date changes.

Further changes in the bill include: equalization of the tax rates on apple and pear cider; changes to allowable and required uses of tourist development taxes; elimination of a current exemption from and a reduction of the aviation fuel tax rate; clarification of administration of the tax on other tobacco products; clarification of documentary stamp tax treatment of certain housing authority notes; requiring at least 5% of community redevelopment agency revenues be spent on youth centers in certain circumstances; and replacement of the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation.

The total of -\$989.2 million in tax reductions proposed by the bill are 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 bill also includes nonrecurring General Revenue appropriations of \$887,199. Also see FISCAL COMMENTS section.

**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 6 percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, commercial real estate rentals, and motor vehicles, 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 (77.0 percent for FY 2015-2016<sup>1</sup>) and is administered by the Department of Revenue (DOR) under chapter 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.<sup>2</sup> Sales tax is due at the rate of 6 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.<sup>3</sup> 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.<sup>4</sup>

###### *Proposed Changes*

The bill reduces the business rent tax from 6 percent to 5 percent, effective January 1, 2017 and further reduces the tax rate to 4 percent for a one-year period, beginning January 1, 2018 and ending December 31, 2018.

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<sup>1</sup> FLORIDA REVENUE ESTIMATING CONFERENCE, 2016 FLORIDA TAX HANDBOOK (2016).

<sup>2</sup> Ch. 1969-222, Laws of Fla.

<sup>3</sup> Section 212.031, F.S., and Rule 12A-1.070, F.A.C.

<sup>4</sup> Office of Economic and Demographic Research, Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014).

## Industrial Manufacturing and Equipment Sales Tax Exemption

### *Current Situation*

Since April 30, 2014<sup>5</sup>, state law<sup>6</sup> exempts from sales and use tax purchases of industrial machinery and equipment used at a fixed location in Florida by an eligible manufacturing business that will manufacture, process, compound, or produce items of tangible personal property. The exemption also includes parts and accessories for the industrial machinery and equipment if they are purchased before the date the machinery and equipment are placed in service.

An "eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment are located is within the industries classified under manufacturing North American Industry Classification System<sup>7</sup> (NAICS) codes 31, 32, and 33<sup>8</sup>. The primary business activity of an eligible business is that activity which represents more than 50 percent of the activities conducted at the location where the industrial machinery and equipment are located. Examples of types of manufacturing establishments represented by the applicable NAICS codes include, but are not limited to, food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture.

The selling dealer (vendor) is required to obtain a signed certificate from the purchaser certifying the purchaser's entitlement to the tax exemption. The signed certificate will relieve the selling dealer of any potential tax liability on nonqualifying purchases.

Also included in the exemption are mixer drums affixed to mixer trucks which are used to mix, agitate, and transport freshly mixed concrete in a plastic state for the manufacture, processing, compounding, or production of items of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.

The exemption expires on April 30, 2017.

### *Proposed Changes*

The bill amends s. 212.08, F.S., to make permanent the sales and use tax exemption for certain industrial machinery and equipment purchased by eligible manufacturing businesses. The bill also adds to the list of eligible manufacturing businesses, those whose primary activity at the location where the industrial machinery and equipment is located is classified under NAICS code 423930<sup>9</sup> (metals recyclers).

The bill also adds an exemption for certain "postharvest machinery and equipment" for eligible businesses whose primary business activity at the location where the postharvest machinery and equipment is located is within NAICS code 115114.<sup>10</sup> Postharvest machinery is defined as tangible

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<sup>5</sup> Ch. 2013-39, Laws of Fla

<sup>6</sup> Section 212.08(7)(kkk), F.S.

<sup>7</sup> North American Industry Classification System, NAICS Code Description available at <http://www.naics.com/naics-code-description/?code=31> (last visited January 21, 2016).

<sup>8</sup> NAICS codes 31-33 pertain to manufacturing businesses. A more detailed description of the specific types of businesses included in NAICS codes 31-33 is available at: <http://www.naics.com/six-digit-naics/?code=3133>; (last visited January 21, 2016).

<sup>9</sup> NAICS code 423930 pertains to recyclable material merchant wholesalers. This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. A more detailed description of the specific types of businesses included in NAICS code 423930 is available at: <http://www.naics.com/naics-code-description/?code=423930> (last visited January 21, 2016)

<sup>10</sup> NAICS code 115114 pertains to establishments primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing. See: <http://www.naics.com/naics-code-description/?code=115114>

personal property or other property that has a depreciable life of 3 years or more and that is used primarily for postharvest activities, and includes repair parts, materials and labor.

The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

## Veterans' Organizations

### *Current Situation*

There is a sales tax exemption for sales or leases of tangible personal property to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veteran's organization activities.<sup>11</sup> Veterans' organizations are defined as nationally chartered organizations which hold certain exemptions from federal income tax, including, but not limited to Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc.<sup>12</sup>

### *Proposed Changes*

The bill adds to the current sales tax exemption sales of food or drinks by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations. The bill also explicitly lists the American Legion and Veterans of Foreign Wars of the United States, as qualified veterans' organizations.

## Datacenters

### *Current Situation*

There is no current provision or program that specifically provides sales tax exemptions for purchases of equipment, electricity and building materials for datacenters.

### *Proposed Changes*

The bill establishes a program that would allow certain qualifying datacenters to apply for certification with the Department of Economic Opportunity (DEO) that one or more of the datacenter's owners, operators, users, or tenants, individually, has or will make a cumulative capital investment of at least \$75,000,000 during a five-year period. Such expenditure does not include replacement of equipment that has reached its useful life, or the purchase of existing datacenters. Once certified, a business would have a sales tax exemption on the purchase of datacenter equipment, electricity for a datacenter and building materials for the construction or expansion of a datacenter.

The bill provides for the process which by which a business may apply for and receive certification for the sales tax exemptions described above. The bill provides definitions of "datacenter," "datacenter equipment," "qualifying datacenter," "cumulative capital investment," and "eligible costs." The bill tolls the statute of limitations on DOR's authority to audit from the time a business receives an exemption certificate until the time that DEO makes a final certification determination. The bill allows DEO to revoke a business' certification under specified circumstances and allows for the recovery of funds for which a determination is made by DOR that a certified business was not entitled to the certification.

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<sup>11</sup> Section 212.08(7)(n)1., F.S.

<sup>12</sup> Section 212.08(7)(n)2., F.S.

## Sales Tax on Admissions

### *Current Situation*

Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of 6 percent of sales price or the actual value received from admissions. Admissions are defined as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;
- Place where charge is made by way of sale of tickets, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.

Several exceptions and exemptions exist, such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profits;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Certain admissions to professional sports championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Generally speaking, sales of tangible personal property made for resale are exempt from sales tax.<sup>13</sup> This treatment does not apply to sales of taxable admissions.<sup>14</sup>

### *Proposed Changes*

The bill provides an exemption for certain resales of admissions where the ultimate purchaser of the admission is eligible for an exemption from sales tax. The bill allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from DOR. This exemption is scheduled to repeal on July 1, 2019.

## College or University Textbooks Sales Tax Exemption

### *Current Situation*

In 2015, the Legislature created a one-year sales tax exemption<sup>15</sup> for textbooks, and printed and digital materials required or recommended for a course offered by a public postsecondary educational

<sup>13</sup> See the definition of "retail sale" in s. 212.02(14), F.S. Also see s. 212.07, F.S.

<sup>14</sup> Section 212.04(1)(c), F.S.

<sup>15</sup> Section 29, ch. 2015-221, L.O.F.

institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

To obtain the tax exemption, a student must provide either a physical or an electronic copy of the following to the vendor:

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must maintain proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction which involves the sale of tax-exempted textbooks.

### *Proposed Changes*

The bill would extend the exemption on college textbooks through June 30, 2018.

### Book Fairs Sales Tax Exemption

#### *Current Situation*

Books sold at a book fair on the premises of K through 12 schools are currently subject to sales tax.

#### *Proposed Changes*

The bill creates a one-year exemption for book fairs on the premises of K through 12 schools. If the sales are made by a third-party vendor, the vendor must commit all or some of the profit from the book fair to be used for the benefit of the school.

### Aircraft Registered in a Foreign Jurisdiction

#### *Current Situation*

Generally speaking, sales of tangible personal property for export are not subject to tax in Florida. The legal rules governing taxability in the context of an export of tangible personal property can be complex, as can be the documentation requirements. Rule 12-1.007(10)(d)1., F.A.C., provides that:

Aircraft being exported under their own power to a destination outside the continental limits of the United States are subject to tax, unless the purchaser furnishes the dealer a duly signed and validated United States Customs declaration, showing the departure of the aircraft from the continental United States and the canceled United States registry of said aircraft. The burden of obtaining the evidential matter to establish the exemption rests with the selling dealer, who must retain the proper documentation to support the exemption.

Other provisions of Florida law may be implicated in this type of transaction.

#### *Proposed Changes*

The bill clarifies the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction. The bill specifies that an exemption applies on the purchase of an aircraft in Florida for aircraft that will be registered in a foreign jurisdiction, if:

- Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days from the date of purchase,

- The purchaser removes the aircraft from Florida to a foreign jurisdiction within 10 days from the date the aircraft is registered by the applicable foreign airworthiness authority, and
- The aircraft is operated in Florida solely for the removal from the state to a foreign jurisdiction

### Sales Tax Holidays

#### *Current Situation*

Since 1998, the Legislature has enacted 19 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 14 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 \$100. Books valued at \$50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from \$10 to \$15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of \$750 or less were exempted. In 2014, 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

*Small Business Saturday*--In 2010, American Express instituted a "Small Business Saturday" incentive for their cardholders who shopped at small, independent business on the Saturday after "Black

Friday.”<sup>16</sup> It is estimated that consumers spent \$5.5 billion at small, independent businesses on Small Business Saturday in 2012, with pre-holiday surveys estimated at \$5.3 billion.<sup>17</sup>

*Outdoor Recreation in Florida*--According to the Florida Fish and Wildlife Conservation Commission, recreational fishing, hunting and wildlife-viewing in Florida generate an economic impact of \$10.1 billion annually.<sup>18</sup> Florida has one of the largest public-hunting systems in the country, and there are approximately 242,000 hunters in the state.<sup>19</sup> Florida leads all states in economic impacts for its marine recreational fisheries,<sup>20</sup> and there are over two million Florida residents who are angler fisherman.<sup>21</sup>

### *Proposed Changes*

The bill establishes four sales tax holidays during the 2016-2017 fiscal year. DOR may adopt emergency rules to implement the provisions of each holiday.

*Back-to-School Holiday*--The bill provides for a ten-day sales tax holiday from August 5, 2016, through August 14, 2016. During the holiday, the following items that cost \$100 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.

Also exempt will be the first \$750 of the sales price for 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.

*Hunting and Fishing Sales Tax Holiday*--The bill provides for a one day sales tax holiday on August 20th, 2016, for certain firearms, ammunition, camping tents, and fishing supplies. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- Firearms (defined as rifles, shotguns, spearguns, crossbows, and bows);
- Ammunition for rifles, shotguns, spearguns, crossbows, and bows;
- Camping tents; and
- Fishing supplies (defined as non-commercial rods, reels, bait, and fishing tackle).

*Technology Sales Tax Holiday*--The bill provides a one-day sales tax holiday on April 22, 2017. During the holiday, the first \$1,000 of the sales price of the following items is exempt from the state sales tax and county discretionary sales surtaxes:

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<sup>16</sup> American Express, *Small Business Saturday*, available at: <https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shops-small-homepage-about> (last visited January 23, 2016).

<sup>17</sup> *Small Business Saturday® Results: Shoppers Provide Encouraging Start to the Holiday Shopping Season*, November 30, 2015, available at <http://www.businesswire.com/news/home/20151130005359/en/Small-Business-Saturday%C2%AE-Results-Shoppers-Provide-Encouraging> (last visited January 23, 2016).

<sup>18</sup> Florida Fish and Wildlife Conservation Commission (FWC), *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation> (last visited January 23, 2016).

<sup>19</sup> FWC, *Overview – Fast Facts*, available at: <http://myfwc.com/about/overview> (last visited January 23, 2016).

<sup>20</sup> FWC, *Economic Impact of Outdoor Recreation*, available at: <http://myfwc.com/conservation/value/outdoor-recreation/> (last visited January 23, 2016).

<sup>21</sup> FWC, *Overview – Fast Facts*, available at: <http://myfwc.com/about/overview/> (last visited January 23, 2016).

- Personal Computers (includes electronic book readers, laptops, desktops, handhelds, tablets, cellular telephones, or tower computers); and
- "Personal computer-related accessories" (includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software).

The "back to school," "hunting and fishing" and "technology" sales tax holidays 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.

*Small Business Saturday Tax Holiday*--The bill provides for a one day sales tax holiday on November 26, 2016. During the holiday, items priced \$1,000 or less that are sold by certain "small businesses" are exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines "small business" as a dealer, as defined in s. 212.06, F.S., that registered with the DOR and began operation no later than January 11, 2016, and that owed and remitted less than \$200,000 in sales tax to the DOR during the one-year period ending September 30, 2016. If the business has not been in operation for a complete year as of September 30, 2016, the business may qualify if it owed and remitted less than \$200,000 in sales tax from the first day of operation until September 30, 2016.

If the business is eligible to file a consolidated return (e.g., has multiple places of business), the total sales tax owed and remitted by the business' locations must be less than \$200,000 during the applicable period ending September 30, 2016.

## Rural Areas of Opportunity

### *Current Situation*

Florida's Rural Economic Development Initiative (REDI), housed within DEO, is a multi-agency endeavor that coordinates the efforts of regional, state, and federal agencies to the address the issues that affect the fiscal, economic and community viability of the state's economically distressed rural communities. REDI works with local governments, community-based organizations, and private entities that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs and economic development. A number of agencies and organizations are directed to designate a staff person to serve as REDI representatives.<sup>22</sup>

A Rural Area of Opportunity (RAO) is a rural community, or a region comprised of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, a natural disaster, or severe or chronic distress. The area may also be classified as a RAO if it presents a unique economic development opportunity of regional impact.<sup>23</sup>

The Governor may designate up to three RAO areas for five-year periods upon recommendation by REDI. This allows these areas to receive priority assignments for REDI, and allows the Governor, acting through REDI, to waive certain criteria or requirements of any economic development incentives.<sup>24</sup> Currently, there are three designated RAO areas:

- North West RAO – Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla and Washington Counties, and the City of Freeport in Walton County.

<sup>22</sup> Section 288.0656(6)(a), F.S.

<sup>23</sup> Section 288.0656(2)(d), F.S.

<sup>24</sup> Section 288.0656(7)(1), F.S.



- South Central RAO – DeSoto, Glades, Hardee, Hendry, Highlands and Okeechobee Counties, the Cities of Pahokee, Belle Glade and South Bay in Palm Beach County, and a portion of the Immokalee area in Collier County.
- North Central RAO – Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor and Union Counties.

### Sales & Use Tax on Building Materials, Rental of Tangible Personal Property, and Pest Control Services

Sales and use tax are currently levied on the purchase of building materials, pest control services, and the rental of tangible personal property used in the construction of improvements to real property in Rural Areas of Economic Opportunity. The tax is collected at a state rate of 6% and a local rate which varies from 0% to 1.5% depending on the county.

#### *Proposed Changes*

The bill creates an exemption from sales and use tax for the purchase of building materials, pest control services, and the rental of tangible personal property used in new construction in Rural Areas of Opportunity. The exemption is provided in the form of a refund of taxes paid, and is capped at \$10,000 per parcel. The bill provides for a procedure by which taxpayers submit an application to REDI. Within 10 days of receipt of a completed application, REDI must review the application and, if it meets the requirements of the bill, certify to DOR that a refund is to be issued.

### Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.<sup>25</sup> The calculation of Florida corporate income tax starts with a corporation's federal taxable income.<sup>26</sup> After certain addbacks and subtractions to federal taxable income required by chapter 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.<sup>27</sup> 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 corporation's business activities attributable to Florida.<sup>28</sup> 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.<sup>29</sup>

### 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 (DSCP);<sup>30</sup>
- 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

<sup>25</sup> Section 220.11, F.S.

<sup>26</sup> Section 220.12, F.S.

<sup>27</sup> Section 220.15, F.S.

<sup>28</sup> Section 220.15, F.S.

<sup>29</sup> Section 220.14, F.S.

<sup>30</sup> Section 376.30781, F.S.

- A brownfield site in a designated brownfield area.<sup>31</sup>

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, the VCTC statute also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and 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 the DEP is \$5 million annually. In the event that approved tax credit applications exceed the \$5 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year 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.

The Legislature increased the annual amount of credits that could be awarded from \$5 million to \$21.6 million for fiscal year 2015-2016.<sup>32</sup>

#### *Proposed Changes*

The bill increases the amount of credits that may be awarded from \$5 million to \$10 million in fiscal year 2016-17.

#### Florida Renewable Energy Production Credit

##### *Current Situation*

In 2006,<sup>33</sup> the Legislature created the Florida Renewable Energy Production Credit under s. 220.193, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,<sup>34</sup> the Legislature modified the Florida Renewable Energy Production Credit for electricity produced and sold on or after January 1, 2013.

Under current law, the credit is available to new renewable energy facilities that were operationally placed in service after May 1, 2006,<sup>35</sup> or expanded renewable energy facilities that increased electrical production and sale by more than five percent over what they had produced during 2011.<sup>36</sup> The tax credit is based on the taxpayer's production and sale of electricity, and equals \$0.01 for each kilowatt-hour of electricity produced and sold or used during a given tax year.<sup>37</sup>

The combined total amount of tax credits which may be granted for all taxpayers was limited to \$5 million in state fiscal year 2012-13 and \$10 million per state fiscal year in state fiscal years 2013-14

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<sup>31</sup> Section 220.1845, F.S.

<sup>32</sup> Ch. 2015-221, Laws of Fla (HB 33A)

<sup>33</sup> Ch. 2006-230, Laws of Fla. (SB 888)

<sup>34</sup> Ch. 2012-117, Laws of Fla. (HB 7117)

<sup>35</sup> Section 220.193(1)(e), F.S. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion.

<sup>36</sup> Section 220.193(1)(c), F.S.

<sup>37</sup> Section 220.193(3), F.S.

through 2016-17.<sup>38</sup> If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192<sup>39</sup> but unallocated due to a lack of authorized funds.

Credits may not be granted beyond state fiscal year 2016-17.<sup>40</sup>

### *Proposed Changes*

The bill proposes to extend the Florida Renewable Energy Production Credit through state fiscal year 2017-18. The bill sets the combined total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at \$10 million per state fiscal year. The bill further adds to the definition of “new facility” any nonpublic waste-to-energy facility sited pursuant to s. 403.501 – 403.518, F.S.

### Florida Renewable Energy Technology Credit

#### *Current Situation*

In 2006,<sup>41</sup> the Legislature created the Florida Renewable Energy Technology Credit under s. 220.192, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,<sup>42</sup> the Legislature modified the Florida Renewable Energy Technology Credit by expanding it to include materials used in the distribution of other renewable fuels, and extending the program, in effect, through state fiscal year 2016-17.

Under current law, The Renewable Energy Technologies Investment Tax Credit program provides an annual corporate tax credit equal to 75 percent of all capital costs, operation and maintenance costs, and research and development costs in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state. Eligible costs must be incurred between July 1, 2012, and June 30, 2016, and may not exceed \$1 million per state fiscal year for each taxpayer with a limit of \$10 million per state fiscal year. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.193<sup>43</sup> but unallocated due to a lack of authorized funds.

In effect, the program will expire after fiscal year 2016-17.<sup>44</sup>

#### *Proposed Changes*

The bill extends the Florida Renewable Energy Technology Credit through FY 2017-18. The bill sets the combined total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at \$10 million per state fiscal year.

### Research and Development Credits

*Federal Tax Credit*--The “U.S. Research and Experimentation Tax Credit” was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a

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<sup>38</sup> Section 220.193(3)(g), F.S.

<sup>39</sup> Renewable energy technologies investment tax credit.

<sup>40</sup> Section 220.193(3)(g), F.S.

<sup>41</sup> Ch. 2006-230, Laws of Fla. (SB 888)

<sup>42</sup> Ch. 2012-117, Laws of Fla. (HB 7117)

<sup>43</sup> Renewable energy production tax credit.

<sup>44</sup> Section 220.192(1)(c), and (2), F.S.

period of economic recession.<sup>45</sup> For the 2012 federal tax year, 15,873 companies claimed \$10.8 billion in R&D tax credits, including \$168.9 million claimed via “pass-through” entities.<sup>46</sup> At \$6.6 billion, manufacturing companies claimed the largest portion of research tax credits.<sup>47</sup>

*Florida Tax Credit*--Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year’s research and development expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company’s remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to 5 years following the year in which the qualified research expenses were incurred.

The maximum amount of research and development credits that may be approved by DOR during any calendar year is \$9 million, except for calendar year 2016 which has a cap of \$23 million. Applications may be filed with DOR between March 20th and March 27 for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are distributed on a prorated basis.

During the application period beginning in 2015, when credits were distributed on a first-come first-served basis instead of prorated, the DOR received a total of 81 applications for \$24 million worth of credits. Of these, 20 received full funding, 1 received partial funding, 59 were denied due to the cap having exceeded, and 1 was denied because it was a duplicate. All of the applications which received funding were filed within 6 minutes of the application window opening.<sup>48</sup>

## Federal Tax Code Conformance--“Piggyback”

### *Current Situation*

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida.<sup>49</sup> The determination of taxable income for Florida tax purposes begins with the taxable income determined for federal income tax purposes.<sup>50</sup> This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains its relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

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<sup>45</sup> “The U.S. Research and Experimentation Tax Credit in the 1990s” by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005. Retrieved at <http://www.nsf.gov/statistics/infbrief/nsf05316/> and “The Prospects for Economic Recovery,” prepared by the Congressional Budget Office. Published February 1982. Pertinent information on pages 87-93. Retrieved at <http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf>. (last visited on January 25, 2016)

<sup>46</sup> Internal Revenue Service, Statistics of Income Division. Retrieval at <http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit>. (last visited January 25, 2016)

<sup>47</sup> Ibid.

<sup>48</sup> DOR Research & Development Tax Credit Allocation Report. Retrieval at [http://dor.myflorida.com/dor/taxes/documents/rd\\_credit.pdf](http://dor.myflorida.com/dor/taxes/documents/rd_credit.pdf) (last visited January 25, 2016).

<sup>49</sup> Section 220.11(2), F.S.

<sup>50</sup> Section 220.12, F.S.

## Tax Calculation

On December 18, 2015, the federal government passed the Consolidated Appropriations Act, 2016,<sup>51</sup> which contains several significant amendments to the Internal Revenue Code.

Generally, the Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).<sup>52</sup> Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).<sup>53</sup> Prior to the Consolidated Appropriations Act, 2016, the amount that could be expensed was limited to \$25,000.

Federal legislation during the past several years<sup>54</sup> granted accelerated depreciation deductions (bonus depreciation) and increases in the expensing limitation on a temporary basis. However, the Consolidated Appropriations Act, 2016 permanently increased the expensing limitation from \$25,000 to \$500,000 for property placed in service in 2015 and thereafter. In addition, the Consolidated Appropriations Act, 2016 extended for five years the first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2015. The percentage is 50 percent for property placed in service during 2015, 2016, and 2017, but then phases down to 40 percent in 2018 and 30 percent in 2019.<sup>55</sup>

## Corporate Income Tax Returns

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015,<sup>56</sup> which contains amendments to the Internal Revenue Code regarding the due date for federal corporate income tax returns. For federal income tax return purposes, the following changes apply for tax years beginning after 2015 (unless otherwise specified):

<b>Return Type</b>	<b>Due Date Under Prior Law (extension due date in parentheses)</b>	<b>Due Date Under New Law (extension due date in parentheses)</b>	<b>Comments</b>
Partnership (calendar year)	April 15 (September 15)	March 15 (September 15)	
Partnership (fiscal year)	15th day of 4th month after the year- end  (15th day of 10th month)	15th day of 3rd month after the year- end  (15th day of 9th month)	
C-corporation (calendar year)	March 15  (September 15)	April 15  (September 15)	For tax years after December 31, 2025, the extension due date is changed to October 15
C-corporation (fiscal year ending	September 15	September 15	

<sup>51</sup> Pub. L. No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (December 18, 2015).

<sup>52</sup> See generally 26 U.S.C. §§ 167 and 168.

<sup>53</sup> See generally 26 U.S.C. § 179.

<sup>54</sup> The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.

<sup>55</sup> The bonus depreciation amount begins in 2019 for certain longer-lived and transportation property.

<sup>56</sup> Pub.L. No. 114-41, H.R. 3236 (July 31, 2015).

June 30)	(March 15)	(April 15)	
C-corporation (fiscal year ending other than June 30 or December 31)	15th day of 3rd month after year-end  (15th day of 9th month after year- end)	15th day of 4th month after year-end  (15th day of 10th month after year- end)	For tax years after December 31, 2025, the return due date is changed to October 15

Under Florida law, the due dates to file several tax returns related to corporate income tax are tied to the federal law. Florida corporations must file income tax returns on or before the 4th month following the close of the tax year or the 15th day following the federal due date (on or before the 5th month for partnership informational returns).<sup>57</sup>

When a Florida corporation or partnership is granted an extension of time to file its federal return, the taxpayer may file an extension of time to file its Florida return;<sup>58</sup> if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of 6 months from the original due date, whichever occurs first.<sup>59</sup> If a taxpayer extends the time to file its Florida return, Florida law requires the taxpayer to file a tentative tax return, which is due on or before the federal due date.<sup>60</sup>

Florida law requires every taxpayer to make a declaration of estimated tax each tax year, which is due before the 1st day of the 5th month of each tax year.<sup>61</sup> However, if a taxpayer reasonably expects to owe more than \$2,500 in corporate income tax, the declaration is due:

- before the 1st day of the 7th month if the \$2,500 threshold is met after the 3rd month and before the 6th month of the tax year;
- before the 1st day of the 10th month if the \$2,500 threshold is met after the 5th month and before the 9th month of the tax year; or
- before the 1st day of the succeeding taxable year if the \$2,500 threshold is met after the 8th month and before the 12th month of the tax year.<sup>62</sup>

### *Proposed Changes*

#### Tax Calculation

The bill updates the Florida tax code to reflect changes in the federal Internal Revenue Code enacted by Congress.

The bill adopts the permanent increase in the expensing limitation from \$25,000 to \$500,000. However, in order to mitigate the Fiscal Year 2016-17 impact of the accelerated federal depreciation deductions on Florida, the bill requires taxpayers, for Florida tax purposes only, to spread the effect of this deduction over seven taxable years. The bill accomplishes this by requiring taxpayers to “add-back” the bonus depreciation deduction. The taxpayer is then permitted to subtract from income one-seventh (1/7) of the “add-back” for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.<sup>63</sup> The

<sup>57</sup> Section 220.222(1), F.S.

<sup>58</sup> If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return pursuant to s. 220.32, F.S.

<sup>59</sup> Section 220.222(2), F.S.

<sup>60</sup> Section 220.32, F.S.

<sup>61</sup> Sections 220.24 and 220.241, F.S.

<sup>62</sup> *Id.*

<sup>63</sup> Chs. 2009-132, 2011-229 and 2013-40, Laws of Fla.

estimated impact of Florida accepting all of these changes in its tax code for fiscal years 2015-16 and 2016-17 combined is -\$396.6 million.<sup>64</sup>

### Corporate Income Tax Returns

The bill also adjusts several Florida tax return due dates to reflect the federal due date changes. Upon this bill becoming law, the following due dates will apply:

- For tax years 2016 through 2025:
  - Due Date
    - All partnership returns must be filed on or before the 4th month after the year-end
    - All C-corporation returns must be filed on or before the 5th month after the year-end, or the 15th day following the federal due date
  - Extension Due Date
    - If the taxpayer received a federal extension, the Florida due date is:
      - the expiration of 7 months from the original due date for June 30 year-end taxpayers
      - the expiration of 5 months from the original due date for all taxpayers (except June 30 year-end taxpayers)
  - Estimated Tax Due Date
    - All June 30 year-end taxpayers must file a declaration of estimated tax before the 1st day of the 5th month of each tax year, unless required to file later pursuant to s. 220.241(1).
    - All taxpayers (except June 30 year-end taxpayers) must file a declaration of estimated tax before the 1st day of the 6th month of each tax year, unless required to file later pursuant to s. 220.241(1).
- For tax years 2026 and beyond:
  - Due Date
    - All partnership returns (except June 30 year-end taxpayers) must be filed on or before the 4th month after the year-end
    - All C-corporation returns (except June 30 year-end taxpayers) must be filed on or before the 5th month after the year-end, or the 15th day following the federal due date
    - All June 30 year-end taxpayer returns must be filed on or before the 1st day of the 4th month after the year-end, or the 15th day following the federal due date
  - Extension Due Date
    - If the taxpayer received a federal extension, the Florida due date is the expiration of 6 months from the original due date.
  - Estimated Tax Due Date
    - All taxpayers must file a declaration of estimated tax before the 1st day of the 6th month of each tax year, unless required to file later pursuant to s. 220.241(1).

The following chart summarizes the changes to the Florida due dates (and extension due dates) for C-corporations under current law and upon this bill becoming law.

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<sup>64</sup> Revenue Estimating Conference, January 20, 2016.  
STORAGE NAME: Tax Package-DRAFT CONCEPTS.DOCX  
DATE: 1/19/2016

Florida Due Dates			
Tax Year End	Current Law (extension due date in parentheses)	Upon Bill Becoming Law (tax year 2016- 2025) (extension due date in parentheses)	Upon Bill Becoming Law (tax years 2026- beyond) (extension due date in parentheses)
January 31	May 1 (November 1)	June 1 (November 1)	June 1 (November 1)
February 28	June 1 (December 1)	July 1 (December 1)	July 1 (December 1)
March 31	July 1 (January 1)	August 1 (January 1)	August 1 (January 1)
April 30	August 1 (February 1)	September 1 (February 1)	September 1 (February 1)
May 31	September 1 (March 1)	October 1 (March 1)	October 1 (March 1)
June 30 <sup>65</sup>	October 1 (April 1)	October 1 (May 1)	October 1 (April 1)
July 31	November 1 (May 1)	December 1 (May 1)	December 1 (May 1)
August 31	December 1 (June 1)	January 1 (June 1)	January 1 (June 1)
September 30	January 1 (July 1)	February 1 (July 1)	February 1 (July 1)
October 31	February 1 (August 1)	March 1 (August 1)	March 1 (August 1)
November 30	March 1 (September 1)	April 1 (September 1)	April 1 (September 1)
December 31 <sup>66</sup>	April 1 (October 1)	May 1 (October 1)	May 1 (October 1)

### **Documentary Stamp Tax**

#### *Current Situation*

Each county in Florida may create by ordinance a Housing Finance Authority (HFA) of the county to carry out the powers granted by the Florida Housing Finance Authority Law.<sup>67</sup> An HFA is composed of not less than five uncompensated members appointed by the governing body of the county.<sup>68</sup> The powers of a HFA are vested in the members and include the power to loan funds to persons purchasing homes and to developers engaged in qualifying housing developments. HFAs may also issue revenue bonds and refunding bonds in order to finance activities allowed under statute. Persons are eligible for loans if their annual income does not exceed 80 percent of the median income for the county. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area.<sup>69</sup>

Section 159.621, F.S., provides that the following are exempt from all taxation:

- Bonds issued by a housing finance authority pursuant to Part IV of Chapter 159, F.S.;
- All notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or are given to secure, the repayment of bonds issued in connection with the financing of any housing development under this part; and
- Interest thereon and the income therefrom.

The exemption is not applicable to any tax imposed by chapter 220 on interest, income or profits on debt obligations owned by corporations.

<sup>65</sup> 3.3 percent of return filers in Florida use a December 31 year –end, which represents 3.6 percent of the corporate income tax liability.

<sup>66</sup> 84 percent of return filers in Florida use a December 31 year –end, which represents 74.5 percent of the corporate income tax liability.

<sup>67</sup> Section 159.604, F.S.

<sup>68</sup> Section 159.605, F.S.

<sup>69</sup> Section 159.608, F.S.



## *Proposed Changes*

The bill adds any note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to 159.608(8) to the activity exempted from taxation. It also adds that the exemption shall not apply to any deed granted in connection with property financed pursuant to Part IV of Chapter 159, F.S.

## **Aviation Fuel Taxes**

### *Current Situation*

#### Aviation Fuel, Kerosene, and Aviation Gasoline Taxes

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 and a tax of 6.9 cents on each gallon of kerosene and aviation gasoline sold or brought into the state for use in an aircraft.<sup>70</sup>

Florida law defines aviation fuel, kerosene, and aviation gasoline as follows:

- Aviation fuel means “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.”<sup>71</sup>
- Kerosene means “all aviation turbine fuels and any distillate known as diesel #1, K-1, or any product suitable for use as a substitute for kerosene not taxed as a diesel fuel under Ch. 206, Part II, F.S. Any kerosene meeting the definition of diesel under s. 206.86(1) is taxed under Ch. 206, Part II, F.S.”<sup>72</sup> When kerosene is used for aviation fuel, it is awarded the same tax treatment as aviation fuel.<sup>73</sup>
- Aviation gasoline means “any motor fuel blended or produced specifically for use in aircraft which has been dyed in accordance with federal regulations. Aviation gasoline does not include any such fuel used in any manner other than being placed in the storage tank of an aircraft.”<sup>74</sup>

#### Florida Aviation Fuel Tax Exemption

Despite Florida’s tax on aviation fuel, Florida law also provides for a refund or credit of the aviation fuel tax paid as follows:

Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier’s Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid.<sup>75</sup>

Any employees that existed before January 1, 1996, are not counted toward reaching the employment threshold, and the wholesaler or terminal supplier can only receive the credit or refund if the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.<sup>76</sup> Further, if before July 1, 2001, the number of full-time equivalent employee positions created or added to the air

<sup>70</sup> See section 206.9825, F.S. (The administration of kerosene taxes and aviation gasoline taxes differ from aviation fuel. 206.9825(2)-(3), F.S.)

<sup>71</sup> Section 206.9815, F.S.

<sup>72</sup> *Id.*

<sup>73</sup> See s. 206.9825, F.S.

<sup>74</sup> Section 206.9815, F.S.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

carrier's Florida workforce fell below the additional 250, the exemption granted would cease to apply as long as the number of employees remains below the additional 250.<sup>77</sup>

Accordingly, any air carrier offering transcontinental jet service that is able to meet the employment and other criteria described above, is exempt from paying aviation fuel tax.<sup>78</sup> Such qualifying air carriers can purchase aviation fuel from a wholesaler or terminal supplier without having to pay the wholesaler or terminal supplier tax on the fuel.<sup>79</sup> The wholesaler or terminal supplier, in turn, receives a credit or refund on the tax amount that it would otherwise have passed along to the air carrier as a result of its tax payment due on the sale of the fuel or tax amount previously paid.<sup>80</sup>

The Legislature first established the aviation fuel tax credit in 1996<sup>81</sup> to attract new airlines to Florida. The provisions of the original fuel tax credit expired on July 1, 2001; however, following the events of September 11, 2001, the 2002 Legislature decided to reenact the tax credit policy and did so without providing for an expiration date.<sup>82</sup>

The following chart illustrates data relating to the aviation fuel tax from June 2013, through July 2014.<sup>83</sup>

Sales of Aviation Fuel to Commercial Air Carriers (2014/2015)			
Carrier	Sum of Gallons	% of Total Sales	Tax Due (Includes Tax Exempt Disbursements)
American Airlines	298,649,092	33.42%	\$20,606,787.35
Delta Airlines, Inc.	129,635,299	14.51%	\$8,944,835.63
JetBlue Airways	113,293,136	12.68%	\$7,817,226.38
Southwest Airlines	108,026,647	12.09%	\$7,453,838.64
Continental Airlines, Inc.	72,505,569	8.11%	\$5,002,884.26
Allegiant Air LLC	49,966,012	5.59%	\$3,447,654.83
Spirit Airlines, Inc.	41,414,492	4.63%	\$2,857,599.95
US Airways, Inc.	34,688,081	3.88%	\$2,393,477.59
Federal Express	18,187,079	2.04%	\$1,254,908.45
Frontier Airlines	5,568,293	0.62%	\$384,212.22
Silver Airways Corp.	3,984,321	0.45%	\$274,918.15
DHL Express (USA)	3,578,371	0.40%	\$246,907.60
Virgin America, Inc.	3,425,117	0.38%	\$236,333.07
National Jets, Inc.	3,096,216	0.35%	\$213,638.90
United Parcel	2,725,184	0.30%	\$188,037.70
Envoy Air, Inc.	1,675,693	0.19%	\$115,622.82

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> See s. 206.9825(1)(a), F.S.

<sup>81</sup> Section 21, Ch. 96-323, Laws of Fla

<sup>82</sup> See s. 5, Ch. 2002-2, Laws of Fla

<sup>83</sup> The Department of Revenue provided the data in this chart to the Economic Development and Tourism Subcommittee via e-mail on November 24, 2015 (which e-mail is on file with staff). The data does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. Further, all returns have not been processed through June 2015, and sales reported on unworked returns are not included. Lastly, tax due does not include reduction due to collection allowance.

AirTran Airways, Inc.	1,398,434	0.16%	\$96,491.95
Miami Air	1,038,493	0.12%	\$71,656.02
United Airlines, Inc.	343,751	0.04%	\$23,718.82
Atlas Air, Inc.	298,737	0.03%	\$20,612.85
ABX Air, Inc.	69,280	0.01%	\$4,780.32
TEM Enterprises, Inc.	57,719	0.01%	\$3,982.61
AmeriJet	53,518	0.01%	\$3,692.74
Presidential	14,277	0.00%	\$985.11
Reva, Inc.	10,337	0.00%	\$713.25
Professional	5,018	0.00%	\$346.24
<b>Grand Total</b>	<b>893,708,166</b>	<b>100.00%</b>	<b>\$61,665,863.45</b>

### *Proposed Changes*

First, the bill amends s. 206.9825, F.S., limiting carriers that qualify for the aviation fuel tax exemption to those that increased their Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions between January 1, 1996 and July 1, 2016.

Then, beginning July 1, 2019, the bill repeals the aviation fuel tax exemption altogether and reduces the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 4.27 cents per gallon. The combination of the exemption repeal and tax rate cut is expected to be neutral with respect to total aviation fuel tax collections on a recurring basis.

The bill provides an effective date of July 1, 2016. However, as stated above, the removal of the aviation fuel tax exemption and reduction in tax rates would not be effective until July 1, 2019.

## **Alcohol and Tobacco Related Taxes and Fees**

### Taxation of Wine and Cider

#### *Current Situation*

Chapter 564 of Florida Statute governs the regulation and taxation of wine and cider. Wine is defined as any beverage made from fresh fruits, berries, or grapes by natural fermentation, including sparkling wines, champagnes, vermouths, and wines fermented with brandy. Wine coolers and other similar beverages are also included.

The tax rates on wines are as follows:

- For wines, other than natural sparkling wines, cider, and malt beverages, containing between 0.5 and 17.259 percent alcohol by volume, \$2.25 per gallon;
- For wines other than natural sparkling wines containing greater than 17.259% alcohol by volume, \$3 per gallon;
- For natural sparkling wines, \$3.50 per gallon;
- For ciders, which are made from the fermentation of apples and contain between 0.5 and 7 percent alcohol by volume, \$0.89 per gallon; and
- For wine coolers and similar beverages, \$2.25 per gallon.

## *Proposed Changes*

The bill amends the definition of cider to include cider made from pears. Consequently, cider made from pears would be taxed at a rate of \$0.89 per gallon as opposed to the current rate of \$2.25 per gallon.

## Cruise Lines

### *Current Situation*

Cruise Lines must pay beverage tax and cigarette tax for products sold to passengers while in Florida – i.e. while the ship is at port and while the ship is in Florida waters.

Section 565.02, F.S., establishes requirements for licensing and selling alcohol for passenger vessels engaged exclusively in foreign commerce which have a cabin-berth capacity for at least 75 passengers. Passenger vessels may sell alcoholic beverages for consumption on board only:

- During a period not in excess of 24 hours prior to departure while the vessel is moored at a dock or wharf in a port in Florida;
- At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

The permittee must pay to the state an excise tax for beverages sold pursuant to this section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor.

The Department of Business & Professional Regulation (DBPR) has interpreted this statute to apply to the sale of tobacco as well.

### *Proposed Changes*

The bill replaces the beverage and tobacco taxes that cruise lines currently pay with a new tax based on ship capacity and the number of times a ship embarks from Florida rather than volume of alcohol or tobacco sold at port.

Specifically, the excise tax due will be an amount equal to a base rate multiplied by the permittee's quarterly capacity during the calendar quarter. The base rate will be calculated by DBPR based on data provided by permit holders, and will be an amount equal to total taxes paid by all permit holders between January 1 and December 31, 2015, divided by the sum of the annual capacities of all permitted vessels. Annual capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year. The quarterly capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter. A lower berth is a bed which is:

- Affixed to a vessel;
- Not located above another bed in the same cabin; and
- Located in a cabin not in use by employees.

An embarkation is an instance where a vessel departs from a port in Florida.

The new tax will be paid quarterly by each permit holder. Each permit holder must report the annual capacity for each of its vessels to the DBPR by August 1, 2016. The department must calculate the base rate by September 1, 2016 and report it to each permit holder.

## Other Tobacco Products

### *Current Situation*

Other Tobacco Products (OTP) are defined in s. 210.25(11), F.S., and include items such as pipe tobacco, chewing tobacco, hookah tobacco, and dipping tobacco. Wholesale sales price is defined in s. 210.25(13), F.S., as the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any diminution by volume or other discounts.

On several occasions in recent years, the department has been faced with litigation regarding the definition of wholesale sales price. For example, the wholesale sales price for the same product can vary depending on if an American manufacturer or an overseas manufacturer is selling the product to a distributor because the Federal Excise Tax is paid at different times during the process. The wholesale sales price for the transaction with the American manufacturer includes Federal Excise Tax, whereas the wholesale sales price for the overseas manufacturer does not.<sup>84</sup>

Additionally, there is ongoing litigation regarding whether cigar wrappers, which are made in part from tobacco, are included in the definition of other tobacco products.

The OTP tax is 25% of the wholesale sales price and is deposited to General Revenue (GR). The OTP Surcharge is 60% of the wholesale sales price and is deposited to the Health Care Trust Fund, after deducting the 8% GR Service Charge.

### *Proposed Changes*

The bill amends s. 210.25, F.S., to clarify the definitions related to tobacco products other than cigarettes and cigars. In effect, the bill codifies the division's current administration of these laws with respect to domestically-manufactured products, and provides that the wholesale sales price for imported products must include the federal excise tax regardless of who first paid that excise tax.

The bill amends the definition of "tobacco products" to definitively include loose tobacco and wraps that are made in whole or in part from tobacco leaves.

The bill redefines "wholesale sales price" as the total amount paid by the distributor to obtain tobacco products. It is defined as the sum of:

- The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, cost of labor and service, charge for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the distributor, exclusive of any diminution by volume or other discounts, including a discount extended to a distributor by an affiliate; and
- The federal excise tax paid by the distributor on the tobacco products, if the excise tax is not included in the full price under paragraph (a).

The bill defines "affiliate" to mean "a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor." This will ensure that the price on which the excise tax is based is not diminished by a discount resulting from an affiliation between the distributor and another entity.

## Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.<sup>85</sup> Ad valorem taxes are

<sup>84</sup> *Micjo, Inc. v. Dep't of Bus. & Prof'l Regulation, Div. of Alcoholic Beverages & Tobacco*, 78 So. 3d 124 (Fla. Dist. Ct. App. 2012)

<sup>85</sup> FLA. CONST. art VII, s. 9,

collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.<sup>86</sup> 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.<sup>87</sup>

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.<sup>88</sup> The Florida Constitution grants property tax relief in the form of certain valuation differentials,<sup>89</sup> assessment limitations,<sup>90</sup> and exemptions,<sup>91</sup> including the exemptions relating to municipalities and exemptions for educational, literary, scientific, religious or charitable purposes.

### Disabled Veteran Exemption Transfer

#### *Current Situation*

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>92</sup>

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.<sup>93</sup>

Article VII, section 3(b) of the Florida Constitution provides for exemption from property taxes for persons who are totally and permanently disabled. The Legislature implemented this provision through various property tax exemptions in chapter 196, Florida Statutes, including s. 196.081(1)-(3), F.S.<sup>94</sup> These subsections provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent

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<sup>86</sup> FLA. CONST. art VII, s. 2.

<sup>87</sup> 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).

<sup>88</sup> "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).

<sup>89</sup> FLA. CONST. art VII, s. 4, authorizes valuation differentials, which are based on character or use of property.

<sup>90</sup> 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 percent or the percentage change in the Consumer Price Index. S. 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.

<sup>91</sup> 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.

<sup>92</sup> Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>93</sup> An additional homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

<sup>94</sup> Ch. 2012-193, Laws of Fla.

disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.<sup>95</sup>

Eligibility for all homestead exemptions, including the exemption in s. 196.081, is measured on January 1 of the applicable tax year.<sup>96</sup> If a property that received an exemption is sold after January 1, the exemption remains the property for the remainder of the year. In the subsequent year, any exemption will be based on the new owner's qualification on January 1 of that year.

### *Proposed Changes*

The bill provides that a veteran who received the s. 196.081 exemption but moves his or her homestead to another property after January 1 of the same year, may transfer the exemption to the new property if:

- The new property is owned and used as a homestead,
- The veteran files with the property appraiser an application for exemption of the new property within 30 days of acquisition of the new property, but no later than the 25th day following the mailing by the property appraiser of the TRIM notice, and
- The application must list and describe both the previous homestead and the new property, and certify under oath that the veteran:
  - is otherwise qualified to receive the exemption under s. 196.031,
  - holds legal title to the new property, and
  - intends to use the new property as his or her homestead.

The qualification deadline for all homestead exemptions, except applications for exemption under this proposal, will remain January 1.

If the exemption is granted on the new homestead, the previous homestead may not receive the exemption in that tax year, unless the subsequent owner of the previous homestead is qualified to receive the exemption.

### Exemptions for Surviving Spouses of Veterans

#### *Current Situation*

#### Totally and Permanently Disabled Veterans/Surviving Spouses

Article VII, section 3(b) of the Florida Constitution authorizes the Legislature by general law to provide, in part, a property tax exemption in an amount not less than \$500 for every widow or widower, and for persons who are permanently disabled. The Legislature implemented this provision through s. 196.081(1)-(3), F.S. These subsections currently provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.<sup>97</sup> This exemption may be carried over to the benefit of the veteran's surviving spouse.<sup>98</sup> If the deceased veteran does not meet these criteria, the surviving spouse is not eligible for the carry-over of the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.<sup>99</sup>

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<sup>95</sup> Section 196.081(1), F.S.

<sup>96</sup> Section 196.011(1)(a), F.S.; see also s. 196.031(1)(a), F.S.

<sup>97</sup> Section 196.081(1), F.S.

<sup>98</sup> Section 196.081(2) and (3), F.S.

<sup>99</sup> Section 196.081(3), F.S.

### Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces. The Legislature implemented this provision through s. 196.081(4), F.S.

This subsection provides a full property tax exemption on property that is owned and used as a homestead by the surviving spouse of veteran who died from service-connected causes while on active duty and is a permanent Florida resident on January 1 of the tax year for which the veteran died.<sup>100</sup> If the surviving spouse does not meet these criteria, the surviving spouse is not eligible to receive the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.<sup>101</sup>

#### Portability

While current law allows the surviving spouse of a disabled veteran to transfer the veteran's disability exemption to a new property if they are moving within Florida, this portability is not available to a surviving spouse who is coming from another state. In other words, if a surviving spouse owned a permanent residence in another state and was receiving an exemption or similar benefit based on their veteran spouse's disability, they could not transfer that benefit to a new Florida residence. However, a similarly situated surviving spouse who was moving within Florida would be able to transfer their benefit.

#### Proposed Changes

The bill expands the eligibility of surviving spouses of disabled veterans for the current law veteran homestead exemptions. Specifically, the bill amends s. 196.081(4), F.S., to allow the surviving spouse of a veteran who died from service-connected causes while on active duty to receive property tax relief in this state, regardless of the veteran's state of residence on January 1 of the year in which the veteran died.

In addition, the bill amends s. 196.081, F.S., to allow the surviving spouse of a veteran who was totally and permanently disabled upon death to receive property tax relief in this state, if the veteran, at the time of his or her death, owned homestead property in another state and had received a partial or full homestead exemption on that property on January 1 of the year the veteran died. To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must hold the legal or beneficial title to the homestead property in this state and permanently reside on the property<sup>102</sup> as of January 1 of the tax year for which the exemption is being claimed. Additionally, the surviving spouse must provide the county property appraiser with documentation that verifies the partial or full homestead exemption that applied to the veteran's property in the other state and any prima facie evidence that the surviving spouse is entitled to the exemption. The tax exemption may be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.

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<sup>100</sup> Section 196.081(4), F.S.

<sup>101</sup> Section 196.081(4)(b), F.S.

<sup>102</sup> See section 196.031, F.S.



## Ad Valorem: Affordable Housing Agreements

### *Current Situation*

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>103</sup> and it provides for specified assessment limitations, property classifications and exemptions.<sup>104</sup> Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.<sup>105</sup> In 1999,<sup>106</sup> the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not for profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.<sup>107</sup> In order to qualify for the exemption, the property must comply with ss. 196.195 for determining non-profit status of the property owner and s. 196.196 for determining exempt status of the use of the property. In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195 outlines the statutory criteria that a property appraiser must consider.<sup>108</sup> The applicant must show that “no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose.”<sup>109</sup>

In determining whether the use of a property qualifies as charitable, s. 196.196 requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.<sup>110</sup>

### *Proposed Changes*

The bill provides that certain property used to provide affordable housing will be considered a charitable purpose and qualify for a 50 percent property tax discount, notwithstanding the requirements of ss. 196.195 and 196.196.

In order to qualify for the discount, the property must:

- Provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;
- Provide the housing in a multifamily project in which at least 70 units are providing affordable housing to the above group, and;
- Be subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the sixteenth year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the

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<sup>103</sup> Fla. Const., art. VII, s. 4.

<sup>104</sup> Fla. Const., art. VII, ss. 3, 4, and 6.

<sup>105</sup> Fla. Const., art. VII, s. 3.

<sup>106</sup> Section 15, ch. 99-378, L.O.F., codified at s. 196.1978, F.S.

<sup>107</sup> The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) (“charitable purposes” include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).

<sup>108</sup> s. 196.195, F.S.,

<sup>109</sup> s. 196.195(3), F.S.

<sup>110</sup> s. 196.196(1)(a)-(b), F.S.

recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

### Economic Development Exemption

#### *Current Situation*

Section 196.1995, F.S., allows cities and counties to grant up to a 100 percent exemption from city or county ad valorem taxation for improvements to real property and tangible personal property for a new business or expansion of an existing business. Initially, the city or county calls for a referendum within its total jurisdiction to determine whether the jurisdiction may grant economic development ad valorem exemptions under s. 3, Art. VII of the State Constitution. The referendum can take one of two forms, as selected by the local government conducting the referendum. It can either authorize the city or county to grant such exemptions anywhere within its jurisdiction, or only in areas designated as enterprise zones or brownfield areas. Once the referendum measure is approved, specific exemptions are effectuated by enactment of an ordinance. To qualify for the exemption, the improvements must be made or the tangible personal property added after the adoption of the ordinance. Businesses seeking to take advantage of the exemption must file a written application with the city or county in the year the exemption is desired to take effect to request the adoption of the ordinance and provide supporting information.

Section 196.012, F.S., provides definitions for use in the above exemption. “New business” may include any business or organization located in an enterprise zone or brownfield area that first begins operation there. “Expansion of an existing business” includes any business or organization located in an enterprise zone or brownfield area that increases operations there.

The enterprise zone program expired on December 31, 2015, causing some uncertainty about whether the exemption can be granted to a business in an expired enterprise zone area if the city or county began the process of seeking authorization prior to December 31, 2015.

#### *Proposed Changes*

The bill clarifies that the exemption may still be granted to a business located in an area which was designated as an enterprise zone as of December 31, 2015, as long as the city or county authorizing the exemption does so before December 31, 2017.

### Aerial Photographs

#### *Current Situation*

Under Florida law, local property appraisers are responsible for developing the assessment (tax) roll within their jurisdiction.<sup>111</sup> Property appraisers are required to physically inspect property in their jurisdiction at least once every five years, but they may use “image technology” in lieu of physical inspection to ensure that the tax roll meets all the requirements of law.<sup>112</sup> DOR is required to establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.<sup>113</sup>

DOR coordinates the capture and distribution of ortho-imagery<sup>114</sup> of approximately one-third of the state each year according to the provisions of ch. 195.022, F.S. At least once every three years, or upon

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<sup>111</sup> Sections 193.023(1) and 193.114, F.S.

<sup>112</sup> Section 193.023(2), F.S.

<sup>113</sup> *Id.*

<sup>114</sup> According to DOR, an “orthophoto” is a photographic copy, prepared from a perspective photograph, in which displacements of images due to tilt and relief have been removed. See Department of Revenue, Orthophoto Program Frequently Asked Questions, June 4, 2014.

request of any property appraiser, DOR must furnish aerial photographs and nonproperty ownership maps to the property appraisers to ensure that all real property within the state is properly listed on the roll.<sup>115</sup>

DOR will pay for the cost of all photographs and maps to counties with populations lesser than 25,000; however, photographs and maps for counties with populations greater than 25,000 must be paid for at the property appraiser's expense.<sup>116</sup>

Between 2009-2014, the Legislature provided funding for aerial photography for counties with a population of less than 50,000 via specific proviso language in the General Appropriations Act.

### *Proposed Changes*

The bill amends s. 195.022, F.S., to change the county population threshold that determines the governmental entity responsible for payment for aerial photographs and maps. Under the bill, DOR will pay for photographs and maps furnished to counties that meet the population thresholds of a rural community in s. 288.0656(2)(e), F.S. For counties that do not meet those population thresholds, DOR will furnish the items at the property appraiser's expense.

Section 288.0656(2)(e), F.S., states that "rural community" means a county with a population of 75,000 or fewer or a county that has a population of 125,000 or fewer and is contiguous to a county with a population of 75,000 or fewer.

## **Tourist Development Taxes**

### *Current Situation*

Section 125.0104, F.S., authorizes five taxes on transient rental transactions (e.g. bookings at hotels). Depending on a county's eligibility to levy, the maximum allowable tax rate varies from a four to six percent. One of the levies requires voter approval, others may be authorized by vote of the county's governing authority or referendum approval. The revenues generated by the tax may be used in various ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy.

The tourist development tax ("1 to 2 Percent Tax") may be levied at the rate of one or two percent. All 67 counties are eligible to levy this tax, and currently 62 levy this tax – all at two percent. Calhoun, Hardee, Lafayette, Liberty and Union counties do not levy any tourist development taxes. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

An additional tourist development tax of one percent ("Additional 1 Percent Tax") may be levied by counties who have previously levied a tourist development tax at the one or two percent rate for at least three years. Currently 45 counties levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used to service debt or refinance facilities receiving funding from a previously levied tourist development tax unless approved by an extraordinary vote of the governing board. This tax may be levied by either extraordinary vote of the county governing board or by approval by a majority of voters in a referendum.

The other taxes authorized by this section include the professional sports franchise facility tax, the additional professional sports franchise facility tax, and the high tourism impact tax. These taxes are applied to the same transactions as the tourist development taxes.

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<sup>115</sup> Section 195.022, F.S.

<sup>116</sup> *Id.*

The 1 to 2 Percent Tax and the Additional 1 Percent taxes can be used to fund a wide variety of tourist-related facilities including convention centers, stadiums, aquariums, museums, zoos, tourist information centers & bureaus, and beach facilities and maintenance. Additionally all five taxes authorized by this section may be used to promote and advertise tourism in this state nationally and internationally. If revenues are expended for an activity, service, venue, or event it must have attraction of tourists as one of its main purposes, as evidenced by promotion of the activity, service, venue, or event to tourists. Because of the statutory location and phrasing of this requirement, it may allow for broad interpretation of allowable expenditures.

Prior to levying the tourist development tax, the county must establish a 9-member tourist development council. The council's responsibilities include advising the governing body of the county on effective use of tourist development tax revenues, proposing a plan for the use of such revenues, reviewing expenditures of the revenues and reporting any suspected unauthorized expenditures to the county governing board and the Department of Revenue.

### *Proposed Changes*

The bill clarifies the definition of "promotion" and adds definitions of "promote," "advertise," and "advertising." In conjunction with these definition changes the bill also removes the requirement that if tourist development tax revenues are expended for an activity, service, venue, or event it must have attraction of tourists as one of its main purposes, as evidenced by promotion of the activity, service, venue, or event to tourists. This requirement is explicitly added to the high tourism impact tax in order to retain current law treatment for that tax. Combined, these changes serve to limit the allowed expenditures of the 1 to 2 Percent Tax and the Additional 1 Percent Tax revenues to those purposes specifically laid out in statute, while making no change to the allowable uses of the other three taxes authorized by this section.

Additionally, the bill requires that a minimum of 35% of tourist development tax revenues which are left over after making required bond payments be used to fund promotion and advertising of tourism in the state. It also allows up to 10% of remaining tourist development tax revenues in a coastal county to be used to fund additional emergency medical and law enforcement services that are required as a result of tourism, as long as such funds are not used to supplant pre-existing expenditures on such services. It also allows funds to be spent on special events of up to 7 days duration if such events are designed to increase tourism.

The bill adds a requirement that a written application must be submitted to the governing body of the county in order to propose an expenditure of tourist development tax revenues. Each governing body is allowed to determine the requirements for the application, but it must including a description of the proposed expenditure and estimate of the cost at a minimum. The bill requires that a return on investment analysis or cost-benefit analysis must be performed before a county may make any expenditure of tourist development tax revenues in excess of \$100,000. The analysis must be performed by an individual who has prior experience with input-output modelling, cost-benefit analysis or the application of economic multipliers such as the Regional Input-Output Modelling System created by the Bureau of Economic Analysis within the United States Department of Commerce.

The bill creates an additional means of enforcing the allowed uses of tourist development tax. Any remitter of the tax, or any organization representing multiple remitters of the tax, in an action filed pursuant to Ch. 120, F.S., (The Administrative Procedure Act), may challenge a county's decision to devote such tax revenues to a particular use or uses that the challenger claims is contrary to uses allowed by law. During the pendency of the administrative proceeding and any resulting appeals, no tourist development tax revenues may be used to fund the challenged use or uses. No deference is to be afforded the county's interpretation of statute. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney's fees.

## **Community Redevelopment Agencies**

### *Current Situation*

The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas “which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state.” The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a “finding of necessity” and a further finding of a “need for a CRA to carry out community redevelopment.” During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. Expenditures are made pursuant to a community redevelopment plan approved by the governing body of the general purpose government that created the agency. Section 163.387(6), F.S., provides a list of allowable uses for funds from the Redevelopment Trust Fund, including administrative expenses, planning expenses, the purchase of real property, payment of bonds and other debt, redevelopment expenses, relocation of residents affected by redevelopment, development of affordable housing, and community policing expenses.

### *Proposed Changes*

The bill requires any CRA which serves an area where at least 50% of children aged 18 and younger live below the poverty line to spend at least 5% of Redevelopment Trust Fund revenues annually to support youth centers, if a youth center has submitted a written request for such support.

#### **B. SECTION DIRECTORY:**

- Section 1. Amends s. 125.0104(2) and (5), F.S., relating to tourist development taxes, to clarify definitions, add new allowable and required uses, and new requirements for proposed expenditures, and provides a civil cause of action for unauthorized expenditures..
- Section 2. Amends s. 159.621, F.S., to add certain notes or mortgages to a documentary stamp tax exemption.
- Section 3. Amends s. 163.387(6), F.S., to add a new allowable use for redevelopment trust fund revenues and requires at least 5% of these revenues be spent on youth centers in certain circumstances.
- Section 4. Amends s. 195.022, F.S., changing population thresholds for aerial photography.
- Section 5. Amends s. 196.011(1), F.S., to conform to changes made by section 6 of the bill.
- Section 6. Amends s. 196.012(14) and (15), F.S., to modify the definitions of “new business” and “expansion of an existing business” to include areas designated as enterprise zones as of December 30, 2015.
- Section 7. Amends s. 196.081(1), (4), (5), (6) and (7) F.S., to allow a midyear transfer of the disabled veteran homestead exemption.

- Section 8. Amends s. 196.1978, F.S., to create a property tax discount on certain property used for charitable affordable housing.
- Section 9. Amends s. 196.1995 F.S., to clarify that economic development ad valorem tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015.
- Section 10. Amends s. 206.9825, F.S.; to end an aviation fuel tax credit for certain aviation fuels.
- Section 11. Amends s. 206.9825, F.S., to reduce the tax rate on aviation fuel to a rate designed to make the changes by section 9 of the bill revenue neutral.
- Section 12. Amends s. 210.13, F.S., to conform to changes made by section 32 of the bill.
- Section 13. Amends s. 210.25, F.S., to clarify definitions related to other tobacco products.
- Section 14. Amends s. 212.031, F.S., to permanently reduce the business rent tax from 6% to 5%, with an additional one percentage point reduction (to 4%) in calendar year 2018.
- Section 15. Amends s. 212.04, F.S., to provide an exemption for certain resales of taxable admissions.
- Section 16. Amends s. 212.05, F.S., to clarify the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction
- Section 17. Amends s. 212.08(5) and (7), F.S., to provide sales tax exemptions for building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity; certain equipment, electricity and building materials used by datacenters, veterans' organizations, and certain industrial, postharvest activity and metal recycler machinery and equipment.
- Section 18. Amends s. 220.03, F.S., to conform dates to adopt the Internal Revenue Code in effect January 1, 2016.
- Section 19. Amends s. 220.13, F.S., to "decouple" from certain federal provisions relating to bonus depreciation.
- Section 20. Specifies that changes made by sections 17 and 18 of the bill are effective upon becoming law and operate retroactively to January 1, 2016.
- Section 21. Grants DOR emergency rulemaking authority to implement sections 17, 18 and 19 of the bill.
- Section 22. Amends s. 220.1845, F.S., to increase the total amount of contaminated site rehabilitation tax credits for 2 years.
- Section 23. Amends s. 220.192, F.S., to extend the renewable energy technology tax credit for 1 year.
- Section 24. Amends s. 220.193, F.S., to extend the renewable energy production tax credit for 1 year.
- Section 25. Amends s. 220.196(2), F.S., to increase the total amount of research and development tax credits for 1 year.

- Section 26. Amends s. 220.222, F.S., to make changes to address certain federal date filing changes.
- Section 27. Amends s. 220.241, F.S., to make changes to address certain federal date filing changes.
- Section 28. Amends s. 220.33(1), F.S., to make changes to address certain federal date filing changes.
- Section 29. Amends s. 220.34(2), F.S., to make changes to address certain federal date filing changes.
- Section 30. Specifies that the changes made by sections 26, 27 and 28 of the bill apply to estimated payments for taxable years beginning on or after January 1, 2017.
- Section 31. 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 for one year.
- Section 32. Amends s. 564.06(4), F.S., to equalize the tax rates on apple and pear cider .
- Section 33. Amends s. 565.02(9), F.S., to replace the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation..
- Section 34. Amends s. 951.22(1), F.S., to conform a reference to changes made by section 12 of this bill.
- Section 35. 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 36. Provides an exemption from the sales and use tax for the retail sale of certain items and articles of tangible person property by certain small businesses during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 37. Provides an exemption from the sales and use tax on the retail sale of certain firearms, ammunition for firearms, camping tents, and fishing supplies during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 38. Provides an exemption from the sales and use tax on the retail sale of certain radios, batteries, generators and other hurricane supplies during a specified period; provides emergency rulemaking authority; provides an appropriation.
- Section 39. Provides an exemption for the sale of books and other reading materials at school book fairs for 1 year.
- Section 40. Provides an exemption for the sale of college textbooks and instructional materials for 1 year.
- Section 41. Provides an appropriation to the Department of Revenue to implement section 13 of the bill.
- Section 42. Provides an appropriation to the Department of Revenue to pay the costs of aerial photography created by section 4 of the bill.

Section 43. Specifies that the changes made by sections 5 and 8 of this bill are remedial and apply retroactively to December 31, 2015.

Section 44. Provides effective dates.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS below.

2. Expenditures:

The bill appropriates \$887,199 in nonrecurring General Revenue to DOR for the 2016-17 fiscal year. Also see FISCAL COMMENTS below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS below.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

### D. FISCAL COMMENTS:

The total impact of the bill in fiscal year 2016-2017 is -\$353.7 million (-\$417.1 million recurring) of which -\$303.3 million (-\$328.8 million recurring) is on General Revenue, +\$1.2 million (+\$0.4 million recurring) is on state trust funds, and -\$51.6 million (-\$88.7 million recurring) is on local government (see table below). Several measures in the bill result in further, non-recurring revenue impacts in years beyond fiscal year 2016-17, totaling -\$350.0 million, of which -\$310.8 million is on General Revenue and -\$39.2 million is on local government. The table below indicates the impacts and the years during which those impacts will occur. The 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 -\$989.2 million in tax reductions proposed by the bill is the sum of -\$417.1 million (recurring), -\$222.1 million (pure nonrecurring in fiscal year 2016-17), and -\$350.0 million (pure nonrecurring after fiscal year 2016-17).

*Appropriations Detail*—The \$887,199 appropriated in the bill consists of the following: \$229,982 to implement the “back-to-school” sales tax holiday; and \$55,908 to implement the business rent tax rate changes; \$91,470 to implement the hunting and fishing sales tax holiday; \$229,982 to implement the technology sales tax holiday; and \$279,857 to pay additional costs associated with provision of aerial photography by DOR. The appropriations for the back-to-school holiday and the technology sales tax holiday are to pay the cost of mailing a taxpayer information publication (TIP) to approximately 590,000 sales tax dealers notifying them of the tax free period. Similarly the appropriations hunting and fishing tax holiday is to pay the cost of mailing a taxpayer information publication (TIP) to approximately 264,900 sales tax dealers notifying them of the tax free period. Of the appropriation for the business rent tax rate reduction, \$45,188 is for tax dealer notification and the remainder is for computer system reprogramming.



**Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of \$)**

<b>Issue</b>	<b>General Revenue</b>		<b>State Trust Funds</b>		<b>Local</b>		<b>Total</b>	
	<b>1st Yr</b>	<b>Recur.</b>	<b>1st Yr</b>	<b>Recur.</b>	<b>1st Yr</b>	<b>Recur.</b>	<b>1st Yr</b>	<b>Recur.</b>
<b>Sales Tax:</b> Business Rent/1% Permanent/2% for 1 Yr	(106.8)	(256.4)	(*)	(*)	(13.8)	(33.1)	(120.6)	(289.5)
<b>Sales Tax:</b> Machinery/Equipment–Manufacturing Exemption Extension	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)
<b>Sales Tax:</b> Machinery/Equipment–Fruit & Vegetable Packinghouses	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)
<b>Sales Tax:</b> Machinery/Equipment–Metal Recyclers	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)
<b>Sales Tax:</b> Tax Holiday/"Back-to-School"	(55.9)	-	(*)	-	(12.6)	-	(68.5)	-
<b>Sales Tax:</b> Tax Holiday/Small Business	(35.0)	-	(*)	-	(7.9)	-	(42.9)	-
<b>Sales Tax:</b> Tax Holiday/Technology	(22.8)	-	(*)	-	(5.1)	-	(27.9)	-
<b>Sales Tax:</b> Tax Holiday/Hunting and Fishing	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-
<b>Sales Tax:</b> College Textbooks/1 Yr Extension	(33.3)	-	(*)	-	(7.6)	-	(40.9)	-
<b>Sales Tax:</b> Datacenters Exemption	(5.7)	(8.7)	(0.1)	(0.9)	(1.4)	(2.0)	(7.2)	(11.6)
<b>Sales Tax:</b> Admissions Resales (3 Yrs)	(1.5)	-	(*)	-	(0.3)	-	(1.8)	-
<b>Sales Tax:</b> Rural Areas of Opportunity/Bldg Materials	(3.2)	-	(*)	-	(1.3)	-	(4.5)	-
<b>Sales Tax:</b> School Book Fairs/1 Yr Exemption	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-
<b>Sales Tax:</b> Veterans' Service Organizations/Food & Drink	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)
<b>Corp Inc Tax:</b> Federal Code Conformance Issues	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)
<b>Corp Inc Tax:</b> R&D Credits/1 Yr Increase @ 9m	(6.4)	-	-	-	-	-	(6.4)	-
<b>Corp Inc Tax:</b> Brownfield Credits/1 Yr Increase	(5.0)	-	-	-	-	-	(5.0)	-
<b>Corp Inc Tax:</b> Renewable Energy Prod Credits/1 Yr Extension	-	-	-	-	-	-	-	-
<b>Corp Inc Tax:</b> Renewable Energy Technology Credits/1 Yr Extension	-	-	-	-	-	-	-	-
<b>Ad Valorem:</b> Affordable Housing/Recorded Agreements (1)	-	-	-	-	-	(37.9)	-	(37.9)
<b>Ad Valorem:</b> Surviving Spouse/Disabled Veterans - Residency (1)	-	-	-	-	-	(1.7)	-	(1.7)
<b>Ad Valorem:</b> Disabled Vets Exemption Transferability	-	-	-	-	+/-	+/-	+/-	+/-
<b>Ad Valorem:</b> EDATE Clarification/Enterprise Zones	-	-	-	-	(**)	(**)	(**)	(**)
<b>Ad Valorem:</b> Aerial Photography (Appropriation)	(0.3)	-	-	-	-	-	(0.3)	-
<b>Aviation Fuel Tax:</b> Exemption Elimination/Rate Cut	-	-	-	-	-	-	-	-
<b>Bev Tax/Tobacco Tax:</b> Cruise Line Tax Simplification	(0.1)	-	(*)	-	-	-	(0.1)	-
<b>Bev Tax:</b> Pear Cider Rate Reduction	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)
<b>Doc Stamp Tax:</b> Affordable Housing-related Notes	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)
<b>Tobacco Tax:</b> Other Tob Prod/Definition Clarification	0.9	0.9	1.5	1.5	-	-	2.4	2.4
<b>Appropriations:</b> Tax Holidays & Admin	(0.6)	-	-	-	-	-	(0.6)	-
<b>FY 2016-17 Total</b>	<b>(303.3)</b>	<b>(328.8)</b>	<b>1.2</b>	<b>0.4</b>	<b>(51.6)</b>	<b>(88.7)</b>	<b>(353.7)</b>	<b>(417.1)</b>
<b>Non-recurring Impacts After FY 2016-17</b>	<b>Cash</b>		<b>Cash</b>		<b>Cash</b>		<b>Cash</b>	
<b>Sales Tax:</b> Admissions Resales (17/18 & 18/19)	(3.4)	-	-	-	(1.0)	-	(4.4)	-
<b>Sales Tax:</b> Rural Areas of Opportunity/Bldg Materials	(7.2)	-	-	-	(2.7)	-	(9.9)	-
<b>Sales Tax:</b> Business Rent/1% for 1 yr (1/1/2018)	(274.8)	-	(*)	-	(35.5)	-	(310.3)	-
<b>Corp Inc Tax:</b> Federal Code Conformance Issues	(2.8)	-	-	-	-	-	(2.8)	-
<b>Corp Inc Tax:</b> Renewable Energy Prod Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-
<b>Corp Inc Tax:</b> Renewable Energy Technology Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-
<b>Corp Inc Tax:</b> R&D Credits (17/18)	(2.6)	-	-	-	-	-	(2.6)	-
<b>Bill Total</b>	<b>(614.1)</b>	<b>(328.8)</b>	<b>1.2</b>	<b>0.4</b>	<b>(90.8)</b>	<b>(88.7)</b>	<b>(703.7)</b>	<b>(417.1)</b>
					<b>Recurring + Pure Nonrecurring (2) =</b>		<b>(989.2)</b>	

(\*) Impact less than \$50,000.

(+/-) Indeterminate impact, direction can be positive or negative

(1) Ad valorem tax impacts assume current tax rates.

(2) Recurring total = -\$417.1 million; pure nonrecurring in FY 2016-17 = -\$222.1 million; pure nonrecurring after FY 2016-17 = -\$350.0 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 this bill, by expanding current ad valorem tax exemptions, may reduce local government's 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:

None.

#### B. RULE-MAKING AUTHORITY:

DOR already has general rule-making authority to create rules governing the taxes it administers.<sup>117</sup> The bill authorizes DOR to adopt emergency rules to implement the changes in the bill related to adopting the internal revenue code and decoupling from federal bonus depreciation provisions and to administer the back to school sales tax holiday, the small business sales tax holiday, the hunting and fishing sales tax holiday and the technology sales tax holiday.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>117</sup> See ss. 212.17(6), 212.18(3), 213.06(1) F.S.  
STORAGE NAME: Tax Package-DRAFT CONCEPTS.DOCX  
DATE: 1/19/2016

**Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of \$)**

<b>Issue</b>	<b>General Revenue</b>		<b>State Trust Funds</b>		<b>Local</b>		<b>Total</b>		<b>Bill Line #</b>
	<b>1st Yr</b>	<b>Recur.</b>	<b>1st Yr</b>	<b>Recur.</b>	<b>1st Yr</b>	<b>Recur.</b>	<b>1st Yr</b>	<b>Recur.</b>	
<u>Sales Tax</u> : Business Rent/1% Permanent/2% for 1 Yr	(106.8)	(256.4)	(*)	(*)	(13.8)	(33.1)	(120.6)	(289.5)	863-901; 2291
<u>Sales Tax</u> : Machinery/Equipment--Manufacturing Exemption Extension	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)	1612
<u>Sales Tax</u> : Machinery/Equipment--Fruit & Vegetable Packinghouses	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)	1531; 1566-1599
<u>Sales Tax</u> : Machinery/Equipment--Metal Recyclers	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)	1530; 1547-1550
<u>Sales Tax</u> : Tax Holiday/"Back-to-School"	(55.9)	-	(*)	-	(12.6)	-	(68.5)	-	2082-2139
<u>Sales Tax</u> : Tax Holiday/Small Business	(35.0)	-	(*)	-	(7.9)	-	(42.9)	-	2140-2168
<u>Sales Tax</u> : Tax Holiday/Technology	(22.8)	-	(*)	-	(5.1)	-	(27.9)	-	2198-2232
<u>Sales Tax</u> : Tax Holiday/Hunting and Fishing	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-	2169-2197
<u>Sales Tax</u> : College Textbooks/1 Yr Extension	(33.3)	-	(*)	-	(7.6)	-	(40.9)	-	2254-2286
<u>Sales Tax</u> : Datacenters Exemption	(5.7)	(8.7)	(0.1)	(0.9)	(1.4)	(2.0)	(7.2)	(11.6)	1240-1471
<u>Sales Tax</u> : Admissions Resales (3 Yrs)	(1.5)	-	(*)	-	(0.3)	-	(1.8)	-	902-930
<u>Sales Tax</u> : Rural Areas of Opportunity/Bldg Materials	(3.2)	-	(*)	-	(1.3)	-	(4.5)	-	1122-1239
<u>Sales Tax</u> : School Book Fairs/1 Yr Exemption	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-	2233-2253
<u>Sales Tax</u> : Veterans' Service Organizations/Food & Drink	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)	1494-1507
<u>Corp Inc Tax</u> : Federal Code Conformance Issues	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)	1614-1721; 1829-1942
<u>Corp Inc Tax</u> : R&D Credits/1 Yr Increase @ 9m	(6.4)	-	-	-	-	-	(6.4)	-	1814-1828
<u>Corp Inc Tax</u> : Brownfield Credits/1 Yr Increase	(5.0)	-	-	-	-	-	(5.0)	-	1722; 1948
<u>Corp Inc Tax</u> : Renewable Energy Prod Credits/1 Yr Extension	-	-	-	-	-	-	-	-	1765-1804
<u>Corp Inc Tax</u> : Renewable Energy Technology Credits/1 Yr Extension	-	-	-	-	-	-	-	-	1730-1764
<u>Ad Valorem</u> : Affordable Housing/Recorded Agreements (1)	-	-	-	-	-	(37.9)	-	(37.9)	564-620
<u>Ad Valorem</u> : Surviving Spouse/Disabled Veterans - Residency (1)	-	-	-	-	-	(1.7)	-	(1.7)	540-563
<u>Ad Valorem</u> : Disabled Vets Exemption Transferability	-	-	-	-	+/-	+/-	+/-	+/-	493-530
<u>Ad Valorem</u> : EDATE Clarification/Enterprise Zones	-	-	-	-	(**)	(**)	(**)	(**)	469-489; 621-666
<u>Ad Valorem</u> : Aerial Photography (Appropriation)	(0.3)	-	-	-	-	-	(0.3)	-	385-440; 2295

**Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of \$)**

<u>Issue</u>	<u>General Revenue</u>		<u>State Trust Funds</u>		<u>Local</u>		<u>Total</u>		<u>Bill Line #</u>
	<u>1st Yr</u>	<u>Recur.</u>	<u>1st Yr</u>	<u>Recur.</u>	<u>1st Yr</u>	<u>Recur.</u>	<u>1st Yr</u>	<u>Recur.</u>	
<u>Aviation Fuel Tax</u> : Exemption Elimination/Rate Cut	-	-	-	-	-	-	-	-	667-790
<u>Bev Tax/Tobacco Tax</u> : Cruise Line Tax Simplification	(0.1)	-	(*)	-	-	-	(0.1)	-	797; 1973-2058
<u>Bev Tax</u> : Pear Cider Rate Reduction	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)	1958
<u>Doc Stamp Tax</u> : Affordable Housing-related Notes	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)	344
<u>Tobacco Tax</u> : Other Tob Prod/Definition Clarification	0.9	0.9	1.5	1.5	-	-	2.4	2.4	824-859
<u>Appropriations</u> : Tax Holidays & Admin	(0.6)	-	-	-	-	-	(0.6)	-	
<b>FY 2016-17 Total</b>	<b>(303.3)</b>	<b>(328.8)</b>	<b>1.2</b>	<b>0.4</b>	<b>(51.6)</b>	<b>(88.7)</b>	<b>(353.7)</b>	<b>(417.1)</b>	
<b><u>Non-recurring Impacts After FY 2016-17</u></b>	<b>Cash</b>		<b>Cash</b>		<b>Cash</b>		<b>Cash</b>		
<u>Sales Tax</u> : Admissions Resales (17/18 & 18/19)	(3.4)	-	-	-	(1.0)	-	(4.4)	-	
<u>Sales Tax</u> : Rural Areas of Opportunity/Bldg Materials	(7.2)	-	-	-	(2.7)	-	(9.9)	-	
<u>Sales Tax</u> : Business Rent/1% for 1 yr (1/1/2018)	(274.8)	-	(*)	-	(35.5)	-	(310.3)	-	
<u>Corp Inc Tax</u> : Federal Code Conformance Issues	(2.8)	-	-	-	-	-	(2.8)	-	
<u>Corp Inc Tax</u> : Renewable Energy Prod Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-	
<u>Corp Inc Tax</u> : Renewable Energy Technology Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-	
<u>Corp Inc Tax</u> : R&D Credits (17/18)	(2.6)	-	-	-	-	-	(2.6)	-	
<b>Bill Total</b>	<b>(614.1)</b>	<b>(328.8)</b>	<b>1.2</b>	<b>0.4</b>	<b>(90.8)</b>	<b>(88.7)</b>	<b>(703.7)</b>	<b>(417.1)</b>	
							<b>Recurring + Pure Nonrecurring (2) =</b>	<b>(989.2)</b>	
<b><u>Other Issues</u></b>									
<u>Sales Tax</u> : Aircraft/Foreign Registered Clarification									931-1014
<u>CRAs</u> : Non-profit Youth Centers & Other									367
<u>Tourist Development Tax</u> : Uses & Other Provisions									140-343
<p>(*) Impact less than \$50,000.                  (+/-) Indeterminate impact, direction can be positive or negative                  (1) Ad valorem tax impacts assume current tax rates.                  (2) Recurring total = -\$417.1 million; pure nonrecurring in FY 2016-17 = -\$222.1 million; pure nonrecurring after FY 2016-17 = -\$350.0 million.</p>									

1                                   A bill to be entitled  
 2           An act relating to taxation; amending s. 125.0104,  
 3           F.S.; providing definitions; amending authorized uses  
 4           of certain tourist development taxes; requiring  
 5           recommendations for proposed usage of certain tourist  
 6           development tax revenue to be in writing; providing an  
 7           additional means of ensuring that certain tourist  
 8           development tax revenues are used for authorized  
 9           purposes; requiring the performance of a return-on-  
 10          investment analysis in specified circumstances;  
 11          amending s. 159.621, F.S.; amending an exemption from  
 12          documentary stamp tax for certain housing bonds;  
 13          amending s. 163.387; amending uses for community  
 14          redevelopment agency redevelopment trust fund;  
 15          amending s. 195.022, F.S.; revising the county  
 16          population thresholds for purposes of identifying the  
 17          governmental entity responsible for payment of aerial  
 18          photographs and ownership maps; amending s. 196.011,  
 19          F.S.; making conforming changes; amending s. 196.012,  
 20          F.S.; amending definitions; amending s. 196.081, F.S.;  
 21          allowing an exemption from ad valorem tax for certain  
 22          permanently and totally disabled veterans under  
 23          specified circumstances; removing the requirement that  
 24          a deceased veteran must have resided in this state on  
 25          a specified date before the ad valorem tax exemption  
 26          for homestead property may apply to the veteran's

27 surviving spouse; exempting the unremarried surviving  
 28 spouse of certain deceased veterans from payment of ad  
 29 valorem taxes for certain homestead property in this  
 30 state, irrespective of the state in which the  
 31 veteran's homestead was located at the time of death,  
 32 if certain conditions are met; amending 196.1978,  
 33 F.S.; providing property tax exemption for property  
 34 used to provide affordable housing to eligible person  
 35 amending s. 196.1995, F.S.; amending an economic  
 36 development ad valorem tax exemption; amending s.  
 37 206.9825, F.S.; revising eligibility criteria for  
 38 wholesalers and terminal suppliers to receive aviation  
 39 fuel tax refunds or credits of previously paid excise  
 40 taxes; providing for future repeal; revising the rate  
 41 of the excise tax on certain aviation fuels; amending  
 42 s. 210.13, F.S.; amending definitions; amending s.  
 43 212.031, F.S.; reducing the tax levied on the renting,  
 44 leasing, letting, or granting a license for the use of  
 45 real property; amending s. 212.04, F.S.; providing for  
 46 a refund or credit of tax for certain resales of  
 47 admissions; amending s. 212.05, F.S.; clarifying the  
 48 requirements for the exemption from tax on certain  
 49 sales of aircraft that will be registered in a foreign  
 50 jurisdiction; amending s. 212.08, F.S.; creating an  
 51 exemption for certain sales of datacenter equipment,  
 52 certain sales of electricity and certain sales of

53 building materials; providing definitions; exempting  
 54 the sales of food or drinks by certain qualified  
 55 veterans' organizations; removing the expiration date  
 56 on the exemption for purchases of certain machinery  
 57 and equipment; including recyclable material merchant  
 58 wholesalers in the definition of the term "eligible  
 59 manufacturing business" and certain tangible personal  
 60 property used in the recycling of metals for sale in  
 61 the definition of the term "industrial machinery and  
 62 equipment" for purposes of qualification for the sales  
 63 and use tax exemption; providing an exemption for the  
 64 purchase of certain postharvest machinery and  
 65 equipment; defining postharvest machinery and  
 66 equipment, postharvest activities and eligible  
 67 postharvest activity business; amending s. 220.03,  
 68 F.S.; adopting the 2016 version of the Internal  
 69 Revenue Code; amending s. 220.13, F.S.; incorporating  
 70 a reference to a recent federal act into state law for  
 71 the purpose of defining the term "adjusted federal  
 72 income"; revising the treatment by this state of  
 73 certain depreciation of assets allowed for federal  
 74 income tax purposes; authorizing the Department of  
 75 Revenue to adopt emergency rules; providing for  
 76 retroactive applicability; amending s. 220.1845, F.S.;  
 77 increasing the total amount of contaminated site  
 78 rehabilitation tax credits for 3 years; amending s.

79 | 220.192; extending the renewable energy technology  
 80 | corporate income tax credit for 1 year; amending s.  
 81 | 220.193; extending the renewable energy production  
 82 | corporate income tax credit for 1 year; amending s.  
 83 | 220.196, F.S.; increasing the total amount of research  
 84 | and development tax credits that may be awarded to  
 85 | business enterprises for 1 year; amending s. 220.222,  
 86 | F.S.; amending due dates for partnership information  
 87 | returns and corporate tax returns; amending s.  
 88 | 220.241, F.S.; amending due dates to file a  
 89 | declaration of estimated corporate income tax;  
 90 | amending s. 220.33, F.S.; amending the due date of  
 91 | estimated payments of corporate income tax; amending  
 92 | 220.34, F.S.; amending the dates used to calculate  
 93 | interest and penalties on underpayments of estimated  
 94 | corporate income tax; amending s. 376.30781, F.S.;  
 95 | increasing the total amount of tax credits for the  
 96 | rehabilitation of drycleaning-solvent-contaminated  
 97 | sites and brownfield sites in designated brownfield  
 98 | areas for 3 years; amending s. 564.06, F.S.; providing  
 99 | that cider may be made from pears for purposes of  
 100 | taxation; amending s. 565.02, F.S.; creating an  
 101 | alternative method for taxation of alcoholic beverages  
 102 | and tobacco products sold on certain cruise ships;  
 103 | providing an exemption from the sales and use tax for  
 104 | the retail sale of certain clothes, school supplies,



105 | and personal computers and personal computer-related  
 106 | accessories during a specified period; authorizing the  
 107 | Department of Revenue to adopt emergency rules;  
 108 | providing an appropriation to the department for  
 109 | administrative purposes; providing for the reversion  
 110 | of unspent and unencumbered funds; providing an  
 111 | exemption from the sales and use tax for the retail  
 112 | sale of certain items and articles of tangible person  
 113 | property by certain small businesses during a  
 114 | specified period; providing an appropriation;  
 115 | providing an exemption from the sales and use tax on  
 116 | the retail sale of certain firearms, ammunition for  
 117 | firearms, camping tents, and fishing supplies during a  
 118 | specified period; providing exemptions; authorizing  
 119 | the Department of Revenue to adopt emergency rules;  
 120 | providing an appropriation; providing for the  
 121 | reversion of unspent and unencumbered funds;  
 122 | authorizing the Department of Revenue to adopt  
 123 | emergency rules; providing an exemption from the sales  
 124 | and use tax for certain personal computers and related  
 125 | accessories during a specified period; providing  
 126 | exceptions; providing an appropriation; providing for  
 127 | the reversion of unspent and unencumbered funds;  
 128 | providing an exemption from the sales and use tax on  
 129 | the sale of certain books and other reading materials  
 130 | at book fairs for 1 year; extending the exemption from

131 the sales and use tax on the retail of certain  
 132 textbooks for 1 year; providing effective dates.

133

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

135

136 Section 1. Effective October 1, 2016, paragraph (b) of  
 137 subsection (2), paragraphs (l), (m), and (n) of subsection (3),  
 138 and subsection (5) of section 125.0104, Florida Statutes, are  
 139 amended to read:

140 125.0104 Tourist development tax; procedure for levying;  
 141 authorized uses; referendum; enforcement.—

142 (2) APPLICATION; DEFINITIONS.—

143 (b) Definitions.—For purposes of this section:

144 1. "Advertise" or "promote" means the act of engaging in  
 145 advertising or promotion.

146 2. "Advertising" or "promotion" means advising,  
 147 announcing, giving notice of, publishing, or calling attention  
 148 to, by use of oral, written, or graphic statement, disseminated  
 149 in any manner or by any means, for the purpose of increasing  
 150 tourist-related business activities in this state.

151 ~~1. "Promotion" means marketing or advertising designed to~~  
 152 ~~increase tourist-related business activities.~~

153 3. ~~2.~~ "Tourist" means a person who participates in trade  
 154 or recreation activities outside the county of his or her  
 155 permanent residence or who rents or leases transient  
 156 accommodations as described in paragraph (3)(a).

157 4. ~~3.~~ "Retained spring training franchise" means a spring  
 158 training franchise that had a location in this state on or  
 159 before December 31, 1998, and that has continuously remained at  
 160 that location for at least the 10 years preceding that date.

161 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

162 (m)1. In addition to any other tax which is imposed  
 163 pursuant to this section, a high tourism impact county may  
 164 impose an additional 1-percent tax on the exercise of the  
 165 privilege described in paragraph (a) by extraordinary vote of  
 166 the governing board of the county. The tax revenues received  
 167 pursuant to this paragraph shall be used for one or more of the  
 168 authorized uses pursuant to sub-subparagraphs (5)(a)3.a. - e. or  
 169 paragraph (5)(b) or (5)(c); however, if tax revenues are  
 170 expended for an activity, service, venue, or event, the  
 171 activity, service, venue, or event must have as one of its main  
 172 purposes the attraction of tourists as evidenced by the  
 173 promotion of the activity, service, venue, or event to tourists  
 174 subsection (5).

175 2. A county is considered to be a high tourism impact  
 176 county after the Department of Revenue has certified to such  
 177 county that the sales subject to the tax levied pursuant to this  
 178 section exceeded \$600 million during the previous calendar year,  
 179 or were at least 18 percent of the county's total taxable sales  
 180 under chapter 212 where the sales subject to the tax levied  
 181 pursuant to this section were a minimum of \$200 million, except  
 182 that no county authorized to levy a convention development tax

183 pursuant to s. 212.0305 shall be considered a high tourism  
 184 impact county. Once a county qualifies as a high tourism impact  
 185 county, it shall retain this designation for the period the tax  
 186 is levied pursuant to this paragraph.

187 3. The provisions of paragraphs (4)(a)-(d) shall not apply  
 188 to the adoption of the additional tax authorized in this  
 189 paragraph. The effective date of the levy and imposition of the  
 190 tax authorized under this paragraph shall be the first day of  
 191 the second month following approval of the ordinance by the  
 192 governing board or the first day of any subsequent month as may  
 193 be specified in the ordinance. A certified copy of such  
 194 ordinance shall be furnished by the county to the Department of  
 195 Revenue within 10 days after approval of such ordinance.

196 (5) AUTHORIZED USES OF REVENUE.—

197 (a) Except as otherwise provided in this section, and  
 198 after deducting payments required by subparagraph (c)2., all tax  
 199 revenues received pursuant to this section by a county imposing  
 200 the tourist development tax shall be used by that county as  
 201 follows for the following purposes only:

202 1. No less than 35 percent of the revenues must be used  
 203 for promotion as permitted under this section. For purposes of  
 204 this subparagraph the term "promotion" does not include any  
 205 expenditure made pursuant to subsection (9).

206 2. In a coastal county, up to 10 percent of the revenues  
 207 may be used to provide emergency medical services, as defined in  
 208 s. 401.107(2), or law enforcement services that are needed for

209 enhanced emergency medical or public safety services related to  
 210 increased tourism and visitors to an area. If taxes collected  
 211 pursuant to this section are used to fund emergency medical  
 212 services or public safety for tourism or special events a Board  
 213 of County Commissioners or a City Commission is prohibited from  
 214 using such taxes to supplant the normal operating expenses for  
 215 an emergency services department, a Sheriff's Office or a Police  
 216 Department.

217 3. The remaining revenues shall be used for the following  
 218 purposes only:

219 a.1. To acquire, construct, extend, enlarge, remodel,  
 220 repair, improve, maintain, operate, or promote one or more:

221 (I)a. Publicly owned and operated convention centers,  
 222 sports stadiums, sports arenas, coliseums, or auditoriums within  
 223 the boundaries of the county or subcounty special taxing  
 224 district in which the tax is levied; or

225 (II)b. Aquariums or museums that are publicly owned and  
 226 operated or owned and operated by not-for-profit organizations  
 227 and open to the public, within the boundaries of the county or  
 228 subcounty special taxing district in which the tax is levied;

229 b.2. To promote zoological parks that are publicly owned  
 230 and operated or owned and operated by not-for-profit  
 231 organizations and open to the public;

232 c.3. To promote and advertise tourism in this state and  
 233 nationally and internationally; ~~however, if tax revenues are~~  
 234 ~~expended for an activity, service, venue, or event, the~~

235 ~~activity, service, venue, or event must have as one of its main~~  
 236 ~~purposes the attraction of tourists as evidenced by the~~  
 237 ~~promotion of the activity, service, venue, or event to tourists;~~

238 d.4. To fund convention bureaus, tourist bureaus, tourist  
 239 information centers, and news bureaus as county agencies or by  
 240 contract with the chambers of commerce or similar associations  
 241 in the county, which may include any indirect administrative  
 242 costs for services performed by the county on behalf of the  
 243 promotion agency; or

244 e.5. To finance beach park facilities or beach  
 245 improvement, maintenance, renourishment, restoration, and  
 246 erosion control, including shoreline protection, enhancement,  
 247 cleanup, or restoration of inland lakes and rivers to which  
 248 there is public access as those uses relate to the physical  
 249 preservation of the beach, shoreline, or inland lake or river.  
 250 However, any funds identified by a county as the local matching  
 251 source for beach renourishment, restoration, or erosion control  
 252 projects included in the long-range budget plan of the state's  
 253 Beach Management Plan, pursuant to s. 161.091, or funds  
 254 contractually obligated by a county in the financial plan for a  
 255 federally authorized shore protection project may not be used or  
 256 loaned for any other purpose. In counties of fewer than 100,000  
 257 population, up to 10 percent of the revenues from the tourist  
 258 development tax may be used for beach park facilities.

259 f. To hold special events of seven days or less in  
 260 duration, one of the main purposes of which must be to increase

261 tourist-related business activities in this state as evidenced  
 262 by promotion of the event to tourists.

263  
 264 Sub-subparagraphs a. and b. ~~Subparagraphs 1. and 2.~~ may be  
 265 implemented through service contracts and leases with lessees  
 266 that have sufficient expertise or financial capability to  
 267 operate such facilities.

268 (b) Tax revenues received pursuant to this section by a  
 269 county of less than 750,000 population imposing a tourist  
 270 development tax may only be used by that county for the  
 271 following purposes in addition to those purposes allowed  
 272 pursuant to paragraph (a): to acquire, construct, extend,  
 273 enlarge, remodel, repair, improve, maintain, operate, or promote  
 274 one or more zoological parks, fishing piers or nature centers  
 275 which are publicly owned and operated or owned and operated by  
 276 not-for-profit organizations and open to the public. All  
 277 population figures relating to this subsection shall be based on  
 278 the most recent population estimates prepared pursuant to the  
 279 provisions of s. 186.901. These population estimates shall be  
 280 those in effect on July 1 of each year.

281 (c)1. The revenues to be derived from the tourist  
 282 development tax may be pledged to secure and liquidate revenue  
 283 bonds issued by the county for the purposes set forth in sub-  
 284 subparagraphs (a)3.a., b., and e. ~~subparagraphs (a)1., 2., and~~  
 285 ~~5.~~ or for the purpose of refunding bonds previously issued for  
 286 such purposes, or both; however, no more than 50 percent of the

287 revenues from the tourist development tax may be pledged to  
 288 secure and liquidate revenue bonds or revenue refunding bonds  
 289 issued for the purposes set forth in sub-subparagraph (a)3.e.  
 290 ~~subparagraph (a)5.~~ Such revenue bonds and revenue refunding  
 291 bonds may be authorized and issued in such principal amounts,  
 292 with such interest rates and maturity dates, and subject to such  
 293 other terms, conditions, and covenants as the governing board of  
 294 the county shall provide. The Legislature intends that this  
 295 paragraph be full and complete authority for accomplishing such  
 296 purposes, but such authority is supplemental and additional to,  
 297 and not in derogation of, any powers now existing or later  
 298 conferred under law.

299 2. Revenues from tourist development taxes that are pledged  
 300 to secure and liquidate revenue bonds or other forms of  
 301 indebtedness issued pursuant to subparagraph 1. that are  
 302 outstanding as of March 11, 2016, shall be first made available  
 303 to make payments when due on the outstanding bonds before any  
 304 other uses of the tax revenues.

305 (d) In order to recommend a proposed use of tourist  
 306 development tax revenues authorized in subparagraph (a)3. or  
 307 paragraph (b) to the governing body of a county, the Tourist  
 308 Development Council or a member of the public must submit a  
 309 written proposal to the governing board of the county. The  
 310 governing board of each county may determine what must be  
 311 included in the written proposal, but at a minimum each proposal  
 312 must include a description of the proposed use and an estimate



313 of the cost.

314 (e) Prior to expending any revenues from a tourist  
 315 development tax on a use authorized in subparagraph (a)3. or  
 316 paragraph (b) in excess of \$100,000, the governing board of a  
 317 county or a person authorized by the governing board must  
 318 commission or perform a return-on-investment analysis or cost-  
 319 benefit analysis for the proposed use. The return-on-investment  
 320 analysis or cost-benefit analysis must be performed by an  
 321 individual who has prior experience with input-output modelling  
 322 on the application of economic multipliers such as the Regional  
 323 Input-Output Modelling System created by the Bureau of Economic  
 324 Analysis within the United States Department of Commerce.

325 (f) ~~(d)~~ Any use of the local option tourist development tax  
 326 revenues collected pursuant to this section for a purpose not  
 327 expressly authorized by paragraph (3)(l) or paragraph (3)(n) or  
 328 paragraph (a), paragraph (b), or paragraph (c) of this  
 329 subsection is expressly prohibited.

330 (g) As an additional means of enforcing the prohibition of  
 331 paragraph (f), any remitter of the tax provided for in this  
 332 section, or any organization representing multiple remitters of  
 333 the tax, may challenge the county's decision to devote such tax  
 334 revenues to a particular use or uses that the challenger claims  
 335 are in violation of paragraph (f) in an action filed pursuant to  
 336 chapter 120. During the pendency of the administrative  
 337 proceeding and any resulting appeals, no tax revenues collected  
 338 under this section may be used to fund the challenged use or

339 uses. The county's interpretation of this section shall be  
 340 afforded no deference in the proceedings. A prevailing remitter  
 341 or remitter organization shall be awarded the reasonable costs  
 342 of the action plus reasonable attorney's fees, including on  
 343 appeal.

344 Section 2. Section 159.621, Florida Statutes, is amended  
 345 to read:

346 159.621 Housing bonds exempted from taxation.-

347 (1) The bonds of a housing finance authority issued under  
 348 this act, together with all notes, mortgages, security  
 349 agreements, letters of credit, or other instruments which arise  
 350 out of or are given to secure the repayment of bonds issued in  
 351 connection with the financing of any housing development under  
 352 this part, or any note or mortgage given with respect to a loan  
 353 made by or on behalf of a housing finance authority pursuant to  
 354 s. 159.608(8), as well as the interest thereon and income  
 355 therefrom, shall be exempt from all taxes. The exemption granted  
 356 by this section shall not be applicable to any tax imposed by  
 357 chapter 220 on interest, income, or profits on debt obligations  
 358 owned by corporations or to any deed granted in connection with  
 359 a property financed pursuant to this part.

360 (2) For any note or mortgage given with respect to a loan  
 361 made by or on behalf of a housing finance authority pursuant to  
 362 s. 159.608(8), to be exempt from all taxes pursuant to  
 363 subsection (1), documentation from the housing finance authority  
 364 affirming that the loan was made by or on behalf of the housing

365 finance authority, must be included with the mortgage at the  
 366 time the mortgage is recorded.

367 Section 3. Paragraph (i) is added to subsection (6) of  
 368 section 163.387, Florida Statutes, to read:

369 163.387 Redevelopment trust fund.—

370 (6) Moneys in the redevelopment trust fund may be expended  
 371 from time to time for undertakings of a community redevelopment  
 372 agency as described in the community redevelopment plan for the  
 373 following purposes, including, but not limited to:

374 (i) Each community redevelopment agency must spend no less  
 375 than 5 percent of trust fund revenues annually supporting youth  
 376 centers if:

377 1. Greater than fifty percent of the persons less than 18  
 378 years of age living in the community redevelopment area served  
 379 by the agency are in families with income below the federal  
 380 poverty level;

381 2. A youth center submits a written request for support to  
 382 the community redevelopment agency; and

383 3. Such expenditures do not materially impair any bonds  
 384 outstanding as of March 11, 2016.

385 Section 4. Section 195.022, Florida Statutes, is amended  
 386 to read:

387 195.022 Forms to be prescribed by Department of Revenue.—  
 388 The Department of Revenue shall prescribe all forms to be used  
 389 by property appraisers, tax collectors, clerks of the circuit  
 390 court, and value adjustment boards in administering and

391 collecting ad valorem taxes. The department shall prescribe a  
 392 form for each purpose. The county officer shall reproduce forms  
 393 for distribution at the expense of his or her office. A county  
 394 officer may use a form other than the form prescribed by the  
 395 department upon obtaining written permission from the executive  
 396 director of the department; however, a county officer may not  
 397 use a form if the substantive content of the form varies from  
 398 the form prescribed by the department for the same or a similar  
 399 purpose. If the executive director finds good cause to grant  
 400 such permission he or she may do so. The county officer may  
 401 continue to use the approved form until the law that specifies  
 402 the form is amended or repealed or until the officer receives  
 403 written disapproval from the executive director. Otherwise, all  
 404 such officers and their employees shall use the forms, and  
 405 follow the instructions applicable to the forms, which are  
 406 prescribed by the department. Upon request of any property  
 407 appraiser or, in any event, at least once every 3 years, the  
 408 department shall prescribe and furnish such aerial photographs  
 409 and nonproperty ownership maps to the property appraisers as  
 410 necessary to ensure that all real property within the state is  
 411 properly listed on the roll. All photographs and maps furnished  
 412 to a county that meets the population thresholds of a rural  
 413 community in s. 288.0656(2)(e) ~~counties with a population of~~  
 414 ~~25,000 or fewer~~ shall be paid for by the department as provided  
 415 by law. For a county that does not meet those population  
 416 thresholds ~~counties with a population greater than 25,000~~, the

417 department shall furnish such items at the property appraiser's  
 418 expense. The department may incur reasonable expenses for  
 419 procuring aerial photographs and nonproperty ownership maps and  
 420 may charge a fee to the respective property appraiser equal to  
 421 the cost incurred. The department shall deposit such fees into  
 422 the Certification Program Trust Fund created pursuant to s.  
 423 195.002. There shall be a separate account in the trust fund for  
 424 the aid and assistance activity of providing aerial photographs  
 425 and nonproperty ownership maps to property appraisers. The  
 426 department shall use money in the fund to pay such expenses. All  
 427 forms and maps and instructions relating to their use must be  
 428 substantially uniform throughout the state. An officer may  
 429 employ supplemental forms and maps, at the expense of his or her  
 430 office, which he or she deems expedient for the purpose of  
 431 administering and collecting ad valorem taxes. The forms  
 432 required in ss. 193.461(3)(a) and 196.011(1) for renewal  
 433 purposes must require sufficient information for the property  
 434 appraiser to evaluate the changes in use since the prior year.  
 435 If the property appraiser determines, in the case of a taxpayer,  
 436 that he or she has insufficient current information upon which  
 437 to approve the exemption, or if the information on the renewal  
 438 form is inadequate for him or her to evaluate the taxable status  
 439 of the property, he or she may require the resubmission of an  
 440 original application.

441 Section 5. Effective January 1, 2017, subsection (1) of  
 442 section 196.011, Florida Statutes, is amended to read:

443 196.011 Annual application required for exemption.-  
 444 (1)(a) Except as provided in s. 196.081, every ~~Every~~  
 445 person or organization who, on January 1, has the legal title to  
 446 real or personal property, except inventory, which is entitled  
 447 by law to exemption from taxation as a result of its ownership  
 448 and use shall, on or before March 1 of each year, file an  
 449 application for exemption with the county property appraiser,  
 450 listing and describing the property for which exemption is  
 451 claimed and certifying its ownership and use. The Department of  
 452 Revenue shall prescribe the forms upon which the application is  
 453 made. Failure to make application, when required, on or before  
 454 March 1 of any year shall constitute a waiver of the exemption  
 455 privilege for that year, except as provided in subsection (7) or  
 456 subsection (8).  
 457 (b) The form to apply for an exemption under s. 196.031,  
 458 s. 196.081, s. 196.091, s. 196.101, s. 196.173, or s. 196.202  
 459 must include a space for the applicant to list the social  
 460 security number of the applicant and of the applicant's spouse,  
 461 if any. If an applicant files a timely and otherwise complete  
 462 application, and omits the required social security numbers, the  
 463 application is incomplete. In that event, the property appraiser  
 464 shall contact the applicant, who may refile a complete  
 465 application by April 1. Failure to file a complete application  
 466 by that date constitutes a waiver of the exemption privilege for  
 467 that year, except as provided in subsection (7) or subsection  
 468 (8).

469 Section 6. Effective upon this act becoming a law,  
 470 paragraph (b) of subsection (14) and paragraph (b) of subsection  
 471 (15) of section 196.012, Florida Statutes, is amended to read:

472 196.012 Definitions.—For the purpose of this chapter, the  
 473 following terms are defined as follows, except where the context  
 474 clearly indicates otherwise:

475 (14) "New business" means:

476 (b) Any business or organization located in an area that  
 477 was designated as an enterprise zone pursuant to chapter 290 as  
 478 of December 30, 2015 or brownfield area that first begins  
 479 operation on a site clearly separate from any other commercial  
 480 or industrial operation owned by the same business or  
 481 organization.

482 (15) "Expansion of an existing business" means:

483 (b) Any business or organization located in an area that  
 484 was designated as an enterprise zone pursuant to chapter 290 as  
 485 of December 30, 2015 or brownfield area that increases  
 486 operations on a site located within the same zone or area  
 487 colocated with a commercial or industrial operation owned by the  
 488 same business or organization under common control with the same  
 489 business or organization.

490 Section 7. Effective January 1, 2017, subsections (1) and  
 491 (4) of section 196.081, Florida Statutes, are amended,  
 492 subsections (5) and (6) are renumbered as subsections (6) and  
 493 (7), respectively, and a new subsection (5) is added to that  
 494 section, to read:

495 |           196.081 Exemption for certain permanently and totally  
 496 | disabled veterans and for surviving spouses of veterans;  
 497 | exemption for surviving spouses of first responders who die in  
 498 | the line of duty.-

499 |           (1) (a) Any real estate that is owned and used as a  
 500 | homestead by a veteran who was honorably discharged with a  
 501 | service-connected total and permanent disability and for whom a  
 502 | letter from the United States Government or United States  
 503 | Department of Veterans Affairs or its predecessor has been  
 504 | issued certifying that the veteran is totally and permanently  
 505 | disabled is exempt from taxation, if the veteran is a permanent  
 506 | resident of this state on January 1 of the tax year for which  
 507 | exemption is being claimed or was a permanent resident of this  
 508 | state on January 1 of the year the veteran died.

509 |           (b) Notwithstanding section 196.011 and the timing of the  
 510 | residency requirements of paragraph (a) of section 196.031(1),  
 511 | the exemption under paragraph (a) may be applied to a tax year  
 512 | if the real estate owned and used as a homestead is acquired  
 513 | after January 1 of that tax year and the veteran received the  
 514 | exemption on another property in the immediately prior tax year.  
 515 | To receive the exemption pursuant to this paragraph, the veteran  
 516 | must file with the property appraiser within 30 days of  
 517 | acquisition of the new property and no later than the 25th day  
 518 | following the mailing by the property appraiser of the notices  
 519 | required under s. 194.011(1), an application that lists and  
 520 | describes both the previous homestead and the new property and



521 certifies under oath that the veteran:  
 522 1. is otherwise qualified to receive the exemption under s.  
 523 196.081,  
 524 2. holds legal title to the new property, and  
 525 3. intends to use the new property as his or her homestead.

526  
 527 If the exemption is granted on the new homestead, the previous  
 528 homestead may not receive the exemption in that tax year, unless  
 529 the subsequent owner of the previous homestead is qualified to  
 530 receive the exemption pursuant to paragraph (a) of this section.

531 (4) Any real estate that is owned and used as a homestead  
 532 by the surviving spouse of a veteran who died from service-  
 533 connected causes while on active duty as a member of the United  
 534 States Armed Forces and for whom a letter from the United States  
 535 Government or United States Department of Veterans Affairs or  
 536 its predecessor has been issued certifying that the veteran who  
 537 died from service-connected causes while on active duty is  
 538 exempt from taxation ~~if the veteran was a permanent resident of~~  
 539 ~~this state on January 1 of the year in which the veteran died.~~

540 (5) (a) The unremarried surviving spouse of a veteran who  
 541 was honorably discharged with a service-connected total and  
 542 permanent disability is entitled to the same exemption that  
 543 would otherwise be granted to a surviving spouse as described in  
 544 subsections (1)-(3) if the veteran, at the time of death, owned  
 545 property in another state in the United States and used it in a  
 546 manner that would have qualified for homestead exemption under

547 s. 196.031 had the property been located in this state on  
 548 January 1 of the year the veteran died. To qualify for the  
 549 exemption under this subsection, the unremarried surviving  
 550 spouse, subsequent to the death of the veteran, must hold the  
 551 legal or beneficial title to homestead property in this state  
 552 and permanently reside thereon as specified in s. 196.031 as of  
 553 January 1 of the tax year for which the exemption is being  
 554 claimed.

555 (b) The unremarried surviving spouse must provide the  
 556 documentation described in subsection (2) to the property  
 557 appraiser in the county in which the property is located.

558 (c) The tax exemption provided in this subsection:  
 559 1. Is available until the surviving spouse remarries.  
 560 2. May be transferred to a new residence, in an amount not  
 561 to exceed the amount granted from the most recent ad valorem tax  
 562 roll, as long as it is used as the surviving spouse's homestead  
 563 property and the surviving spouse does not remarry.

564 Section 8. Effective January 1, 2017, section 196.1978,  
 565 Florida Statutes, is amended to read:

566 196.1978 Affordable housing property exemption.—

567 (1) Property used to provide affordable housing to  
 568 eligible persons as defined by s. 159.603 and natural persons or  
 569 families meeting the extremely-low-income, very-low-income, low-  
 570 income, or moderate-income limits specified in s. 420.0004,  
 571 which is owned entirely by a nonprofit entity that is a  
 572 corporation not for profit, qualified as charitable under s.

573 501(c)(3) of the Internal Revenue Code and in compliance with  
 574 Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned  
 575 by an exempt entity and used for a charitable purpose, and those  
 576 portions of the affordable housing property that provide housing  
 577 to natural persons or families classified as extremely low  
 578 income, very low income, low income, or moderate income under s.  
 579 420.0004 are exempt from ad valorem taxation to the extent  
 580 authorized under s. 196.196. All property identified in this  
 581 subsection must comply with the criteria provided under s.  
 582 196.195 for determining exempt status and applied by property  
 583 appraisers on an annual basis. The Legislature intends that any  
 584 property owned by a limited liability company which is  
 585 disregarded as an entity for federal income tax purposes  
 586 pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated  
 587 as owned by its sole member.

588 (2)(a) Notwithstanding ss. 196.195 and 196.196, property  
 589 in a multifamily project containing more than 70 units that are  
 590 used to provide affordable housing to natural persons or  
 591 families meeting the extremely low, very low, or low-income  
 592 limits specified in s. 420.0004, which is subject to an  
 593 agreement with the Florida Housing Finance Corporation, recorded  
 594 in the official records of the county in which the property is  
 595 located, to provide affordable housing to extremely low, very  
 596 low, or low-income persons is considered property used for a  
 597 charitable purpose and shall receive a 50 percent discount from  
 598 the amount of ad valorem tax otherwise owed beginning in the

599 sixteenth year of the term of the agreement on those portions of  
 600 the affordable housing property that provide housing to natural  
 601 persons or families classified as extremely low income, very low  
 602 income, or low income under s. 420.0004. This discount shall  
 603 terminate when the property is no longer serving extremely low,  
 604 very low, or low-income persons pursuant to the recorded  
 605 agreement.

606 (b) To qualify for the discount, an applicant must submit  
 607 an application to the county property appraiser by March 1.

608 (c) The property appraiser shall apply the discount by  
 609 reducing the taxable value before certifying the tax roll to the  
 610 tax collector.

611 1. The property appraiser shall first ascertain all other  
 612 applicable exemptions, including exemptions provided pursuant to  
 613 local option, and deduct all other exemptions from the assessed  
 614 value.

615 2. Fifty percent of the remaining value shall be  
 616 subtracted to yield the discounted taxable value.

617 3. The resulting taxable value shall be included in the  
 618 certification for use by taxing authorities in setting millage.

619 4. The property appraiser shall place the discounted  
 620 amount on the tax roll when it is extended.

621 Section 9. Effective upon this act becoming a law,  
 622 subsection (5) of section 196.1995, Florida Statutes, is amended  
 623 to read:

624 196.1995 Economic development ad valorem tax exemption.—

625 (5) Upon a majority vote in favor of such authority, the  
 626 board of county commissioners or the governing authority of the  
 627 municipality, at its discretion, by ordinance may exempt from ad  
 628 valorem taxation up to 100 percent of the assessed value of all  
 629 improvements to real property made by or for the use of a new  
 630 business and of all tangible personal property of such new  
 631 business, or up to 100 percent of the assessed value of all  
 632 added improvements to real property made to facilitate the  
 633 expansion of an existing business and of the net increase in all  
 634 tangible personal property acquired to facilitate such expansion  
 635 of an existing business. To qualify for this exemption, the  
 636 improvements to real property must be made or the tangible  
 637 personal property must be added or increased after approval by  
 638 motion or resolution of the local governing body, subject to  
 639 ordinance adoption or on or after the day the ordinance is  
 640 adopted. However, if the authority to grant exemptions is  
 641 approved in a referendum in which the ballot question contained  
 642 in subsection (3) appears on the ballot, the authority of the  
 643 board of county commissioners or the governing authority of the  
 644 municipality to grant exemptions is limited solely to new  
 645 businesses and expansions of existing businesses that are  
 646 located in an area which was designated as an enterprise zone  
 647 pursuant to chapter 290 as of December 30, 2015 or brownfield  
 648 area. An exemption granted for a new business as defined in s.  
 649 196.012(14)(b) or expansion of an existing business as defined  
 650 in s. 196(15)(b) that is in an area that was designated as an

651 enterprise zone pursuant to chapter 290 as of December 30, 2015,  
 652 and not in a brownfield area, must be approved by the local  
 653 governing body prior to March 31, 2018. Property acquired to  
 654 replace existing property shall not be considered to facilitate  
 655 a business expansion. The exemption applies only to taxes levied  
 656 by the respective unit of government granting the exemption. The  
 657 exemption does not apply, however, to taxes levied for the  
 658 payment of bonds or to taxes authorized by a vote of the  
 659 electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
 660 Constitution. Any such exemption shall remain in effect for up  
 661 to 10 years with respect to any particular facility, regardless  
 662 of any change in the authority of the county or municipality to  
 663 grant such exemptions. The exemption shall not be prolonged or  
 664 extended by granting exemptions from additional taxes or by  
 665 virtue of any reorganization or sale of the business receiving  
 666 the exemption.

667 Section 10. Paragraph (b) of subsection (1) of section  
 668 206.9825, Florida Statutes, is amended to read:

669 206.9825 Aviation fuel tax.—

670 (1)

671 (b) Any licensed wholesaler or terminal supplier that  
 672 delivers aviation fuel to an air carrier offering  
 673 transcontinental jet service and that, after January 1, 1996,  
 674 but before July 1, 2016, increases the air carrier's Florida  
 675 workforce by more than 1000 percent and by 250 or more full-time  
 676 equivalent employee positions, may receive a credit or refund as

677 the ultimate vendor of the aviation fuel for the 6.9 cents  
 678 excise tax previously paid, provided that the air carrier has no  
 679 facility for fueling highway vehicles from the tank in which the  
 680 aviation fuel is stored. In calculating the new or additional  
 681 Florida full-time equivalent employee positions, any full-time  
 682 equivalent employee positions of parent or subsidiary  
 683 corporations which existed before January 1, 1996, shall not be  
 684 counted toward reaching the Florida employment increase  
 685 thresholds. The refund allowed under this paragraph is in  
 686 furtherance of the goals and policies of the State Comprehensive  
 687 Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1.,  
 688 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

689 Section 11. Effective July 1, 2019, section 206.9825,  
 690 Florida Statutes, as amended by this act, is amended to read:  
 691 206.9825 Aviation fuel tax.—

692 (1)(a) Except as otherwise provided in this part, an  
 693 excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is  
 694 imposed upon every gallon of aviation fuel sold in this state,  
 695 or brought into this state for use, upon which such tax has not  
 696 been paid or the payment thereof has not been lawfully assumed  
 697 by some person handling the same in this state. Fuel taxed  
 698 pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes  
 699 imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c),  
 700 and (d).

701 ~~(b) Any licensed wholesaler or terminal supplier that~~  
 702 ~~delivers aviation fuel to an air carrier offering~~

703 ~~transeontinental jet service and that, after January 1, 1996,~~  
 704 ~~but before July 1, 2016, increases the air carrier's Florida~~  
 705 ~~workforce by more than 1000 percent and by 250 or more full-time~~  
 706 ~~equivalent employee positions, may receive a credit or refund as~~  
 707 ~~the ultimate vendor of the aviation fuel for the 6.9 cents~~  
 708 ~~excise tax previously paid, provided that the air carrier has no~~  
 709 ~~facility for fueling highway vehicles from the tank in which the~~  
 710 ~~aviation fuel is stored. In calculating the new or additional~~  
 711 ~~Florida full-time equivalent employee positions, any full-time~~  
 712 ~~equivalent employee positions of parent or subsidiary~~  
 713 ~~corporations which existed before January 1, 1996, shall not be~~  
 714 ~~counted toward reaching the Florida employment increase~~  
 715 ~~thresholds. The refund allowed under this paragraph is in~~  
 716 ~~furtherance of the goals and policies of the State Comprehensive~~  
 717 ~~Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1.,~~  
 718 ~~4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~  
 719 ~~(c) If, before July 1, 2001, the number of full-time~~  
 720 ~~equivalent employee positions created or added to the air~~  
 721 ~~carrier's Florida workforce falls below 250, the exemption~~  
 722 ~~granted pursuant to this section shall not apply during the~~  
 723 ~~period in which the air carrier has fewer than the 250~~  
 724 ~~additional employees.~~  
 725 ~~(d) The exemption taken by credit or refund pursuant to~~  
 726 ~~paragraph (b) shall apply only under the terms and conditions~~  
 727 ~~set forth therein. If any part of that paragraph is judicially~~  
 728 ~~declared to be unconstitutional or invalid, the validity of any~~



729 ~~provisions taxing aviation fuel shall not be affected and all~~  
 730 ~~fuel exempted pursuant to paragraph (b) shall be subject to tax~~  
 731 ~~as if the exemption was never enacted. Every person benefiting~~  
 732 ~~from such exemption shall be liable for and make payment of all~~  
 733 ~~taxes for which a credit or refund was granted.~~

734 (b)~~(c)~~1. Sales of aviation fuel to, and exclusively used  
 735 for flight training through a school of aeronautics or college  
 736 of aviation by, a college based in this state which is a tax-  
 737 exempt organization under s. 501(c)(3) of the Internal Revenue  
 738 Code or a university based in this state are exempt from the tax  
 739 imposed by this part if the college or university:

740 a. Is accredited by or has applied for accreditation by  
 741 the Aviation Accreditation Board International; and

742 b. Offers a graduate program in aeronautical or aerospace  
 743 engineering or offers flight training through a school of  
 744 aeronautics or college of aviation.

745 2. A licensed wholesaler or terminal supplier that sells  
 746 aviation fuel to a college or university qualified under this  
 747 paragraph and that does not collect the aviation fuel tax from  
 748 the college or university on such sale may receive an ultimate  
 749 vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously  
 750 paid on the aviation fuel delivered to such college or  
 751 university.

752 3. A college or university qualified under this paragraph  
 753 which purchases aviation fuel from a retail supplier, including  
 754 a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise

755 tax on the purchase may apply for and receive a refund of the  
756 aviation fuel tax paid.

757 (2) (a) An excise tax of 4.27 ~~6.9~~ cents per gallon is  
758 imposed on each gallon of kerosene in the same manner as  
759 prescribed for diesel fuel under ss. 206.87(2) and 206.872.

760 (b) The exemptions provided by s. 206.874 shall apply to  
761 kerosene if the dyeing and marking requirements of s. 206.8741  
762 are met.

763 (c) Kerosene prepackaged in containers of 5 gallons or  
764 less and labeled "Not for Use in a Motor Vehicle" is exempt from  
765 the taxes imposed by this part when sold for home heating and  
766 cooking. Packagers may qualify for a refund of taxes previously  
767 paid, as prescribed by the department.

768 (d) Sales of kerosene in quantities of 5 gallons or less  
769 by a person not licensed under this chapter who has no  
770 facilities for placing kerosene in the fuel supply system of a  
771 motor vehicle may qualify for a refund of taxes paid. Refunds of  
772 taxes paid shall be limited to sales for use in home heating or  
773 cooking and shall be documented as prescribed by the department.

774 (3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed  
775 on each gallon of aviation gasoline in the manner prescribed by  
776 paragraph (2) (a). However, the exemptions allowed by paragraph  
777 (2) (b) do not apply to aviation gasoline.

778 (4) Any licensed wholesaler or terminal supplier that  
779 delivers undyed kerosene to a residence for home heating or  
780 cooking may receive a credit or refund as the ultimate vendor of

781 the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously  
 782 paid.

783 (5) Any licensed wholesaler or terminal supplier that  
 784 delivers undyed kerosene to a retail dealer not licensed as a  
 785 wholesaler or terminal supplier for sale as a home heating or  
 786 cooking fuel may receive a credit or refund as the ultimate  
 787 vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax  
 788 previously paid, provided the retail dealer has no facility for  
 789 fueling highway vehicles from the tank in which the kerosene is  
 790 stored.

791 (6) Any person who fails to meet the requirements of this  
 792 section is subject to a backup tax as provided by s. 206.873.

793 Section 12. Section 210.13, Florida Statutes, is amended  
 794 to read:

795 210.13 Determination of tax on failure to file a return.—  
 796 If a dealer or other person required to remit the tax under this  
 797 part or other person required to remit the tax under this part  
 798 fails to file any return required under this part, or having  
 799 filed an incorrect or insufficient return, fails to file a  
 800 correct or sufficient return, as the case may require, within 10  
 801 days after the giving of notice to the dealer by the Division of  
 802 Alcoholic Beverages and Tobacco that such return or corrected or  
 803 sufficient return is required, the division shall determine the  
 804 amount of tax due by such dealer any time within 3 years after  
 805 the making of the earliest sale included in such determination  
 806 and give written notice of such determination to such dealer.

807 Such a determination shall finally and irrevocably fix the tax  
 808 unless the dealer against whom it is assessed shall, within 30  
 809 days after the giving of notice of such determination, apply to  
 810 the division for a hearing. Judicial review shall not be granted  
 811 unless the amount of tax stated in the decision, with penalties  
 812 thereon, if any, shall have been first deposited with the  
 813 division, and an undertaking or bond filed in the court in which  
 814 such cause may be pending in such amount and with such sureties  
 815 as the court shall approve, conditioned that if such proceeding  
 816 be dismissed or the decision of the division confirmed, the  
 817 applicant for review will pay all costs and charges which may  
 818 accrue against the applicant in the prosecution of the  
 819 proceeding. At the option of the applicant, such undertaking or  
 820 bond may be in an additional sum sufficient to cover the tax,  
 821 penalties, costs, and charges aforesaid, in which event the  
 822 applicant shall not be required to pay such tax and penalties  
 823 precedent to the granting of such review by such court.

824 Section 13. Present subsections (1) and (2) of section  
 825 210.25, Florida Statutes, are redesignated as subsections (2)  
 826 and (3), respectively, a new subsection (1) is added to that  
 827 section, present subsection (3) of that section is redesignated  
 828 as subsection (5), present subsections (5) through (13) of that  
 829 section are redesignated as subsections (6) through (14),  
 830 respectively, and present subsections (11) and (13) of that  
 831 section are amended, to read:

832 210.25 Definitions.—As used in this part:

833 (1) "Affiliate" means a manufacturer or other person that  
 834 directly or indirectly, through one or more intermediaries,  
 835 controls or is controlled by a distributor or that is under  
 836 common control with a distributor.

837 (12)~~(11)~~ "Tobacco products" means ~~loose tobacco suitable~~  
 838 ~~for smoking,~~ snuff; snuff flour; loose tobacco; cavendish; plug  
 839 and twist tobacco; fine cuts ~~and other chewing tobaccos;~~ shorts;  
 840 refuse scraps; clippings, cuttings, and sweepings of tobacco;;  
 841 and all other kinds and forms of products, including wraps, made  
 842 in whole or in part from tobacco leaves for use ~~tobacco prepared~~  
 843 ~~in such manner as to be suitable for~~ chewing, smoking, or  
 844 sniffing. The term, but "tobacco products" does not include  
 845 cigarettes, as defined by s. 210.01(1), or cigars.

846 (14)~~(13)~~ "Wholesale sales price" means the sum of  
 847 paragraphs (a) and (b):

848 (a) The full price paid by the distributor to acquire the  
 849 tobacco products, including charges by the seller for the cost  
 850 of materials, cost of labor and service, charge for  
 851 transportation and delivery, the federal excise tax, and any  
 852 other charge, even if the charge is listed as a separate item on  
 853 the invoice paid by the ~~established price for which a~~  
 854 ~~manufacturer sells a tobacco product to a distributor, exclusive~~  
 855 ~~of any diminution by volume or other discounts,~~ including a  
 856 discount provided to a distributor by an affiliate.

857 (b) The federal excise tax paid by the distributor on the  
 858 tobacco products, if the tax is not included in the full price

859 under paragraph (a).

860 Section 14. Effective January 1, 2017, paragraphs (c) and  
 861 (d) of subsection (1) of section 212.031, Florida Statutes, are  
 862 amended, and paragraph (e) is added to that section, to read:

863 212.031 Tax on rental or license fee for use of real  
 864 property.—

865 (1)

866 (c) For the exercise of such privilege, a tax is levied in  
 867 an amount equal to 5 6 percent, except for the period beginning  
 868 January 1, 2018, and ending December 31, 2018, during which the  
 869 tax shall be levied in an amount equal to 4 percent, of and on  
 870 the total rent or license fee charged for such real property by  
 871 the person charging or collecting the rental or license fee. The  
 872 total rent or license fee charged for such real property shall  
 873 include payments for the granting of a privilege to use or  
 874 occupy real property for any purpose and shall include base  
 875 rent, percentage rents, or similar charges. Such charges shall  
 876 be included in the total rent or license fee subject to tax  
 877 under this section whether or not they can be attributed to the  
 878 ability of the lessor's or licensor's property as used or  
 879 operated to attract customers. Payments for intrinsically  
 880 valuable personal property such as franchises, trademarks,  
 881 service marks, logos, or patents are not subject to tax under  
 882 this section. In the case of a contractual arrangement that  
 883 provides for both payments taxable as total rent or license fee  
 884 and payments not subject to tax, the tax shall be based on a

885 reasonable allocation of such payments and shall not apply to  
 886 that portion which is for the nontaxable payments.

887 (d) When the rental or license fee of any such real  
 888 property is paid by way of property, goods, wares, merchandise,  
 889 services, or other thing of value, the tax shall be at the rate  
 890 of 5 6 percent, except for the period beginning January 1, 2018,  
 891 and ending December 31, 2018, during which the tax shall be  
 892 levied in an amount equal to 4 percent, of the value of the  
 893 property, goods, wares, merchandise, services, or other thing of  
 894 value.

895 (e) The tax rate in effect at the time that the tenant or  
 896 person occupies, uses, or is entitled to the occupancy or use,  
 897 of the real property, is the tax rate applicable to a  
 898 transaction taxable pursuant to this section, regardless of when  
 899 a rent or license fee payment is due or paid. The applicable  
 900 tax rate may not be avoided by delaying or accelerating rent or  
 901 license fee payments.

902 Section 15. Paragraph (c) of subsection (1) of section  
 903 212.04, Florida Statutes, is amended to read:

904 212.04 Admissions tax; rate, procedure, enforcement.-

905 (1)

906 (c)

907 1. The provisions of this chapter that authorize a tax-  
 908 exempt sale for resale do not apply to sales of admissions.  
 909 However, if a purchaser of an admission subsequently resells the  
 910 admission for more than the amount paid, the purchaser shall

911 collect tax on the full sales price and may take credit for the  
 912 amount of tax previously paid. If the purchaser of the admission  
 913 subsequently resells it for an amount equal to or less than the  
 914 amount paid, the purchaser shall not collect any additional tax,  
 915 nor shall the purchaser be allowed to take credit for the amount  
 916 of tax previously paid.

917 2. In the event a purchaser subsequently resells an  
 918 admission to an entity which has obtained a valid sales tax  
 919 exemption certificate from the department, excluding an annual  
 920 resale certificate, the purchaser may seek a refund or credit  
 921 from its vendor. Upon an adequate showing of the ultimate exempt  
 922 nature of the transaction, the vendor shall allow a refund or  
 923 credit of the tax paid by the purchaser, and the vendor may then  
 924 seek a refund or credit of the tax from the department based on  
 925 the ultimate exempt nature of the transaction. The credit is  
 926 only allowable to the extent that the vendor can show the tax on  
 927 the transaction has been remitted to the department. If the tax  
 928 has not yet been remitted to the department, then the vendor may  
 929 retain the exemption documentation in lieu of remitting tax to  
 930 the department. This subparagraph is repealed July 1, 2019.

931 Section 16. Paragraph (a) of subsection (1) of section  
 932 212.05, Florida Statutes, is amended to read:

933 212.05 Sales, storage, use tax.—It is hereby declared to  
 934 be the legislative intent that every person is exercising a  
 935 taxable privilege who engages in the business of selling  
 936 tangible personal property at retail in this state, including



937 the business of making mail order sales, or who rents or  
 938 furnishes any of the things or services taxable under this  
 939 chapter, or who stores for use or consumption in this state any  
 940 item or article of tangible personal property as defined herein  
 941 and who leases or rents such property within the state.

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

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

950 b. Each occasional or isolated sale of an aircraft, boat,  
 951 mobile home, or motor vehicle of a class or type which is  
 952 required to be registered, licensed, titled, or documented in  
 953 this state or by the United States Government shall be subject  
 954 to tax at the rate provided in this paragraph. The department  
 955 shall by rule adopt any nationally recognized publication for  
 956 valuation of used motor vehicles as the reference price list for  
 957 any used motor vehicle which is required to be licensed pursuant  
 958 to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any  
 959 party to an occasional or isolated sale of such a vehicle  
 960 reports to the tax collector a sales price which is less than 80  
 961 percent of the average loan price for the specified model and  
 962 year of such vehicle as listed in the most recent reference

963 price list, the tax levied under this paragraph shall be  
 964 computed by the department on such average loan price unless the  
 965 parties to the sale have provided to the tax collector an  
 966 affidavit signed by each party, or other substantial proof,  
 967 stating the actual sales price. Any party to such sale who  
 968 reports a sales price less than the actual sales price is guilty  
 969 of a misdemeanor of the first degree, punishable as provided in  
 970 s. 775.082 or s. 775.083. The department shall collect or  
 971 attempt to collect from such party any delinquent sales taxes.  
 972 In addition, such party shall pay any tax due and any penalty  
 973 and interest assessed plus a penalty equal to twice the amount  
 974 of the additional tax owed. Notwithstanding any other provision  
 975 of law, the Department of Revenue may waive or compromise any  
 976 penalty imposed pursuant to this subparagraph.

977 2. This paragraph does not apply to the sale of a boat or  
 978 aircraft by or through a registered dealer under this chapter to  
 979 a purchaser who, at the time of taking delivery, is a  
 980 nonresident of this state, does not make his or her permanent  
 981 place of abode in this state, and is not engaged in carrying on  
 982 in this state any employment, trade, business, or profession in  
 983 which the boat or aircraft will be used in this state, or is a  
 984 corporation none of the officers or directors of which is a  
 985 resident of, or makes his or her permanent place of abode in,  
 986 this state, or is a noncorporate entity that has no individual  
 987 vested with authority to participate in the management,  
 988 direction, or control of the entity's affairs who is a resident

989 of, or makes his or her permanent abode in, this state. For  
 990 purposes of this exemption, either a registered dealer acting on  
 991 his or her own behalf as seller, a registered dealer acting as  
 992 broker on behalf of a seller, or a registered dealer acting as  
 993 broker on behalf of the purchaser may be deemed to be the  
 994 selling dealer. This exemption shall not be allowed unless:

995 a. The purchaser removes a qualifying boat, as described  
 996 in sub-subparagraph f., from the state within 90 days after the  
 997 date of purchase or extension, or the purchaser removes a  
 998 nonqualifying boat or an aircraft from this state within 10 days  
 999 after the date of purchase or, when the boat or aircraft is  
 1000 repaired or altered, within 20 days after completion of the  
 1001 repairs or alterations; or if the aircraft will be registered in  
 1002 a foreign jurisdiction:

1003 (I) Application for the aircraft's registration is  
 1004 properly filed with a civil airworthiness authority of a foreign  
 1005 jurisdiction within 10 days from the date of purchase,

1006 (II) The purchaser removes the aircraft from Florida to a  
 1007 foreign jurisdiction within 10 days from the date the aircraft  
 1008 is registered by the applicable foreign airworthiness authority,  
 1009 and

1010 (III) The aircraft is operated in Florida solely for the  
 1011 removal from the state to a foreign jurisdiction;

1012 b. For the purpose of this subparagraph, the term "foreign  
 1013 jurisdiction" means any jurisdiction outside of the United  
 1014 States or any of its territories.

1015 c. ~~b.~~ The purchaser, within 30 days from the date of  
 1016 departure, shall provide the department with written proof that  
 1017 the purchaser licensed, registered, titled, or documented the  
 1018 boat or aircraft outside the state. If such written proof is  
 1019 unavailable, within 30 days the purchaser shall provide proof  
 1020 that the purchaser applied for such license, title,  
 1021 registration, or documentation. The purchaser shall forward to  
 1022 the department proof of title, license, registration, or  
 1023 documentation upon receipt;

1024 d. ~~e.~~ The purchaser, within 10 days of removing the boat  
 1025 or aircraft from Florida, shall furnish the department with  
 1026 proof of removal in the form of receipts for fuel, dockage,  
 1027 slippage, tie-down, or hangaring from outside of Florida. The  
 1028 information so provided must clearly and specifically identify  
 1029 the boat or aircraft;

1030 e. ~~d.~~ The selling dealer, within 5 days of the date of  
 1031 sale, shall provide to the department a copy of the sales  
 1032 invoice, closing statement, bills of sale, and the original  
 1033 affidavit signed by the purchaser attesting that he or she has  
 1034 read the provisions of this section;

1035 f. ~~e.~~ The seller makes a copy of the affidavit a part of  
 1036 his or her record for as long as required by s. 213.35; and

1037 g. ~~f.~~ Unless the nonresident purchaser of a boat of 5 net  
 1038 tons of admeasurement or larger intends to remove the boat from  
 1039 this state within 10 days after the date of purchase or when the  
 1040 boat is repaired or altered, within 20 days after completion of

1041 the repairs or alterations, the nonresident purchaser shall  
 1042 apply to the selling dealer for a decal which authorizes 90 days  
 1043 after the date of purchase for removal of the boat. The  
 1044 nonresident purchaser of a qualifying boat may apply to the  
 1045 selling dealer within 60 days after the date of purchase for an  
 1046 extension decal that authorizes the boat to remain in this state  
 1047 for an additional 90 days, but not more than a total of 180  
 1048 days, before the nonresident purchaser is required to pay the  
 1049 tax imposed by this chapter. The department is authorized to  
 1050 issue decals in advance to dealers. The number of decals issued  
 1051 in advance to a dealer shall be consistent with the volume of  
 1052 the dealer's past sales of boats which qualify under this sub-  
 1053 subparagraph. The selling dealer or his or her agent shall mark  
 1054 and affix the decals to qualifying boats in the manner  
 1055 prescribed by the department, prior to delivery of the boat.

1056 (I) The department is hereby authorized to charge dealers  
 1057 a fee sufficient to recover the costs of decals issued, except  
 1058 the extension decal shall cost \$425.

1059 (II) The proceeds from the sale of decals will be  
 1060 deposited into the administrative trust fund.

1061 (III) Decals shall display information to identify the  
 1062 boat as a qualifying boat under this sub-subparagraph,  
 1063 including, but not limited to, the decal's date of expiration.

1064 (IV) The department is authorized to require dealers who  
 1065 purchase decals to file reports with the department and may  
 1066 prescribe all necessary records by rule. All such records are

1067 subject to inspection by the department.

1068 (V) Any dealer or his or her agent who issues a decal  
 1069 falsely, fails to affix a decal, mismarks the expiration date of  
 1070 a decal, or fails to properly account for decals will be  
 1071 considered prima facie to have committed a fraudulent act to  
 1072 evade the tax and will be liable for payment of the tax plus a  
 1073 mandatory penalty of 200 percent of the tax, and shall be liable  
 1074 for fine and punishment as provided by law for a conviction of a  
 1075 misdemeanor of the first degree, as provided in s. 775.082 or s.  
 1076 775.083.

1077 (VI) Any nonresident purchaser of a boat who removes a  
 1078 decal prior to permanently removing the boat from the state, or  
 1079 defaces, changes, modifies, or alters a decal in a manner  
 1080 affecting its expiration date prior to its expiration, or who  
 1081 causes or allows the same to be done by another, will be  
 1082 considered prima facie to have committed a fraudulent act to  
 1083 evade the tax and will be liable for payment of the tax plus a  
 1084 mandatory penalty of 200 percent of the tax, and shall be liable  
 1085 for fine and punishment as provided by law for a conviction of a  
 1086 misdemeanor of the first degree, as provided in s. 775.082 or s.  
 1087 775.083.

1088 (VII) The department is authorized to adopt rules  
 1089 necessary to administer and enforce this subparagraph and to  
 1090 publish the necessary forms and instructions.

1091 (VIII) The department is hereby authorized to adopt  
 1092 emergency rules pursuant to s. 120.54(4) to administer and

1093 enforce the provisions of this subparagraph.  
 1094  
 1095 If the purchaser fails to remove the qualifying boat from this  
 1096 state within the maximum 180 days after purchase or a  
 1097 nonqualifying boat or an aircraft from this state within 10 days  
 1098 after purchase or, when the boat or aircraft is repaired or  
 1099 altered, within 20 days after completion of such repairs or  
 1100 alterations, or permits the boat or aircraft to return to this  
 1101 state within 6 months from the date of departure, except as  
 1102 provided in s. 212.08(7)(fff), or if the purchaser fails to  
 1103 furnish the department with any of the documentation required by  
 1104 this subparagraph within the prescribed time period, the  
 1105 purchaser shall be liable for use tax on the cost price of the  
 1106 boat or aircraft and, in addition thereto, payment of a penalty  
 1107 to the Department of Revenue equal to the tax payable. This  
 1108 penalty shall be in lieu of the penalty imposed by s. 212.12(2).  
 1109 The maximum 180-day period following the sale of a qualifying  
 1110 boat tax-exempt to a nonresident may not be tolled for any  
 1111 reason.  
 1112 Section 17. Paragraphs (n) and (kkk) of subsection (7) of  
 1113 section 212.08, Florida Statutes, are amended, and paragraphs  
 1114 (r) and (s) are added to subsection (5) of that section, to  
 1115 read:  
 1116 212.08 Sales, rental, use, consumption, distribution, and  
 1117 storage tax; specified exemptions.—The sale at retail, the  
 1118 rental, the use, the consumption, the distribution, and the

1119 storage to be used or consumed in this state of the following  
 1120 are hereby specifically exempt from the tax imposed by this  
 1121 chapter.

1122 (5) EXEMPTIONS; ACCOUNT OF USE.—

1123 (r) Building materials, rental of tangible personal  
 1124 property, and pest control services used to build new  
 1125 construction located in a rural area of opportunity.—

1126 1. Building materials, rental of tangible personal  
 1127 property, and pest control used to build new construction  
 1128 located in a rural area of opportunity designated pursuant to s.  
 1129 288.0656 are exempt from the tax imposed by this chapter upon an  
 1130 affirmative showing to the satisfaction of the department that  
 1131 the items and services have been used for new construction  
 1132 located in a rural area of opportunity. Except as provided in  
 1133 subparagraph 2., this exemption inures to the owner, lessee, or  
 1134 lessor at the time the new construction occurs, but only through  
 1135 a refund of previously paid taxes. To receive a refund pursuant  
 1136 to this paragraph, the owner, lessee, or lessor of the new  
 1137 construction must file an application under oath with the Rural  
 1138 Economic Development Initiative as defined in s. 288.0656. The  
 1139 application must include:

1140 a. The name and address of the person claiming the refund.

1141 b. An address and assessment roll parcel number of the  
 1142 real property improved with new construction for which a refund  
 1143 of previously paid taxes is being sought.

1144 c. A description of the new construction.



1145 d. A copy of a valid building permit issued by the county  
 1146 or municipal building department for the new construction.

1147 e. A sworn statement, under penalty of perjury, from the  
 1148 general contractor licensed in this state with whom the  
 1149 applicant contracted to make the new construction, which lists  
 1150 the exempt goods and services, the actual cost of the exempt  
 1151 goods and services, and the amount of sales tax paid in this  
 1152 state on the exempt goods and services, and which states that  
 1153 the improvement to the real property was new construction. If a  
 1154 general contractor was not used, the applicant, not a general  
 1155 contractor, shall make the sworn statement required by this sub-  
 1156 subparagraph. Copies of the invoices that evidence the purchase  
 1157 of the exempt goods and services and the payment of sales tax  
 1158 thereon must be attached to the sworn statement provided by the  
 1159 general contractor or by the applicant. Unless the actual cost  
 1160 of exempt goods and services and the payment of sales taxes is  
 1161 documented by a general contractor or by the applicant in this  
 1162 manner, the cost of the exempt goods and services is deemed to  
 1163 be an amount equal to 40 percent of the increase in assessed  
 1164 value for ad valorem tax purposes.

1165 f. A certification by the local building code inspector  
 1166 that the new construction is substantially completed and is new  
 1167 construction.

1168 2. This exemption inures to a municipality, county, other  
 1169 governmental unit or agency, or nonprofit community-based  
 1170 organization through a refund of previously paid taxes if the

1171 exempt goods and services are paid for from the funds of a  
 1172 community development block grant, State Housing Initiatives  
 1173 Partnership Program, or similar grant or loan program. To  
 1174 receive a refund, a municipality, county, other governmental  
 1175 unit or agency, or nonprofit community-based organization must  
 1176 file an application that includes the same information required  
 1177 in subparagraph 1. In addition, the application must include a  
 1178 sworn statement signed by the chief executive officer of the  
 1179 municipality, county, other governmental unit or agency, or  
 1180 nonprofit community-based organization seeking a refund which  
 1181 states that the exempt goods and services for which a refund is  
 1182 sought were funded by a community development block grant, State  
 1183 Housing Initiatives Partnership Program, or similar grant or  
 1184 loan program.

1185 3. Within 10 working days after receipt of an application,  
 1186 the Rural Economic Development Initiative shall review the  
 1187 application to determine if it contains all the information  
 1188 required by subparagraph 1. or subparagraph 2. and meets the  
 1189 criteria set out in this paragraph. The Rural Economic  
 1190 Development Initiative shall certify all applications that  
 1191 contain the required information and are eligible to receive a  
 1192 refund. The certification must be in writing, and a copy of the  
 1193 certification shall be transmitted to the executive director of  
 1194 the department. The applicant is responsible for forwarding a  
 1195 certified application to the department within the time  
 1196 specified in subparagraph 4.

1197 4. An application for a refund must be submitted to the  
 1198 department within 6 months after the new construction is deemed  
 1199 to be substantially completed by the local building code  
 1200 inspector or by November 1 after the improved property is first  
 1201 subject to assessment.

1202 5. Only one exemption through a refund of previously paid  
 1203 taxes for the new construction is permitted for any single  
 1204 parcel of property unless there is a change in ownership, a new  
 1205 lessor, or a new lessee of the real property. A refund may not  
 1206 be granted unless the amount to be refunded exceeds \$500. A  
 1207 refund may not exceed the lesser of 97.5 percent of the Florida  
 1208 sales or use tax paid on the cost of the exempt goods and  
 1209 services as determined pursuant to sub-subparagraph 1.e. or  
 1210 \$10,000. A refund shall be made within 30 days after formal  
 1211 approval by the department of the application for the refund.

1212 6. The department shall adopt rules governing the manner  
 1213 and form of refund applications and may establish guidelines as  
 1214 to the requisites for an affirmative showing of qualification  
 1215 for exemption under this paragraph.

1216 7. The department shall deduct an amount equal to 10  
 1217 percent of each refund granted under this paragraph from the  
 1218 amount transferred into the Local Government Half-cent Sales Tax  
 1219 Clearing Trust Fund pursuant to s. 212.20 for the county area in  
 1220 which the new construction is located and shall transfer that  
 1221 amount to the General Revenue Fund.

1222 8. For the purposes of the exemption provided in this

1223 paragraph, the term:  
 1224 a. "Building materials" means tangible personal property  
 1225 that becomes a component part of improvements to real property.  
 1226 b. "Exempt goods and services" means building materials,  
 1227 rental of tangible personal property, and pest control used to  
 1228 build new construction.  
 1229 c. "New construction" means improvements, to real  
 1230 property, which did not previously exist, and does not include  
 1231 reconstruction, renovation, restoration, rehabilitation,  
 1232 modification, alteration or expansion of buildings already  
 1233 located on the parcel on which the new construction is built.  
 1234 d. "Pest control" has the same meaning as in s. 482.021.  
 1235 e. "Real property" has the same meaning as provided in s.  
 1236 192.001(12), except that the term does not include a condominium  
 1237 parcel or condominium property as defined in s. 718.103.  
 1238 f. "Substantially completed" has the same meaning as  
 1239 provided in s. 192.042(1).  
 1240 (s) *Datacenter Equipment and Electricity-*  
 1241 1. The sale of datacenter equipment to an entity certified  
 1242 pursuant to this paragraph is exempt from the tax imposed by  
 1243 this chapter.  
 1244 2. The sale of electricity for a qualifying datacenter to  
 1245 an entity certified pursuant to this paragraph is exempt from  
 1246 the tax imposed by this chapter.  
 1247 3. Building materials purchased for use in constructing or  
 1248 expanding a qualifying datacenter are exempt from the tax

1249 imposed by this chapter.

1250 4. For sales of items that are tax-exempt pursuant to this  
 1251 paragraph, possession of a written certification from the  
 1252 purchaser, certifying the purchaser's entitlement to the  
 1253 exemption, relieves the seller of the responsibility of  
 1254 collecting the tax on the sale of such items, and the department  
 1255 shall look solely to the purchaser for recovery of the tax if it  
 1256 determines that the purchaser was not entitled to the exemption.

1257 5.a. To be eligible to receive the exemption provided by  
 1258 subparagraph 1., subparagraph 2., or subparagraph 3., the  
 1259 Department of Economic Opportunity must certify that a business  
 1260 has made or will make a cumulative capital investment of at  
 1261 least seventy-five million dollars (\$75,000,000). To be  
 1262 certified, a business shall initially apply to Enterprise  
 1263 Florida, Inc. Enterprise Florida, Inc. will review that  
 1264 application and forward it with a recommendation to approve or  
 1265 disapprove to the Department of Economic Opportunity. If the  
 1266 Department of Economic Opportunity approves the application, the  
 1267 original certification is valid for a period of 2 years. Until  
 1268 the required cumulative capital investment has been made, in  
 1269 lieu of submitting a new application, the original certification  
 1270 may be renewed biennially by submitting to the Department of  
 1271 Economic Opportunity a statement, certified under oath, that  
 1272 there has not been a material change in the conditions or  
 1273 circumstances entitling the business entity to the original  
 1274 certification. The initial application and the certification

1275 renewal statement shall be developed by the Department of  
 1276 Economic Opportunity.

1277 b. The Division of Strategic Business Development of the  
 1278 Department of Economic Opportunity shall review each submitted  
 1279 initial application and determine whether or not the application  
 1280 is complete within 5 working days. Once complete, the division  
 1281 shall, within 10 working days, evaluate the application and  
 1282 recommend approval or disapproval to the Department of Economic  
 1283 Opportunity.

1284 c. Upon receipt of the initial application and  
 1285 recommendation from the division or upon receipt of a  
 1286 certification renewal statement, the Department of Economic  
 1287 Opportunity shall certify within 5 working days those applicants  
 1288 who are found to meet the requirements of this section and shall  
 1289 notify both the applicant of the original certification or  
 1290 certification renewal and also the department, which department  
 1291 in turn shall issue an exemption certificate to the applicant  
 1292 within 5 working days after such notification. If the  
 1293 Department of Economic Opportunity finds that the applicant does  
 1294 not meet the requirements, it shall notify the applicant and  
 1295 Enterprise Florida, Inc., within 10 working days that the  
 1296 application for certification has been denied and the reasons  
 1297 for denial. The Department of Economic Opportunity has final  
 1298 approval authority for certification under this section.

1299 d. Within five years from the date that a business  
 1300 certified pursuant to this paragraph makes its first qualifying

1301 real or tangible property investment in the construction or  
 1302 expansion of a datacenter, the business shall apply to the  
 1303 Department of Economic opportunity for final certification. The  
 1304 application must contain information sufficient for the  
 1305 Department of Economic Opportunity to verify that the business  
 1306 made the cumulative capital investment required by the  
 1307 thresholds contained in sub-subparagraph 8.c. associated with  
 1308 their initial certification. The Department of Economic  
 1309 Opportunity shall notify the applicant for final certification  
 1310 and the department of its determination. The limitations in s.  
 1311 95.091(3) shall be tolled from the time the department issues an  
 1312 exemption certificate pursuant to sub-subparagraph 5.c. until  
 1313 the Department of Economic Opportunity makes a final  
 1314 certification determination pursuant to this sub-subparagraph.  
 1315 e. The initial application and certification renewal  
 1316 statement must indicate, for program evaluation purposes only,  
 1317 the average number of full-time equivalent employees at the  
 1318 facility over the preceding calendar year, the average wage and  
 1319 benefits paid to those employees over the preceding calendar  
 1320 year, the total investment made in real and tangible personal  
 1321 property over the preceding calendar year, and the total value  
 1322 of tax-exempt purchases and taxes exempted during the previous  
 1323 year. The department shall assist the Department of Economic  
 1324 Opportunity in evaluating and verifying information provided in  
 1325 the application for exemption.  
 1326 f. The Department of Economic Opportunity may use the

1327 information reported on the initial application and  
 1328 certification renewal statement for program evaluation purposes  
 1329 only. The average number of full-time equivalent employees, a  
 1330 specific level of employment creation or maintenance, or the  
 1331 like is not a prerequisite or requirement to qualify for this  
 1332 exemption.

1333 6. A business is eligible to receive the exemption provided  
 1334 by subparagraph 3., if it has written certification from a  
 1335 business certified pursuant to this paragraph that the building  
 1336 materials purchased tax-exempt are for use in the construction  
 1337 or expansion of a qualifying datacenter.

1338 7. The Department of Economic Opportunity and the  
 1339 department may adopt rules that provide for implementation of  
 1340 this exemption. Purchasers and lessees of datacenter equipment,  
 1341 and purchasers of electricity, qualifying for the exemption  
 1342 provided in this paragraph shall furnish the vendor with a copy  
 1343 of the exemption certificate for the item or items eligible to  
 1344 be exempted. Any person furnishing a false exemption certificate  
 1345 to the vendor for the purpose of evading payment of any tax  
 1346 imposed under this chapter shall be subject to the penalty set  
 1347 forth in s. 212.085 and as otherwise provided by law. Purchasers  
 1348 with self-accrual authority shall maintain all documentation  
 1349 necessary to prove the exempt status of purchases.

1350 8. As used in this paragraph, the term:

1351 a. "Datacenter" means a facility that:

1352 (I) is comprised of one or more land parcels in Florida,



1353 along with the buildings, substations and other infrastructure,  
 1354 fixtures, and personal property located on those parcels;  
 1355 (II) is or will be occupied by one or more operators,  
 1356 owners, users, or tenants; and  
 1357 (III) is primarily used to house and operate equipment that  
 1358 receives, stores, aggregates, manages, processes, transforms,  
 1359 retrieves, researches, and/or transmits data, and services and  
 1360 functions related thereto.  
 1361 b. "Datacenter equipment" means equipment that is used  
 1362 wholly within, wholly at, or wholly in conjunction with a  
 1363 datacenter to outfit, operate, support, power, secure, or  
 1364 protect a datacenter, along with component parts, installations,  
 1365 refreshments, replacements, redundancies, operating or enabling  
 1366 software including their updates and new versions, and upgrades  
 1367 to or for this equipment, whether any of the equipment is  
 1368 affixed to or incorporated into real property, including:  
 1369 (I) Equipment necessary for the transformation, generation,  
 1370 distribution, storage, back-up, or management of electricity  
 1371 that is required to operate computer server equipment, including  
 1372 generators, transformers, substations (whether located at the  
 1373 facility or off-site), uninterruptible power supply systems,  
 1374 power distribution units, power panels conduit, gaseous fuel  
 1375 pipng, cabling, wiring, busses, duct banks, switches,  
 1376 switchboards and other switch gear, batteries, and testing  
 1377 equipment.  
 1378 (II) Equipment necessary to cool and maintain a controlled

1379 environment for the operation of computers, servers, and other  
 1380 components of the datacenter, including mechanical equipment,  
 1381 refrigerant piping, gaseous fuel piping, adiabatic and free  
 1382 cooling systems, cooling towers, chillers, condensers, pumps,  
 1383 fans, water softeners, air handling units, indoor direct  
 1384 exchange units, fans, ducting and filters, and related HVAC  
 1385 equipment.

1386 (III) Water conservation systems, including facilities or  
 1387 mechanisms that are designed to collect, conserve, and reuse  
 1388 water.

1389 (IV) Computers, servers, and related equipment, chassis,  
 1390 networking and telecommunications equipment, switches, racks,  
 1391 cabling, trays, conduit, fiber optics, and routers.

1392 (V) Monitoring equipment and security systems.

1393 (VI) Modular datacenters and preassembled components of any  
 1394 item described in this paragraph, including components used in  
 1395 the manufacturing of modular datacenters.

1396 (VII) Other tangible personal property, fixtures, and  
 1397 infrastructure that are essential to the operations of a  
 1398 datacenter.

1399 c. "Qualifying datacenter" means a datacenter for which the  
 1400 Department of Economic Opportunity has certified that one or  
 1401 more of the datacenter's owners, operators, users, or tenants,  
 1402 individually, has or will make a cumulative capital investment  
 1403 of at least seventy-five million dollars (\$75,000,000).

1404 d. "Cumulative capital investment" means the total capital

1405 investment in land, buildings, equipment including datacenter  
 1406 equipment, and all other eligible capital costs made in  
 1407 connection with the construction or expansion of a datacenter in  
 1408 this state. "Cumulative capital investment" does not include  
 1409 expenditures to replace tangible personal property that has  
 1410 reached the end of its useful life, nor does it include  
 1411 expenditures made to acquire an existing datacenter. To qualify,  
 1412 such investment must be made on or after January 1, 2016, and  
 1413 within five years after the date an owner, operator, user, or  
 1414 tenant of a datacenter makes its first real or tangible property  
 1415 investment in the construction or expansion of a datacenter.  
 1416 e. "Eligible capital costs" means all expenses incurred by  
 1417 an owner, operator, user, or tenant of a datacenter in  
 1418 connection with the acquisition, construction, installation,  
 1419 equipping, or expansion of a datacenter, including, but not  
 1420 limited to:  
 1421 (I) The costs of acquiring, constructing, installing,  
 1422 equipping, and financing a datacenter, including all obligations  
 1423 incurred for labor and obligations to contractors,  
 1424 subcontractors, builders, and materialmen.  
 1425 (II) The costs of acquiring land or rights to land and any  
 1426 cost incidental thereto, including recording fees.  
 1427 (III) The costs of architectural and engineering services,  
 1428 including test borings, surveys, estimates, plans and  
 1429 specifications, preliminary investigations, environmental  
 1430 mitigation, and supervision of construction, as well as the

1431 performance of all duties required by or consequent to the  
 1432 acquisition, construction, installation, and equipping of a  
 1433 datacenter.

1434 (IV) The costs associated with the installation of fixtures  
 1435 and equipment; surveys, including archaeological and  
 1436 environmental surveys; site tests and inspections; subsurface  
 1437 site work and excavation; removal of structures, roadways, and  
 1438 other surface obstructions; filling, grading, paving, and  
 1439 provisions for drainage, storm water retention, and installation  
 1440 of utilities, including water, sewer, sewage treatment, gas,  
 1441 electricity, communications, and similar facilities; and offsite  
 1442 construction of utility extensions to the boundaries of the  
 1443 property.

1444 9.a. In addition to its existing audit and investigation  
 1445 authority, the department may perform any additional financial  
 1446 and technical audits and investigations, including examining the  
 1447 accounts, books, and records of the tax credit applicant, which  
 1448 are necessary to verify eligibility for the exemptions  
 1449 authorized by this paragraph and to ensure compliance with this  
 1450 paragraph. The Department of Economic Opportunity shall provide  
 1451 technical assistance when requested by the Department of Revenue  
 1452 on any technical audits or examinations performed pursuant to  
 1453 this subparagraph.

1454 b. If the department determines, as a result of an audit or  
 1455 examination or from information received from the Department of  
 1456 Economic Opportunity, that a certified entity received a tax

1457 exemption pursuant to this paragraph to which it was not  
 1458 entitled, the department may, in addition to the remedies  
 1459 provided by this subsection, pursue recovery of such funds  
 1460 pursuant to the laws and rules governing the assessment of  
 1461 taxes.

1462 c. The Department of Economic Opportunity may revoke or  
 1463 modify any written decision certifying eligibility for tax  
 1464 exemptions authorized under this paragraph if it is discovered  
 1465 that the tax exemption applicant submitted any false statement,  
 1466 representation, or certification in any application, record,  
 1467 report, plan, or other document filed in an attempt to receive  
 1468 tax exemptions authorized under this paragraph. The Department  
 1469 of Economic Opportunity shall immediately notify the department  
 1470 of any revoked or modified orders affecting previously certified  
 1471 tax exemptions.

1472 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
 1473 entity by this chapter do not inure to any transaction that is  
 1474 otherwise taxable under this chapter when payment is made by a  
 1475 representative or employee of the entity by any means,  
 1476 including, but not limited to, cash, check, or credit card, even  
 1477 when that representative or employee is subsequently reimbursed  
 1478 by the entity. In addition, exemptions provided to any entity by  
 1479 this subsection do not inure to any transaction that is  
 1480 otherwise taxable under this chapter unless the entity has  
 1481 obtained a sales tax exemption certificate from the department  
 1482 or the entity obtains or provides other documentation as

1483 required by the department. Eligible purchases or leases made  
 1484 with such a certificate must be in strict compliance with this  
 1485 subsection and departmental rules, and any person who makes an  
 1486 exempt purchase with a certificate that is not in strict  
 1487 compliance with this subsection and the rules is liable for and  
 1488 shall pay the tax. The department may adopt rules to administer  
 1489 this subsection.

1490 (n) Veterans' organizations.--

1491 1. There are exempt from the tax imposed by this chapter  
 1492 transactions involving sales or leases to qualified veterans'  
 1493 organizations and their auxiliaries when used in carrying on  
 1494 their customary veterans' organization activities or sales of  
 1495 food or drinks by qualified veterans' organizations in  
 1496 connection with customary veterans' organization activities to  
 1497 members of qualified veterans' organizations.

1498 2. As used in this paragraph, the term "veterans'  
 1499 organizations" means nationally chartered or recognized  
 1500 veterans' organizations, including, but not limited to, the  
 1501 American Legion, Veterans of Foreign Wars of the United States,  
 1502 Florida chapters of the Paralyzed Veterans of America, Catholic  
 1503 War Veterans of the U.S.A., Jewish War Veterans of the U.S.A.,  
 1504 and the Disabled American Veterans, Department of Florida, Inc.,  
 1505 which hold current exemptions from federal income tax under s.  
 1506 501(c)(4) or (19) of the Internal Revenue Code of 1986, as  
 1507 amended.

1508 (kkk) Certain machinery and equipment.--

1509 1. Industrial machinery and equipment purchased by  
 1510 eligible manufacturing businesses which is used at a fixed  
 1511 location in ~~within~~ this state, ~~or a mixer drum affixed to a~~  
 1512 ~~mixer truck which is used at any location within this state to~~  
 1513 ~~mix, agitate, and transport freshly mixed concrete in a plastic~~  
 1514 ~~state,~~ for the manufacture, processing, compounding, or  
 1515 production of items of tangible personal property for sale shall  
 1516 be exempt from the tax imposed by this chapter. ~~Parts and labor~~  
 1517 ~~required to affix a mixer drum exempt under this paragraph to a~~  
 1518 ~~mixer truck are also exempt.~~ If, at the time of purchase, the  
 1519 purchaser furnishes the seller with a signed certificate  
 1520 certifying the purchaser's entitlement to exemption pursuant to  
 1521 this paragraph, the seller is relieved of the responsibility for  
 1522 collecting the tax on the sale of such items, and the department  
 1523 shall look solely to the purchaser for recovery of the tax if it  
 1524 determines that the purchaser was not entitled to the exemption.

1525 2. For purposes of this paragraph, the term:

1526 a. "Eligible manufacturing business" means any business  
 1527 whose primary business activity at the location where the  
 1528 industrial machinery and equipment is located is within the  
 1529 industries classified under NAICS codes 31, 32, ~~and~~ 33, and  
 1530 423930.

1531 b. "Eligible postharvest activity business" means any  
 1532 business whose primary business activity at the location where  
 1533 the postharvest machinery and equipment is located is within  
 1534 NAICS code 115114.

1535 c. ~~As used in this subparagraph,~~ "NAICS" means those  
 1536 classifications contained in the North American Industry  
 1537 Classification System, as published in 2007 by the Office of  
 1538 Management and Budget, Executive Office of the President.

1539 d. ~~b.~~ "Primary business activity" means an activity  
 1540 representing more than 50 percent of the activities conducted at  
 1541 the location where the industrial machinery and equipment or  
 1542 postharvest machinery and equipment is located.

1543 e. ~~e.~~ "Industrial machinery and equipment" means tangible  
 1544 personal property or other property that has a depreciable life  
 1545 of 3 years or more and that is used as an integral part in the  
 1546 manufacturing, processing, compounding, or production of  
 1547 tangible personal property for sale. The term "industrial  
 1548 machinery and equipment" includes tangible personal property or  
 1549 other property that has a depreciable life of 3 years or more  
 1550 that is used as an integral part in the recycling of metals for  
 1551 sale. A building and its structural components are not  
 1552 industrial machinery and equipment unless the building or  
 1553 structural component is so closely related to the industrial  
 1554 machinery and equipment that it houses or supports that the  
 1555 building or structural component can be expected to be replaced  
 1556 when the machinery and equipment are replaced. Heating and air  
 1557 conditioning systems are not industrial machinery and equipment  
 1558 unless the sole justification for their installation is to meet  
 1559 the requirements of the production process, even though the  
 1560 system may provide incidental comfort to employees or serve, to



1561 an insubstantial degree, nonproduction activities. The term  
 1562 includes parts and accessories for industrial machinery and  
 1563 equipment only to the extent that the parts and accessories are  
 1564 purchased prior to the date the machinery and equipment are  
 1565 placed in service.

1566 f. "Postharvest machinery and equipment" means tangible  
 1567 personal property or other property that has a depreciable life  
 1568 of 3 years or more and that is used primarily for postharvest  
 1569 activities. A building and its structural components are not  
 1570 postharvest industrial machinery and equipment unless the  
 1571 building or structural component is so closely related to the  
 1572 postharvest machinery and equipment that it houses or supports,  
 1573 that the building or structural component can be expected to be  
 1574 replaced when the postharvest machinery and equipment are  
 1575 replaced. Heating and air conditioning systems are not  
 1576 postharvest machinery and equipment unless the sole  
 1577 justification for their installation is to meet the requirements  
 1578 of the postharvest activities process, even though the system  
 1579 may provide incidental comfort to employees or serve, to an  
 1580 insubstantial degree, nonpostharvest activities.

1581 g. "Postharvest activities" (means services performed on  
 1582 crops, subsequent to their harvest, with the intent of preparing  
 1583 them for market or further processing. Postharvest activities,  
 1584 include, but are not limited to, crop cleaning, sun drying,  
 1585 shelling, fumigating, curing, sorting, grading, packing, and  
 1586 cooling.

1587           3. Postharvest machinery and equipment purchased by an  
 1588 eligible postharvest activity business which is used at a fixed  
 1589 location in this state shall be exempt from the tax imposed by  
 1590 this chapter. All labor charges for the repair of, and parts and  
 1591 materials used in the repair of and incorporated into such  
 1592 postharvest machinery and equipment, is also exempt. If, at the  
 1593 time of purchase, the purchaser furnishes the seller with a  
 1594 signed certificate certifying the purchaser's entitlement to  
 1595 exemption pursuant to this subparagraph, the seller is relieved  
 1596 of the responsibility for collecting the tax on the sale of such  
 1597 items, and the department shall look solely to the purchaser for  
 1598 recovery of the tax if it determines that the purchaser was not  
 1599 entitled to the exemption.

1600           4. A mixer drum affixed to a mixer truck which is used at  
 1601 any location in this state to mix, agitate, and transport  
 1602 freshly mixed concrete in a plastic state for sale shall be  
 1603 exempt from the tax imposed by this chapter. Parts and labor  
 1604 required to affix a mixer drum exempt under this subparagraph to  
 1605 a mixer truck are also exempt. If, at the time of purchase, the  
 1606 purchaser furnishes the seller with a signed certificate  
 1607 certifying the purchaser's entitlement to exemption pursuant to  
 1608 this subparagraph, the seller is relieved of the responsibility  
 1609 for collecting the tax on the sale of such items, and the  
 1610 department shall look solely to the purchaser for recovery of  
 1611 the tax if it determines that the purchaser was not entitled to  
 1612 the exemption. This ~~subparagraph~~ ~~paragraph~~ is repealed April 30,

1613 2017.

1614 Section 18. Paragraph (n) subsection (1), and paragraph  
 1615 (c) of subsection (2) of section 220.03, Florida Statutes, are  
 1616 amended to read:

1617 220.03 Definitions.—

1618 (1) SPECIFIC TERMS.—When used in this code, and when not  
 1619 otherwise distinctly expressed or manifestly incompatible with  
 1620 the intent thereof, the following terms shall have the following  
 1621 meanings:

1622 (n) "Internal Revenue Code" means the United States  
 1623 Internal Revenue Code of 1986, as amended and in effect on  
 1624 January 1, 2016 ~~2015~~, except as provided in subsection (3).

1625 (2) DEFINITIONAL RULES.—When used in this code and neither  
 1626 otherwise distinctly expressed nor manifestly incompatible with  
 1627 the intent thereof:

1628 (c) Any term used in this code has the same meaning as  
 1629 when used in a comparable context in the Internal Revenue Code  
 1630 and other statutes of the United States relating to federal  
 1631 income taxes, as such code and statutes are in effect on January  
 1632 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the  
 1633 meaning of a term shall be taken at the time the term is applied  
 1634 under this code.

1635 Section 19. Paragraph (e) of subsection (1) of section  
 1636 220.13, Florida Statutes, is amended to read:

1637 220.13 "Adjusted federal income" defined.—

1638 (1) The term "adjusted federal income" means an amount

1639 equal to the taxpayer's taxable income as defined in subsection  
 1640 (2), or such taxable income of more than one taxpayer as  
 1641 provided in s. 220.131, for the taxable year, adjusted as  
 1642 follows:

1643 (e) Adjustments related to federal acts.—Taxpayers shall  
 1644 be required to make the adjustments prescribed in this paragraph  
 1645 for Florida tax purposes with respect to certain tax benefits  
 1646 received pursuant to the Economic Stimulus Act of 2008, the  
 1647 American Recovery and Reinvestment Act of 2009, the Small  
 1648 Business Jobs Act of 2010, the Tax Relief, Unemployment  
 1649 Insurance Reauthorization, and Job Creation Act of 2010, the  
 1650 American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase  
 1651 Prevention Act of 2014, and the Consolidated Appropriations Act,  
 1652 2016.

1653 1. There shall be added to such taxable income an amount  
 1654 equal to 100 percent of any amount deducted for federal income  
 1655 tax purposes as bonus depreciation for the taxable year pursuant  
 1656 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as  
 1657 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.  
 1658 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.  
 1659 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L.  
 1660 No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113,  
 1661 for property placed in service after December 31, 2007, and  
 1662 before January 1, 2021 ~~2015~~. For the taxable year and for each  
 1663 of the 6 subsequent taxable years, there shall be subtracted  
 1664 from such taxable income an amount equal to one-seventh of the

1665 amount by which taxable income was increased pursuant to this  
 1666 subparagraph, notwithstanding any sale or other disposition of  
 1667 the property that is the subject of the adjustments and  
 1668 regardless of whether such property remains in service in the  
 1669 hands of the taxpayer.

1670         2. There shall be added to such taxable income an amount  
 1671 equal to 100 percent of any amount in excess of \$128,000  
 1672 deducted for federal income tax purposes for the taxable year  
 1673 pursuant to s. 179 of the Internal Revenue Code of 1986, as  
 1674 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.  
 1675 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.  
 1676 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L.  
 1677 No. 113-295, for taxable years beginning after December 31,  
 1678 2007, and before January 1, 2015. For the taxable year and for  
 1679 each of the 6 subsequent taxable years, there shall be  
 1680 subtracted from such taxable income one-seventh of the amount by  
 1681 which taxable income was increased pursuant to this  
 1682 subparagraph, notwithstanding any sale or other disposition of  
 1683 the property that is the subject of the adjustments and  
 1684 regardless of whether such property remains in service in the  
 1685 hands of the taxpayer.

1686         3. There shall be added to such taxable income an amount  
 1687 equal to the amount of deferred income not included in such  
 1688 taxable income pursuant to s. 108(i)(1) of the Internal Revenue  
 1689 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There  
 1690 shall be subtracted from such taxable income an amount equal to

1691 the amount of deferred income included in such taxable income  
 1692 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,  
 1693 as amended by s. 1231 of Pub. L. No. 111-5.

1694 4. Subtractions available under this paragraph may be  
 1695 transferred to the surviving or acquiring entity following a  
 1696 merger or acquisition and used in the same manner and with the  
 1697 same limitations as specified by this paragraph.

1698 5. The additions and subtractions specified in this  
 1699 paragraph are intended to adjust taxable income for Florida tax  
 1700 purposes, and, notwithstanding any other provision of this code,  
 1701 such additions and subtractions shall be permitted to change a  
 1702 taxpayer's net operating loss for Florida tax purposes.

1703 Section 20. The amendments made by this act to paragraph  
 1704 (n) of subsection (1) and paragraph (c) of subsection (2) of  
 1705 section 220.03, Florida Statutes and to paragraph (e) of  
 1706 subsection (1) of section 220.13, Florida Statutes, are  
 1707 effective upon becoming law and shall operate retroactively to  
 1708 January 1, 2016.

1709 Section 21. (1) The Department of Revenue is authorized,  
 1710 and all conditions are deemed to be met, to adopt emergency  
 1711 rules pursuant to s. 120.54(4), Florida Statutes, for the  
 1712 purpose of implementing the amendments made by this act to  
 1713 paragraph (n) of subsection (1) and paragraph (c) of subsection  
 1714 (2) of section 220.03, Florida Statutes and to paragraph (e) of  
 1715 subsection (1) of section 220.13, Florida Statutes.

1716 (2) Notwithstanding any other provision of law, emergency

1717 rules adopted pursuant to subsection (1) are effective for 6  
 1718 months after adoption and may be renewed during the pendency of  
 1719 procedures to adopt permanent rules addressing the subject of  
 1720 the emergency rules.

1721 (3) This section expires January 1, 2020.

1722 Section 22. Paragraph (f) of subsection (2) of section  
 1723 220.1845, Florida Statutes, is amended to read:

1724 220.1845 Contaminated site rehabilitation tax credit.—

1725 (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

1726 (f) The total amount of the tax credits which may be  
 1727 granted under this section is \$21.6 million in the 2015-2016  
 1728 fiscal year, \$10 million the 2016-2017 fiscal year, and \$5  
 1729 million annually thereafter.

1730 Section 23. Paragraph (c) of subsection (1) and subsection  
 1731 (2) of section 220.192, Florida Statutes, is amended to read:

1732 220.192 Renewable energy technologies investment tax  
 1733 credit.—

1734 (1) DEFINITIONS.—For purposes of this section, the term:

1735 (c) "Eligible costs" means 75 percent of all capital  
 1736 costs, operation and maintenance costs, and research and  
 1737 development costs incurred between July 1, 2012, and June 30,  
 1738 2017 ~~2016~~, not to exceed \$1 million per state fiscal year for  
 1739 each taxpayer and up to a limit of \$10 million per state fiscal  
 1740 year for all taxpayers, in connection with an investment in the  
 1741 production, storage, and distribution of biodiesel (B10-B100),  
 1742 ethanol (E10-E100), and other renewable fuel in the state,

1743 including the costs of constructing, installing, and equipping  
 1744 such technologies in the state. Gasoline fueling station pump  
 1745 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and  
 1746 other renewable fuel distribution qualify as an eligible cost  
 1747 under this section.

1748 (2) TAX CREDIT.—For tax years beginning on or after  
 1749 January 1, 2013, a credit against the tax imposed by this  
 1750 chapter shall be granted in an amount equal to the eligible  
 1751 costs. Credits may be used in tax years beginning January 1,  
 1752 2013, and ending December 31, 2017 ~~2016~~, after which the credit  
 1753 shall expire. If the credit is not fully used in any one tax  
 1754 year because of insufficient tax liability on the part of the  
 1755 corporation, the unused amount may be carried forward and used  
 1756 in tax years beginning January 1, 2013, and ending December 31,  
 1757 2019 ~~2018~~, after which the credit carryover expires and may not  
 1758 be used. A taxpayer that files a consolidated return in this  
 1759 state as a member of an affiliated group under s. 220.131(1) may  
 1760 be allowed the credit on a consolidated return basis up to the  
 1761 amount of tax imposed upon the consolidated group. Any eligible  
 1762 cost for which a credit is claimed and which is deducted or  
 1763 otherwise reduces federal taxable income shall be added back in  
 1764 computing adjusted federal income under s. 220.13.

1765 Section 24. Paragraph (e) of subsection (2), paragraphs  
 1766 (b) and (g) of subsection (3) and subsection (8) of section  
 1767 220.193, Florida Statutes, are amended to read:

1768 220.193 Florida renewable energy production credit.—



1769 (2) As used in this section, the term:

1770 (e) "New facility" means a Florida renewable energy

1771 facility that is operationally placed in service after May 1,

1772 2006. The term includes a Florida renewable energy facility that

1773 has had an expansion operationally placed in service after May

1774 1, 2006, and whose cost exceeded 50 percent of the assessed

1775 value of the facility immediately before the expansion, and any

1776 nonpublic waste to energy facility sited pursuant to ss. 403.501

1777 through 403.518.

1778 (3) An annual credit against the tax imposed by this

1779 section shall be allowed to a taxpayer, based on the taxpayer's

1780 production and sale of electricity from a new or expanded

1781 Florida renewable energy facility. For a new facility, the

1782 credit shall be based on the taxpayer's sale of the facility's

1783 entire electrical production. For an expanded facility, the

1784 credit shall be based on the increases in the facility's

1785 electrical production that are achieved after May 1, 2012.

1786 (b) The credit may be claimed for electricity produced and

1787 sold on or after January 1, 2013. ~~Beginning in 2014 and~~

1788 ~~continuing until 2017,~~ Each taxpayer claiming a credit under

1789 this section must apply to the Department of Agriculture and

1790 Consumer Services by the date established by the Department of

1791 Agriculture and Consumer Services for an allocation of available

1792 credits for that year. The application form shall be adopted by

1793 rule of the Department of Agriculture and Consumer Services in

1794 consultation with the commission. The application form shall, at

1795 a minimum, require a sworn affidavit from each taxpayer  
 1796 certifying the increase in production and sales that form the  
 1797 basis of the application and certifying that all information  
 1798 contained in the application is true and correct.

1799 (g) ~~Notwithstanding any other provision of this section,~~  
 1800 ~~credits for the production and sale of electricity from a new or~~  
 1801 ~~expanded Florida renewable energy facility may be earned between~~  
 1802 ~~January 1, 2013, and June 30, 2016.~~ The combined total amount of  
 1803 tax credits which may be granted for all taxpayers under this  
 1804 section is limited to ~~\$5 million in state fiscal year 2012-2013~~  
 1805 ~~and \$10 million per state fiscal year in state fiscal years~~  
 1806 2016-2017 and 2017-2018 ~~2013-2014 through 2016-2017.~~ If the  
 1807 annual tax credit authorization amount is not exhausted by  
 1808 allocations of credits within that particular state fiscal year,  
 1809 any authorized but unallocated credit amounts may be used to  
 1810 grant credits that were earned pursuant to s. 220.192 but  
 1811 unallocated due to a lack of authorized funds.

1812 ~~(8) This section shall take effect upon becoming law and~~  
 1813 ~~shall apply to tax years beginning on and after January 1, 2013.~~

1814 Section 25. Paragraph (e) of subsection (2) of section  
 1815 220.196, Florida Statutes, is amended to read:

1816 220.196 Research and development tax credit.—

1817 (2) TAX CREDIT.—

1818 (e) The combined total amount of tax credits which may be  
 1819 granted to all business enterprises under this section during  
 1820 any calendar year is \$9 million, except that the total amount

1821 that may be granted ~~awarded~~ in the 2016 calendar year is \$23  
 1822 million and the total amount that may be granted in the 2017  
 1823 calendar year is \$18 million. Applications may be filed with the  
 1824 department on or after March 20 and before March 27 for  
 1825 qualified research expenses incurred within the preceding  
 1826 calendar year. If the total credits for all applicants exceed  
 1827 the maximum amount allowed under this paragraph, the credits  
 1828 shall be allocated on a prorated basis.

1829 Section 26. Effective upon becoming law and applicable to  
 1830 taxable years beginning on or after January 1, 2016, section  
 1831 220.222, Florida Statutes, is amended to read:

1832 220.222 Returns; time and place for filing.-

1833 (1) (a) Returns required by this code shall be filed with  
 1834 the office of the department in Leon County or at such other  
 1835 place as the department may by regulation prescribe. All returns  
 1836 required for a DISC (Domestic International Sales Corporation)  
 1837 under paragraph 6011(c)(2) of the Internal Revenue Code shall be  
 1838 filed on or before the 1st day of the 10th month following the  
 1839 close of the taxable year; all partnership information returns  
 1840 shall be filed on or before the 1st day of the 4th ~~5th~~ month  
 1841 following the close of the taxable year; and all other returns  
 1842 shall be filed on or before the 1st day of the 5th ~~4th~~ month  
 1843 following the close of the taxable year or the 15th day  
 1844 following the due date, without extension, for the filing of the  
 1845 related federal return for the taxable year, unless under  
 1846 subsection (2) one or more extensions of time, not to exceed 6  
 1847 months in the aggregate, for any such filing is granted.

1848 (b) Notwithstanding paragraph (a) of this subsection, for  
 1849 taxable years beginning before January 1, 2026, returns of  
 1850 taxpayers with a taxable year ending on June 30 shall be filed  
 1851 on or before the 1st day of the 4th month following the close of  
 1852 the taxable year or the 15th day following the due date, without  
 1853 extension, for the filing of the related federal return for the  
 1854 taxable year, unless under subsection (2) one or more extensions  
 1855 of time for any such filing is granted.

1856 (2) (a) When a taxpayer has been granted an extension or  
 1857 extensions of time within which to file its federal income tax  
 1858 return for any taxable year, and if the requirements of s.  
 1859 220.32 are met, the filing of a request for such extension or  
 1860 extensions with the department shall automatically extend the  
 1861 due date of the return required under this code until ~~15 days~~  
 1862 ~~after the expiration of the federal extension or until the~~  
 1863 ~~expiration of 6 months from the original due date, whichever~~  
 1864 ~~first occurs.~~

1865 (b) The department may grant an extension or extensions of  
 1866 time for the filing of any return required under this code upon  
 1867 receiving a prior request therefor if good cause for an  
 1868 extension is shown. However, the aggregate extensions of time  
 1869 under paragraphs (a) and (b) shall not exceed 6 months. No  
 1870 extension granted under this paragraph shall be valid unless the  
 1871 taxpayer complies with the requirements of s. 220.32.

1872 (c) For purposes of this subsection, a taxpayer is not in  
 1873 compliance with the requirements of s. 220.32 if the taxpayer  
 1874 underpays the required payment by more than the greater of  
 1875 \$2,000 or 30 percent of the tax shown on the return when filed.

1876 (d) For taxable years beginning before January 1, 2026, the  
 1877 6-month time period in paragraphs (a) and (b) shall be 7 months  
 1878 for taxpayers with a taxable year ending June 30, and shall be 5  
 1879 months for taxpayers with a taxable year ending December 31.

1880 Section 27. Effective upon becoming law and applicable to  
 1881 taxable years beginning on or after January 1, 2016, section  
 1882 220.241, Florida Statutes, is amended to read:

1883 220.241 Declaration; time for filing.-

1884 (1) A declaration of estimated tax under this code shall be  
 1885 filed before the 1st day of the 6th ~~5th~~ month of each taxable  
 1886 year, except that if the minimum tax requirement of s. 220.24(1)  
 1887 is first met:

1888 (a) ~~(1)~~ After the 3rd month and before the 6th month of the  
 1889 taxable year, the declaration shall be filed before the 1st day  
 1890 of the 7th month;

1891 (b) ~~(2)~~ After the 5th month and before the 9th month of the  
 1892 taxable year, the declaration shall be filed before the 1st day  
 1893 of the 10th month; or

1894 (c) ~~(3)~~ After the 8th month and before the 12th month of the  
 1895 taxable year, the declaration shall be filed for the taxable  
 1896 year before the 1st day of the succeeding taxable year.

1897 (2) Notwithstanding subsection (1), for taxable years  
 1898 beginning before January 1, 2026, taxpayers with a taxable year  
 1899 ending on June 30 shall file declarations before the 1st day of  
 1900 the 5th month of each taxable year, unless paragraph (a), (b),  
 1901 or (c) of subsection (1) applies.

1902 Section 28. Effective upon becoming law and applicable to

1903 taxable years beginning on or after January 1, 2016, subsection  
 1904 (1) of section 220.33, Florida Statutes, is amended to read:

1905       220.33 Payments of estimated tax.—A taxpayer required to  
 1906 file a declaration of estimated tax pursuant to s. 220.24 shall  
 1907 pay such estimated tax as follows:

1908       (1) If the declaration is required to be filed before the  
 1909 1st day of the 6th ~~5th~~ month of the taxable year, the estimated  
 1910 tax shall be paid in four equal installments. The first  
 1911 installment shall be paid at the time of the required filing of  
 1912 the declaration; the second and third installments shall be paid  
 1913 before the 1st day of the 7th month and before the 1st day of  
 1914 the 10th month of the taxable year, respectively; and the fourth  
 1915 installment shall be paid before the 1st day of the next taxable  
 1916 year.

1917       Section 29. Effective upon becoming law and applicable to  
 1918 taxable years beginning on or after January 1, 2016, paragraph  
 1919 (c) of subsection (2) of section 220.34, Florida Statutes, is  
 1920 amended to read:

1921       220.34 Special rules relating to estimated tax.—

1922       (2) No interest or penalty shall be due or paid with  
 1923 respect to a failure to pay estimated taxes except the  
 1924 following:

1925       (c) The period of the underpayment for which interest and  
 1926 penalties apply shall commence on the date the installment was  
 1927 required to be paid, determined without regard to any extensions  
 1928 of time, and shall terminate on the earlier of the following

1929 dates:

1930 1. The first day of the 5th ~~fourth~~ month following the  
1931 close of the taxable year;

1932 2. For taxable years beginning before January 1, 2026, for  
1933 taxpayers with a taxable year ending June 30, the first day of  
1934 the 4th month following the close of the taxable year; or

1935 3.2- With respect to any portion of the underpayment, the  
1936 date on which such portion is paid.

1937

1938 For purposes of this paragraph, a payment of estimated tax on  
1939 any installment date shall be considered a payment of any  
1940 previous underpayment only to the extent such payment exceeds  
1941 the amount of the installment determined under subparagraph  
1942 (b)1. for such installment date.

1943 Section 30. The changes made by sections 26, 27 and 28 of  
1944 this act apply to estimated payments for taxable years beginning  
1945 on or after January 1, 2017.

1946 Section 31. Subsection (4) of section 376.30781, Florida  
1947 Statutes, is amended to read:

1948 376.30781 Tax credits for rehabilitation of drycleaning-  
1949 solvent-contaminated sites and brownfield sites in designated  
1950 brownfield areas; application process; rulemaking authority;  
1951 revocation authority.-

1952 (4) The Department of Environmental Protection is  
1953 responsible for allocating the tax credits provided for in s.  
1954 220.1845, which may not exceed a total of \$21.6 million in tax  
1955 credits in the 2015-2016 fiscal year, \$10 million in the 2016-

1956 | 2017 fiscal year, and \$5 million in tax credits annually  
 1957 | thereafter.  
 1958 |       Section 32. Subsection (4) of section 564.06, Florida  
 1959 | Statutes, is amended to read:  
 1960 |       564.06 Excise taxes on wines and beverages.—  
 1961 |       (4) As to cider, which is made from the normal alcoholic  
 1962 | fermentation of the juice of sound, ripe apples or pears,  
 1963 | including but not limited to flavored, sparkling, or carbonated  
 1964 | cider and cider made from condensed apple or pear must, that  
 1965 | contain not less than one-half of 1 percent of alcohol by volume  
 1966 | and not more than 7 percent of alcohol by volume, there shall be  
 1967 | paid by all manufacturers and distributors a tax at the rate of  
 1968 | \$.89 per gallon. With the sole exception of the excise tax rate,  
 1969 | cider shall be considered wine and shall be subject to the  
 1970 | provisions of this chapter.  
 1971 |       Section 33. Subsection (9) of section 565.02, Florida  
 1972 | Statutes, is amended to read:  
 1973 |       565.02 License fees; vendors; clubs; caterers; and  
 1974 | others.—  
 1975 |       (9) (a) DEFINITIONS.— As used in this subsection, the  
 1976 | term:  
 1977 |       1. "Annual capacity" means an amount equal to the number  
 1978 | of lower berths on a vessel multiplied by the number of  
 1979 | embarkations of that vessel during a calendar year.  
 1980 |       2. "Base rate" means an amount equal to the total taxes  
 1981 | paid by all permittees pursuant to former s. 565.02(9), Florida



1982 Statutes 2015, for sales of alcoholic beverages, cigarettes, and  
 1983 other tobacco products taking place between January 1, 2015 and  
 1984 December 31, 2015, inclusive, divided by the sum of the annual  
 1985 capacities of all vessels permitted pursuant to former s.  
 1986 565.02(9), Florida Statutes 2015, for calendar year 2015.

1987 3. "Embarkation" means an instance where a vessel departs  
 1988 from a port in Florida.

1989 4. "Lower berth" means a bed which is:

1990 a. Affixed to a vessel;

1991 b. Not located above another bed in the same cabin; and

1992 c. Located in a cabin not in use by employees of the

1993 operator of the vessel or its contractors.

1994 5. "Quarterly capacity" means an amount equal to the  
 1995 number of lower berths on a vessel multiplied by the number of  
 1996 embarkations of that vessel during a calendar quarter.

1997 (b) It is the finding of the Legislature that passenger  
 1998 vessels engaged exclusively in foreign commerce are susceptible  
 1999 to a distinct and separate classification for purposes of the  
 2000 sale of alcoholic beverages, cigarettes, and other tobacco  
 2001 products under the Beverage Law and chapter 210.

2002 (c) Upon the filing of an application and payment of an  
 2003 annual fee of \$1,100, the director is authorized to issue a  
 2004 permit authorizing the operator, or, if applicable, his or her  
 2005 concessionaire, of a passenger vessel which has cabin-berth  
 2006 capacity for at least 75 passengers, and which is engaged  
 2007 exclusively in foreign commerce, to sell alcoholic beverages,

2008 cigarettes, and other tobacco products on the vessel for  
 2009 consumption on board only:  
 2010 1. (a) During a period not in excess of 24 hours prior to  
 2011 departure while the vessel is moored at a dock or wharf in a  
 2012 port of this state; or  
 2013 2. (b) At any time while the vessel is located in Florida  
 2014 territorial waters and is in transit to or from international  
 2015 waters.  
 2016  
 2017 One such permit shall be required for each such vessel and shall  
 2018 name the vessel for which it is issued. No license shall be  
 2019 required or tax levied by any municipality or county for the  
 2020 privilege of selling beverages, cigarettes, or other tobacco  
 2021 products for consumption on board such vessels. The beverages,  
 2022 cigarettes, or other tobacco products so sold may be purchased  
 2023 outside the state by the permittee, and the same shall not be  
 2024 considered as imported for the purposes of s. 561.14(3) solely  
 2025 because of such sale. The permittee is not required to obtain  
 2026 its beverages, cigarettes, or other tobacco products from  
 2027 licensees under the Beverage Law or chapter 210., ~~but it~~ Each  
 2028 permittee shall keep a strict account of the quarterly capacity  
 2029 of each of its vessels ~~all such beverages sold within this state~~  
 2030 and shall make quarterly ~~monthly~~ reports to the division on  
 2031 forms prepared and furnished by the division. ~~A permittee who~~  
 2032 ~~sells on board the vessel beverages withdrawn from United States~~  
 2033 ~~Bureau of Customs and Border Protection bonded storage on board~~

2034 ~~the vessel may satisfy such accounting requirement by supplying~~  
 2035 ~~the division with copies of the appropriate United States Bureau~~  
 2036 ~~of Customs and Border Protection forms evidencing such~~  
 2037 ~~withdrawals as importations under United States customs laws.~~

2038 (d) Each ~~Such~~ permittee shall pay to the state an excise  
 2039 tax for beverages, cigarettes, and other tobacco products sold  
 2040 pursuant to this subsection ~~section~~, if such excise tax has not  
 2041 previously been paid, ~~in an amount equal to the tax which would~~  
 2042 ~~be required to be paid on such sales by a licensed manufacturer~~  
 2043 ~~or distributor.~~ The excise tax shall be an amount equal to the  
 2044 base rate multiplied by the permittee's quarterly capacity  
 2045 during the calendar quarter.

2046 (e) A vendor holding such permit shall pay the tax  
 2047 quarterly ~~monthly~~ to the division at the same time he or she  
 2048 furnishes the required report. Such report shall be filed on or  
 2049 before the 15th day of each calendar quarter ~~month~~ for the  
 2050 quarterly capacity sales occurring during the previous calendar  
 2051 quarter ~~calendar month~~.

2052 (f) No later than August 1, 2016, each permittee shall  
 2053 report the annual capacity for each of its vessels for calendar  
 2054 year 2015 to the division on forms prepared and furnished by the  
 2055 division. No later than September 1, 2016, the division shall  
 2056 calculate the base rate and report it to each permittee. The  
 2057 base rate shall also be published in the Florida Administrative  
 2058 Register and on the department's website.

2059 Section 34. Subsection (1) of section 951.22, Florida

2060 Statutes, is amended to read:  
 2061 951.22 County detention facilities; contraband articles.--  
 2062 (1) It is unlawful, except through regular channels as  
 2063 duly authorized by the sheriff or officer in charge, to  
 2064 introduce into or possess upon the grounds of any county  
 2065 detention facility as defined in s. 951.23 or to give to or  
 2066 receive from any inmate of any such facility wherever said  
 2067 inmate is located at the time or to take or to attempt to take  
 2068 or send therefrom any of the following articles which are hereby  
 2069 declared to be contraband for the purposes of this act, to wit:  
 2070 Any written or recorded communication; any currency or coin; any  
 2071 article of food or clothing; any tobacco products as defined in  
 2072 s. 210.25(12)~~(11)~~; any cigarette as defined in s. 210.01(1); any  
 2073 cigar; any intoxicating beverage or beverage which causes or may  
 2074 cause an intoxicating effect; any narcotic, hypnotic, or  
 2075 excitative drug or drug of any kind or nature, including nasal  
 2076 inhalators, sleeping pills, barbiturates, and controlled  
 2077 substances as defined in s. 893.02(4); any firearm or any  
 2078 instrumentality customarily used or which is intended to be used  
 2079 as a dangerous weapon; and any instrumentality of any nature  
 2080 that may be or is intended to be used as an aid in effecting or  
 2081 attempting to effect an escape from a county facility.

2082 Section 35. Clothing, school supplies, and personal  
 2083 computers and personal computer-related accessories sales tax  
 2084 holiday.--

2085 (1) The tax levied under chapter 212, Florida Statutes,

2086 may not be collected during the period from 12:01 a.m. on August  
 2087 5, 2016, through 11:59 p.m. on August 14, 2016, on the retail  
 2088 sale of:

2089 (a) Clothing, wallets, or bags, including handbags,  
 2090 backpacks, fanny packs, and diaper bags, but excluding  
 2091 briefcases, suitcases, and other garment bags, having a sales  
 2092 price of \$100 or less per item. As used in this paragraph, the  
 2093 term "clothing" means:

2094 1. Any article of wearing apparel intended to be worn on  
 2095 or about the human body, excluding watches, watchbands, jewelry,  
 2096 umbrellas, and handkerchiefs; and

2097 2. All footwear, excluding skis, swim fins, roller blades,  
 2098 and skates.

2099 (b) School supplies having a sales price of \$15 or less  
 2100 per item. As used in this paragraph, the term "school supplies"  
 2101 means pens, pencils, erasers, crayons, notebooks, notebook  
 2102 filler paper, legal pads, binders, lunch boxes, construction  
 2103 paper, markers, folders, poster board, composition books, poster  
 2104 paper, scissors, cellophane tape, glue or paste, rulers,  
 2105 computer disks, protractors, compasses, and calculators.

2106 (2) The tax levied under chapter 212, Florida  
 2107 Statutes, may not be collected during the period from 12:01 a.m.  
 2108 on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the  
 2109 first \$750 of the sales price of personal computers or personal  
 2110 computer-related accessories purchased for noncommercial home or  
 2111 personal use. As used in this subsection, the term:

2112 (a) "Personal computers" includes electronic book readers,  
 2113 laptops, desktops, handhelds, tablets, or tower computers. The  
 2114 term does not include cellular telephones, video game consoles,  
 2115 digital media receivers, or devices that are not primarily  
 2116 designed to process data.

2117 (b) "Personal computer-related accessories" includes  
 2118 keyboards, mice, personal digital assistants, monitors, other  
 2119 peripheral devices, modems, routers, and nonrecreational  
 2120 software, regardless of whether the accessories are used in  
 2121 association with a personal computer base unit. The term does  
 2122 not include furniture or systems, devices, software, or  
 2123 peripherals that are designed or intended primarily for  
 2124 recreational use.

2125 (c) "Monitors" does not include devices that include a  
 2126 television tuner.

2127 (3) The tax exemptions provided in this section do not  
 2128 apply to sales within a theme park or entertainment complex as  
 2129 defined in s. 509.013(9), Florida Statutes, within a public  
 2130 lodging establishment as defined in s. 509.013(4), Florida  
 2131 Statutes, or within an airport as defined in s. 330.27(2),  
 2132 Florida Statutes.

2133 (4) The Department of Revenue may, and all conditions are  
 2134 deemed met to, adopt emergency rules pursuant to s. 120.54(4),  
 2135 Florida Statutes, to administer this section.

2136 (5) For the 2016-2017 fiscal year, the sum of \$229,982 in  
 2137 nonrecurring funds is appropriated from the General Revenue Fund

2138 to the Department of Revenue for the purpose of implementing  
 2139 this section.

2140 Section 36. Small business Saturday sales tax holiday.--

2141 (1) As used in this section, the term "small business"  
 2142 means a dealer, as defined in s. 212.06, Florida Statutes, that  
 2143 registered with the Department of Revenue and began operation no  
 2144 later than January 11, 2016, and that owed and remitted to the  
 2145 Department of Revenue less than \$200,000 in total tax under  
 2146 chapter 212, Florida Statutes, for the 1-year period ending  
 2147 September 30, 2016. If the dealer has not been in operation for  
 2148 a 1-year period as of September 30, 2016, the dealer must have  
 2149 owed and remitted less than \$200,000 in total tax under chapter  
 2150 212, Florida Statutes, for the period beginning on the day that  
 2151 the dealer began operation and ending September 30, 2016, in  
 2152 order to qualify as a small business under this section. If the  
 2153 dealer is eligible to file a consolidated return pursuant to s.  
 2154 212.11(1)(e), Florida Statutes, the total tax under chapter 212,  
 2155 Florida Statutes, owed and remitted from all of the dealer's  
 2156 places of business must be less than \$200,000 for the applicable  
 2157 period ending September 30, 2016.

2158 (2) The tax levied under chapter 212, Florida Statutes,  
 2159 may not be collected by a small business during the period from  
 2160 12:01 a.m. on November 26, 2016, through 11:59 p.m. on November  
 2161 26, 2016, on the retail sale, as defined in s. 212.02(14),  
 2162 Florida Statutes, of any item or article of tangible personal  
 2163 property, as defined in s. 212.02(19), Florida Statutes, having

2164 | a sales price of \$1,000 or less per item.

2165 |       (3) The Department of Revenue may, and all conditions are

2166 | deemed to be met to, adopt emergency rules pursuant to ss.

2167 | 120.536(1) and 120.54, Florida Statutes, to administer this

2168 | section.

2169 |       Section 37. Hunting and Fishing sales tax holiday.-

2170 |       (1) The tax levied under chapter 212, Florida Statutes,

2171 | may not be collected during the period from 12:01 a.m. on August

2172 | 20, 2016, through 11:59 p.m. on August 20, 2016, on the retail

2173 | sale, as defined in s. 212.02(14), Florida Statutes, of:

2174 |       (a) Firearms. For purposes of this section, the term

2175 | "firearms" means rifles, shotguns, spearguns, crossbows, and

2176 | bows. The term "firearms" does not include destructive devices

2177 | as defined in s. 790.001(4), Florida Statutes.

2178 |       (b) Ammunition for firearms.

2179 |       (c) Camping tents.

2180 |       (d) Fishing supplies. For purposes of this section, the

2181 | term "fishing supplies" means rods, reels, bait, and fishing

2182 | tackle. The term "fishing supplies" does not include supplies

2183 | used for commercial fishing purposes.

2184 |       (2) The tax exemptions provided in this section do not

2185 | apply to sales within a theme park or entertainment complex as

2186 | defined in s. 509.013(9), Florida Statutes, within a public

2187 | lodging establishment as defined in s. 509.013(4), Florida

2188 | Statutes, or within an airport as defined in s. 330.27(2),

2189 | Florida Statutes.



2190 (3) The Department of Revenue may, and all conditions are  
 2191 deemed to be met to, adopt emergency rules pursuant to ss.  
 2192 120.536(1) and 120.54, Florida Statutes, to administer this  
 2193 section.

2194 (4) For the 2016-2017 fiscal year, the sum of \$91,470 in  
 2195 nonrecurring funds is appropriated from the General Revenue Fund  
 2196 to the Department of Revenue for the purpose of implementing the  
 2197 provisions of this section.

2198 Section 38. Technology Sales Tax Holiday.-

2199 (1) The tax levied under chapter 212, Florida Statutes,  
 2200 may not be collected during the period from 12:01 a.m. on April  
 2201 22, 2017, through 11:59 p.m. on April 22, 2017, on the first  
 2202 \$1,000 of the sales price of personal computers or personal  
 2203 computer-related accessories. As used in this subsection, the  
 2204 term:

2205 (a) "Personal computers" includes electronic book readers,  
 2206 laptops, desktops, handhelds, tablets, cellular telephones, or  
 2207 tower computers. The term does not include video game consoles,  
 2208 digital media receivers, or devices that are not primarily  
 2209 designed to process data.

2210 (b) "Personal computer-related accessories" includes  
 2211 keyboards, mice, personal digital assistants, monitors, other  
 2212 peripheral devices, modems, routers, and nonrecreational  
 2213 software, regardless of whether the accessories are used in  
 2214 association with a personal computer base unit. The term does  
 2215 not include furniture or systems, devices, software, or

2216 peripherals that are designed or intended primarily for  
 2217 recreational use.

2218 (c) "Monitors" does not include devices that include a  
 2219 television tuner.

2220 (2) The tax exemptions provided in this section do not  
 2221 apply to sales within a theme park or entertainment complex as  
 2222 defined in s. 509.013(9), Florida Statutes, within a public  
 2223 lodging establishment as defined in s. 509.013(4), Florida  
 2224 Statutes, or within an airport as defined in s. 330.27(2),  
 2225 Florida Statutes.

2226 (3) The Department of Revenue may, and all conditions are  
 2227 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)  
 2228 and 120.54, Florida Statutes, to administer this section.

2229 (4) For the 2016-2017 fiscal year, the sum of \$229,982 in  
 2230 nonrecurring funds is appropriated from the General Revenue Fund  
 2231 to the Department of Revenue for the purpose of implementing  
 2232 this section.

2233 Section 39. Books fairs.-

2234 (1) The tax levied under chapter 212, Florida Statutes, may  
 2235 not be collected on the retail sale of books and other reading  
 2236 materials when sold:

2237 1. On the premises of a public, parochial, or nonprofit  
 2238 school operated for and attended by students in grades K through  
 2239 12; and

2240 2. On the premises of a nonpermanent retail establishment  
 2241 that operates fewer than 10 days per location each calendar

2242 year.

2243

2244 If such sales are made by a third-party vendor, the vendor  
 2245 must commit some or all of the profits from the sales to the  
 2246 public, parochial, or nonprofit school where the sales were  
 2247 made. The profits may be distributed to the school in the form  
 2248 of cash, in-store credits, in-kind contributions, or similar  
 2249 methods.

2250 (2) The Department of Revenue may, and all conditions are  
 2251 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)  
 2252 and 120.54, Florida Statutes, to administer this section.

2253 (3) This section is repealed July 1, 2017.

2254 Section 40. Chapter 2015-221, 2015 Laws of Florida, is  
 2255 amended to read:

2256 Section 29. (1) The tax levied under chapter 212, Florida  
 2257 Statutes, may not be collected on the retail sale of textbooks  
 2258 that are required or recommended for use in a course offered by  
 2259 a public postsecondary educational institution as described in  
 2260 s. 1000.04, Florida Statutes, or a nonpublic postsecondary  
 2261 educational institution that is eligible to participate in a  
 2262 tuition assistance program authorized by s. 1009.89 or s.  
 2263 1009.891, Florida Statutes. As used in this section, the term  
 2264 "textbook" means any required or recommended manual of  
 2265 instruction or any instructional materials for any field of  
 2266 study. As used in this section, the term "instructional  
 2267 materials" means any educational materials, in printed or

2268 digital format, that are required or recommended for use in a  
 2269 course in any field of study. To demonstrate that a sale is not  
 2270 subject to tax, the student must provide a physical or an  
 2271 electronic copy of the following to the vendor:

- 2272 (a) The student's identification number; and
- 2273 (b) An applicable course syllabus or list of required and
- 2274 recommended textbooks and instructional materials that meet the
- 2275 criteria in s. 1004.085(3), Florida Statutes.

2276  
 2277 The vendor must maintain proper documentation, as prescribed by  
 2278 department rule, to identify the complete transaction or portion  
 2279 of the transaction that involves the sale of textbooks that are  
 2280 not subject to tax.

2281 (2) The tax exemptions provided in this section do not  
 2282 apply to sales within a theme park or entertainment complex as  
 2283 defined in s. 509.013(9), Florida Statutes, within a public  
 2284 lodging establishment as defined in s. 509.013(4), Florida  
 2285 Statutes, or within an airport as defined in s. 330.27(2),  
 2286 Florida Statutes.

2287 (3) The Department of Revenue may, and all conditions are  
 2288 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)  
 2289 and 120.54, Florida Statutes, to administer this section.

2290 (4) This section is repealed June 30, 2017 ~~2016~~.

2291 Section 41. For the 2016-2017 fiscal year, the sum of  
 2292 \$55,908 in nonrecurring funds is appropriated from the General  
 2293 Revenue Fund to the Department of Revenue for the purpose of

2294 implementing the provisions of section 14 of this act.

2295 Section 42. For the 2016-2017 fiscal year, the sum of  
 2296 \$279,857 is nonrecurring funds is appropriated from the General  
 2297 Revenue Fund to the Property Tax Oversight Program within the  
 2298 Department of Revenue for the purpose of providing aerial  
 2299 photographs and maps to counties that meet the increased  
 2300 population thresholds as required by section 4 of this  
 2301 act. These funds are in addition to any funds that may be  
 2302 provided in the 2016-2017 General Appropriations Act for  
 2303 providing aerial photographs and maps to counties with a  
 2304 population of 50,000 or less.

2305 Section 43. The amendments to ss. 196.012 and 196.1995,  
 2306 Florida Statutes, made by this act are remedial and apply  
 2307 retroactively to December 31, 2015.

2308 Section 44. Except as otherwise expressly provided in this  
 2309 act and except for this section, which shall take effect upon  
 2310 becoming a law, this act shall take effect July 1, 2016.