CHAPTER 98-342

Committee Substitute for House Bill No. 4413

An act relating to administration of revenue laws; amending s. 125.2801, F.S.; conforming a reference; amending s. 192.001, F.S.; restricting applicability of the definition of the term "computer software"; amending s. 199.052, F.S.; requiring banks and financial organizations filing annual intangible personal property tax returns for their customers to file information using machine-sensible media; amending s. 212.02, F.S.; excluding materials purchased by certain repair facilities which are incorporated in the repair from the definition of the term "retail sales"; amending s. 212.0606, F.S.; providing an exemption to the rental car surcharge for certain motor vehicles; amending s. 212.0515, F.S.; modifying requirements relating to quarterly records required to be submitted to the Department of Revenue by certain persons selling food or beverages to operators for resale through vending machines; eliminating a penalty for failure to file such reports; eliminating the department's authority to adopt rules relating to such reports; amending s. 212.054, F.S.; eliminating a requirement that certain dealers collect the surtax on tangible personal property or specified service under certain conditions; prescribing the effective date of an increase or decrease in the rate of any discretionary sales surtax; requiring the governing body of any county levying a discretionary sales surtax and a county school board levying the school capital outlay surtax to provide notice to the department; amending s. 212.055, F.S.; providing an effective date for any change in the distribution formula of a local government infrastructure surtax or a small county surtax; authorizing counties to use a specified percentage of surtax proceeds for economic development projects; amending ss. 212.097, 212.098, F.S.; redefining the term "new business"; amending s. 212.11, F.S.; providing requirements relating to sales tax returns filed through electronic data interchange; amending s. 212.12, F.S.; revising provisions relating to the dealer's credit for collecting sales tax; specifying that the credit is also for the filing of timely returns; authorizing the department to deny, rather than reduce, the credit if an incomplete return is filed; revising the definition of "incomplete return"; amending s. 212.17, F.S.; providing that the department shall prescribe the format for filing returns through electronic data interchange and specifying that failure to use the format does not relieve a dealer from the payment of tax; amending s. 213.053, F.S., relating to information sharing; amending s. 213.0535, F.S.; providing for participation in RISE; amending s. 213.21, F.S.; revising provisions that authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, in order to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain

circumstances; amending s. 213.28, F.S.; prescribing qualifications of certified public accountants contracting with the department to perform audits; amending s. 213.67, F.S.; subjecting the garnishee to liability in the event that property subject to the freeze is transferred or disposed of by the garnishee; prohibiting disposition of assets of a delinquent taxpayer which come into the possession of another person after that person receives garnishment notice from the department for a specified period; requiring the garnishee to notify the department of such assets; providing that the garnishment notice remains in effect while a taxpayer's contest of an intended levy is pending; providing a financial institution receiving notice with a right of setoff; amending s. 213.755, F.S.; defining terms for use in any revenue law administered by the department; amending s. 220.03, F.S.; revising definitions; amending s. 212.0601, F.S.; providing a use tax for motor vehicle dealers who loan a vehicle at no charge unless otherwise exempted; prohibiting a sales or use tax and a rental car surcharge on a motor vehicle provided at no charge to a person whose vehicle is being repaired; amending s. 220.02, F.S.; providing legislative intent regarding qualified subchapter S subsidiaries; requiring a study and a report; amending s. 72.011, F.S.; providing for adoption of procedures for notifying a taxpayer of an assessment or denial of a refund; amending s. 199.052, F.S.; prescribing conditions under which a trust will be considered a Florida-situs trust; amending s. 213.21, F.S.; providing for conferences relating to denial of refunds; providing for closing agreements; amending s. 220.222, F.S.; prescribing conditions under which a taxpayer will be considered not in compliance with s. 220.32, F.S., for purposes of granting extensions; amending s. 624.515, F.S.; providing for determination of the percentage of fire insurance within an insurance line; amending s. 896.102, F.S.; authorizing the Department of Revenue to adopt rules for reporting certain business transactions; providing effective dates, including a retroactive effective date.

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

Section 1. Section 125.2801, Florida Statutes, is amended to read:

125.2801 County qualification retention.—Once a county qualifies for authorization to create a jury district under s. 40.015(1), and once a county qualifies for small county technical assistance pursuant to s. 163.05(3), and once a county qualifies to be required to include optional elements in their comprehensive plans pursuant to s. 163.3177(6)(i), and once a county qualifies to enter into a written agreement with the state land planning agency pursuant to s. 163.3191(12)(a), and once a county qualifies under s. 212.055(2)(d)1. to use local government infrastructure surtax proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure, and once a county qualifies under s. 212.055(2)(h) ~~s. 212.055(2)(j)~~ to use local government infrastructure surtax proceeds and interest for operation and maintenance of parks and recreation programs and facilities established with proceeds of the surtax, and once a county

qualifies for reduction or waiver of permit processing fees pursuant to s. 218.075, and once a county qualifies for emergency distribution pursuant to s. 218.65, and once a county qualifies for funds from the Emergency Management, Preparedness, and Assistance Trust Fund pursuant to s. 252.373(3)(a), and once a county qualifies for priority State Touring Program grants under s. 265.2861(1)(c), and once a county qualifies under s. 403.706(4)(d) to provide its residents with the opportunity to recycle, and once a county qualifies for receipt of annual solid waste and recycling grants pursuant to s. 403.7095(7)(a), the county shall retain such qualification until it exceeds a population of 75,000.

Section 2. Subsection (19) of section 192.001, Florida Statutes, is amended to read:

192.001 Definitions.—All definitions set out in chapters 1 and 200 that are applicable to this part are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(19) "Computer software" means any information, program, or routine, or any set of one or more programs, routines, or collections of information used or intended for use to convey information or to cause one or more computers or pieces of computer-related peripheral equipment, or any combination thereof, to perform a task or set of tasks. Without limiting the generality of the definition provided in this subsection, the term includes operating and applications programs and all related documentation. Computer software does not include embedded software that resides permanently in the internal memory of a computer or computer-related peripheral equipment and that is not removable without terminating the operation of the computer or equipment. Computer software constitutes personal property only to the extent of the value of the unmounted or uninstalled medium on or in which the information, program, or routine is stored or transmitted, and, after installation or mounting by any person, computer software does not increase the value of the computer or computer-related peripheral equipment, or any combination thereof. Notwithstanding any other provision of law, this subsection applies to the 1997 and subsequent tax rolls and to any assessment in an administrative or judicial action pending on June 1, 1997.

Section 3. Subsection (15) is added to section 199.052, Florida Statutes, to read:

199.052 Annual tax returns; payment of annual tax.—

(15) All banks and financial organizations filing annual intangible tax returns for their customers shall file return information for taxes due January 1, 1999, and thereafter using machine-sensible media. The information required by this subsection must be reported by banks or financial organizations on machine-sensible media, using specifications and instructions of the department. A bank or financial organization that demonstrates to the satisfaction of the department that a hardship exists is not required to file intangible tax returns for its customers using machine-sensible media. The department shall adopt rules necessary to administer this subsection.

Section 4. Paragraph (c) of subsection (14) of section 212.02, Florida Statutes, is amended to read:

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

(14)

(c) "Retail sales," "sale at retail," "use," "storage," and "consumption" do not include materials, containers, labels, sacks, or bags intended to be used one time only for packaging tangible personal property for sale or for packaging in the process of providing a service taxable under this chapter and do not include the sale, use, storage, or consumption of industrial materials, including chemicals and fuels except as provided herein, for future processing, manufacture, or conversion into articles of tangible personal property for resale when such industrial materials, including chemicals and fuels except as provided herein, become a component or ingredient of the finished product and do not include the sale, use, storage, or consumption of materials for use in repairing a motor vehicle, airplane, or boat, when such materials are incorporated into the repaired vehicle, airplane, or boat. However, said terms include the sale, use, storage, or consumption of tangible personal property, including machinery and equipment or parts thereof, purchased electricity, and fuels used to power machinery, when said items are used and dissipated in fabricating, converting, or processing tangible personal property for sale, even though they may become ingredients or components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion, or similar means.

Section 5. Subsections (3) and (4) are added to section 212.0601, Florida Statutes, to read:

212.0601 Use taxes of vehicle dealers.—

(3) Unless otherwise exempted by law, a motor vehicle dealer who loans a vehicle to any person at no charge shall accrue use tax based on the annual lease value as determined by the United States Interval Revenue Service's Automobile Annual Lease Value Table.

(4) Notwithstanding the provisions of a motor vehicle rental agreement, no sales or use tax and no rental car surcharge pursuant to s. 212.0606 shall accrue to the use of a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 6. Subsection (4) is added to section 212.0606, Florida Statutes, to read:

212.0606 Rental car surcharge.—

(4) The surcharge imposed by this section does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 7. Subsection (5) of section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; special provisions; registration; penalties.—

~~(5)(a) Any person who sells food or beverages to an operator for resale through vending machines shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator described in paragraph (b) who has purchased such items from said person and states the net dollar amount of purchases made by each operator from said person. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 25 cases or more.~~

(a)~~(b)~~ Each operator who purchases food or beverages for resale in vending machines shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state that the purchaser is a vending machine operator. The certificate shall initially be provided upon the first transaction between the parties and by November 1 of each year thereafter.

(b)~~(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so or who files false information.~~ A penalty of $250 is imposed on any operator who fails to comply with the requirements of this subsection or who provides the dealer with false information. Penalties accrue interest as provided for delinquent taxes under this chapter and apply in addition to all other applicable taxes, interest, and penalties.

~~(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.~~

Section 8. Section 212.054, Florida Statutes, is amended to read:

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

(1) No general excise tax on sales shall be levied by the governing body of any county unless specifically authorized in s. 212.055. Any general excise tax on sales authorized pursuant to said section shall be administered and collected exclusively as provided in this section.

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the

surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

(b) However:

1. The tax on any sales amount above $5,000 on any item of tangible personal property and on long-distance telephone service shall not be subject to the surtax. For purposes of administering the $5,000 limitation on an item of tangible personal property, if two or more taxable items of tangible personal property are sold to the same purchaser at the same time and, under generally accepted business practice or industry standards or usage, are normally sold in bulk or are items that, when assembled, comprise a working unit or part of a working unit, such items must be considered a single item for purposes of the $5,000 limitation when supported by a charge ticket, sales slip, invoice, or other tangible evidence of a single sale or rental. The limitation provided in this subparagraph does not apply to the sale of any other service.

2. In the case of utility, telecommunication, or television system program services billed on or after the effective date of any such surtax, the entire amount of the tax for utility, telecommunication, or television system program services shall be subject to the surtax. In the case of utility, telecommunication, or television system program services billed after the last day the surtax is in effect, the entire amount of the tax on said items shall not be subject to the surtax.

3. In the case of written contracts which are signed prior to the effective date of any such surtax for the construction of improvements to real property or for remodeling of existing structures, the surtax shall be paid by the contractor responsible for the performance of the contract. However, the contractor may apply for one refund of any such surtax paid on materials necessary for the completion of the contract. Any application for refund shall be made no later than 15 months following initial imposition of the surtax in that county. The application for refund shall be in the manner prescribed by the department by rule. A complete application shall include proof of the written contract and of payment of the surtax. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The department shall, within 30 days after approval of a complete application, certify to the county information necessary for issuance of a refund to the applicant. Counties are hereby authorized to issue refunds for this purpose and shall set aside from the proceeds of the surtax a sum sufficient to pay any refund lawfully due. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this subparagraph, in addition to being liable for repayment of any refund fraudulently obtained plus a mandatory penalty of 100 percent of the refund, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For the purpose of this section, a transaction shall be deemed to have occurred in a county imposing the surtax when:

(a)1. The sale includes an item of tangible personal property, a service, or tangible personal property representing a service, and the item of tangible personal property, the service, or the tangible personal property representing the service is delivered within the county. If there is no reasonable evidence of delivery of a service, the sale of a service is deemed to occur in the county in which the purchaser accepts the bill of sale.

~~2. However, a dealer selling tangible personal property, or delivering a service or tangible personal property representing a service, into a county which, before November 9 of any year, adopts or revises any surtax authorized in s. 212.055, from outside such a county, is not required to collect the surtax at the new or revised rate on such transaction until February 1 of the year following the year of the adoption or revision of the surtax. However, if the surtax is adopted or revised between November 9 and December 31 of any year, such dealer is not required to collect such surtax at the new or revised rate until February 1 of the year after the subsequent year. The department shall notify all dealers of all surtax rates in effect on November 9 no later than February 1 of the subsequent year.~~

2.~~3.~~ The sale of any motor vehicle or mobile home of a class or type which is required to be registered in this state or in any other state shall be deemed to have occurred only in the county identified as the residence address of the purchaser on the registration or title document for such property.

(b) The event for which an admission is charged is located in the county.

(c) The consumer of utility or television system program services is located in the county, or the telecommunication services are provided to a location within the county.

(d)1. The user of any aircraft or boat of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county.

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

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

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

(f)1. Any motor vehicle or mobile home of a class or type which is required to be registered in this state is imported from another state into the taxing

county by a user residing therein for the purpose of use, consumption, distribution, or storage in the taxing county.

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

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

(h) The transient rental transaction occurs in the county.

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

(j) The dealer owing a use tax on purchases or leases is located in the county.

(k) The delivery of tangible personal property other than that described in paragraph (d), paragraph (e), or paragraph (f) is made to a location outside the county, but the property is brought into the county within 6 months after delivery, in which event, the owner must pay the surtax as a use tax.

(l) The coin-operated amusement or vending machine is located in the county.

(m) The florist taking the original order to sell tangible personal property is located in the county, notwithstanding any other provision of this section.

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

(b) The proceeds of a discretionary sales surtax collected by the selling dealer located in a county which imposes the surtax shall be returned, less the cost of administration, to the county where the selling dealer is located. The proceeds shall be transferred to the Discretionary Sales Surtax Clearing Trust Fund. A separate account shall be established in such trust fund for each county imposing a discretionary surtax. The amount deducted for the

costs of administration shall not exceed 3 percent of the total revenue generated for all counties levying a surtax authorized in s. 212.055. The amount deducted for the costs of administration shall be used only for those costs which are solely and directly attributable to the surtax. The total cost of administration shall be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties. No later than March 1 of each year, the department shall submit a written report which details the expenses and amounts deducted for the costs of administration to the President of the Senate, the Speaker of the House of Representatives, and the governing authority of each county levying a surtax. The department shall distribute the moneys in the trust fund each month to the appropriate counties, unless otherwise provided in s. 212.055.

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

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

b. The county's rate of surtax; and

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

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

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

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

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

(6) The governing body of any county levying a discretionary sales surtax shall enact an ordinance levying the surtax in accordance with the procedures described in s. 125.66(2) ~~and shall notify the department within 10 days after adoption of the ordinance. The notice shall include the time period during which the surtax will be in effect, the rate, a copy of the ordinance, and such other information as the department may prescribe by rule. Notification and final adoption of the surtax shall occur no later than 45 days prior to initial imposition of the surtax~~.

(7)(a) The governing body of any county levying a discretionary sales surtax or the school board of any county levying the school capital outlay surtax authorized by s. 212.055(7) shall notify the department within 10 days after final adoption by ordinance or referendum of an imposition, termination, or rate change of the surtax, but no later than November 16 prior to the effective date. The notice must specify the time period during which the surtax will be in effect and the rate and must include a copy of the ordinance and such other information as the department requires by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

(b) In addition to the notification required by paragraph (a), the governing body of any county proposing to levy a discretionary sales surtax or the school board of any county proposing to levy the school capital outlay surtax authorized by s. 212.055(7) shall notify the department by October 1 if the referendum or consideration of the ordinance that would result in imposition, termination, or rate change of the surtax is scheduled to occur on or after October 1 of that year. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year.

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

Section 9. Section 212.055, Florida Statutes, as amended by section 17 of chapter 97-384, Laws of Florida, is amended to read:

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

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, and each county the government of which is consolidated with that of one or more municipalities, may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county or by a charter amendment approved by a majority vote of the electorate of the county.

(b) The rate shall be up to 1 percent.

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body.

(d) Proceeds from the surtax shall be:

1. Deposited by the county in the trust fund and shall be used only for the purposes of development, construction, equipment, maintenance, operation, supportive services, including a countywide bus system, and related costs of a fixed guideway rapid transit system;

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, for the operation and maintenance of a bus system, or for the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges; or

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, or maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of an existing bus system; or for the payment of principal and interest on existing bonds issued for the construction of fixed guideway rapid transit systems, roads, or bridges; and such proceeds may be pledged by the governing body of the county for bonds issued to refinance existing bonds or new bonds issued for the construction of such fixed guideway rapid transit systems, roads, or bridges.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a)1. The governing authority in each county may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

2. If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of such surtax may be extended only by approval of a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement which includes a brief general description of the projects to be funded by the surtax and which conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county which enacts an ordinance calling for a referendum on the levy of the surtax or in which the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions calling for a referendum on the surtax. The following question shall be placed on the ballot:

....FOR the ....–cent sales tax
....AGAINST the ....–cent sales tax

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

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

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

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

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a population of less than 50,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s.

125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

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

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

(e) School districts, counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

(f) Counties and municipalities shall not use the surtax proceeds to supplant or replace user fees or to reduce ad valorem taxes existing prior to the levy of the surtax authorized by this subsection.

~~(g) Notwithstanding s. 212.054(5), the surtax must take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a), and may not take effect until at least 60 days after the date that the referendum approving the levy is held.~~

(g)~~(h)~~1. Notwithstanding paragraph (d), a county that has a population of 50,000 or less on April 1, 1992, or any county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may use the proceeds and interest of the surtax for any public purpose if:

a. The debt service obligations for any year are met;

b. The county's comprehensive plan has been determined to be in compliance with part II of chapter 163; and

c. The county has adopted an amendment to the surtax ordinance pursuant to the procedure provided in s. 125.66 authorizing additional uses of the surtax proceeds and interest.

2. A municipality located within a county that has a population of 50,000 or less on April 1, 1992, or within a county designated as an area of critical state concern on the effective date of this act, and that imposed the surtax before July 1, 1992, may not use the proceeds and interest of the surtax for any purpose other than an infrastructure purpose authorized in paragraph (d) unless the municipality's comprehensive plan has been determined to be in compliance with part II of chapter 163 and the municipality has adopted an amendment to its surtax ordinance or resolution pursuant to the procedure provided in s. 166.041 authorizing additional uses of the surtax proceeds and interest. Such municipality may expend the surtax proceeds and interest for any public purpose authorized in the amendment.

3. Those counties designated as an area of critical state concern which qualify to use the surtax for any public purpose may use only up to 10 percent of the surtax proceeds for any public purpose other than for infrastructure purposes authorized by this section.

(h)~~(i)~~ Notwithstanding paragraph (d), a county in which 40 percent or more of the just value of real property is exempt or immune from ad valorem taxation, and the municipalities within such a county, may use the proceeds and interest of the surtax for operation and maintenance of parks and recreation programs and facilities established with the proceeds of the surtax.

(i)~~(j)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (3), (4), (5), and (6) in excess of a combined rate of 1 percent.

(3) SMALL COUNTY SURTAX.—

(a) The governing authority in each county that has a population of 50,000 or less on April 1, 1992, may levy a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by an extraordinary vote of the members of the county governing authority if the surtax revenues are expended for operating purposes. If the surtax revenues are expended for the purpose of servicing bond indebtedness, the surtax shall be approved by a majority of the electors of the county voting in a referendum on the surtax.

(b) A statement that includes a brief general description of the projects to be funded by the surtax and conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing authority of any county that enacts an ordinance calling for a referendum on the levy of the surtax for

the purpose of servicing bond indebtedness. The following question shall be placed on the ballot:

....FOR the ....–cent sales tax
....AGAINST the ....–cent sales tax

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

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

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

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

(d)1. If the surtax is levied pursuant to a referendum, the proceeds of the surtax and any interest accrued thereto may be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, for the purpose of servicing bond indebtedness to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources. However, if the surtax is levied pursuant to an ordinance approved by an extraordinary vote of the members of the county governing authority, the proceeds and any interest accrued thereto may be used for operational expenses of any infrastructure or for any public purpose authorized in the ordinance under which the surtax is levied.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(e) A school district, county, or municipality that receives proceeds under this subsection following a referendum may pledge the proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. A jurisdiction may not issue bonds pursuant to this subsection more frequently than once per year. A county and municipality may join together to issue bonds authorized by this subsection.

~~(f) Notwithstanding s. 212.054(5), the surtax shall take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph~~

~~(a). A surtax levied pursuant to a referendum shall not take effect until at least 60 days after the date that the referendum approving the levy is held.~~

(f)~~(g)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2), (4), (5), and (6) in excess of a combined rate of 1 percent.

(4) INDIGENT CARE SURTAX.—

(a) The governing body in each county the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents and is not authorized to levy a surtax under subsection (5) or subsection (6), may levy, pursuant to an ordinance either approved by an extraordinary vote of the governing body or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) If the ordinance is conditioned on a referendum, a statement that includes a brief and general description of the purposes to be funded by the surtax and that conforms to the requirements of s. 101.161 shall be placed on the ballot by the governing body of the county. The following questions shall be placed on the ballot:

FOR THE. . . .CENTS TAX
AGAINST THE. . . .CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance adopted pursuant to paragraph (a) or, if the surtax is made subject to a referendum, at least 60 days after the date of approval by the electors of the ordinance adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a plan for providing health care services to qualified residents, as defined in paragraph (d)~~(e)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It must also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this

subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the Florida Hospital Uniform Reporting System (FHURS) manual referenced in s. 408.07. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(d)~~(e)~~ For the purpose of this subsection, the term "qualified resident" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;

2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(e)~~(f)~~ Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund;

2. Invest any funds held on deposit in the trust fund pursuant to general law; and

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs (c)~~(d)~~ and (d)~~(e)~~, upon directive from the authorizing county.

(f)~~(g)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(g)~~(h)~~ This subsection expires October 1, 2005.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned,

operated, maintained, or governed by the county or its agency, authority, or public health trust.

(a) The rate shall be 0.5 percent.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with law at a time to be set at the discretion of the governing body. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(c) Proceeds from the surtax shall be:

1. Deposited by the county in a special fund, set aside from other county funds, to be used only for the operation, maintenance, and administration of the county public general hospital; and

2. Remitted promptly by the county to the agency, authority, or public health trust created by law which administers or operates the county public general hospital.

(d) The county shall continue to contribute each year at least 80 percent of that percentage of the total county budget appropriated for the operation, administration, and maintenance of the county public general hospital from the county's general revenues in the fiscal year of the county ending September 30, 1991.

(e) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(6) SMALL COUNTY INDIGENT CARE SURTAX.—

(a) The governing body in each county that has a population of 50,000 or less on April 1, 1992, may levy, pursuant to an ordinance approved by an extraordinary vote of the governing body, a discretionary sales surtax at a rate of 0.5 percent. Any county that levies the surtax authorized by this subsection shall continue to expend county funds for the medically poor and related health services in an amount equal to the amount that it expended for the medically poor and related health services in the fiscal year preceding the adoption of the authorizing ordinance.

~~(b) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the ordinance adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of adoption of the ordinance.~~

(b)~~(c)~~ The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth a brief plan for providing health care services to qualified residents, as defined in paragraph (c)~~(d)~~. Such plan and subsequent amendments to it shall fund a broad range of health care services for both indigent persons and the medically poor, including, but not limited to, primary care and preventive care as well as hospital care. It shall

emphasize a continuity of care in the most cost-effective setting, taking into consideration both a high quality of care and geographic access. Where consistent with these objectives, it shall include, without limitation, services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. It shall provide that agreements negotiated between the county and providers will include reimbursement methodologies that take into account the cost of services rendered to eligible patients, recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care, and require cost containment including, but not limited to, case management. It shall also provide that any hospitals that are owned and operated by government entities on May 21, 1991, must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to meetings of the governing board, the subject of which is budgeting resources for the rendition of charity care as that term is defined in the rules of the Health Care Cost Containment Board. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service delivery and funding.

(c)~~(d)~~ For the purpose of this subsection, "qualified resident" means residents of the authorizing county who are:

1. Qualified as indigent persons as certified by the authorizing county;

2. Certified by the authorizing county as meeting the definition of the medically poor, defined as persons having insufficient income, resources, and assets to provide the needed medical care without using resources required to meet basic needs for shelter, food, clothing, and personal expenses; or not being eligible for any other state or federal program, or having medical needs that are not covered by any such program; or having insufficient third-party insurance coverage. In all cases, the authorizing county is intended to serve as the payor of last resort; or

3. Participating in innovative, cost-effective programs approved by the authorizing county.

(d)~~(e)~~ Moneys collected pursuant to this subsection remain the property of the state and shall be distributed by the Department of Revenue on a regular and periodic basis to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county. The clerk of the circuit court shall:

1. Maintain the moneys in an indigent health care trust fund;

2. Invest any funds held on deposit in the trust fund pursuant to general law; and

3. Disburse the funds, including any interest earned, to any provider of health care services, as provided in paragraphs (b)~~(c)~~ and (c)~~(d)~~, upon directive from the authorizing county.

(e)~~(f)~~ Notwithstanding any other provision of this section, a county shall not levy local option sales surtaxes authorized in this subsection and subsections (2) and (3) in excess of a combined rate of 1 percent.

(f)~~(g)~~ This subsection expires October 1, 1998.

(7) SCHOOL CAPITAL OUTLAY SURTAX.—

(a) The school board in each county may levy, pursuant to resolution conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, a discretionary sales surtax at a rate that may not exceed 0.5 percent.

(b) The resolution shall include a statement that provides a brief and general description of the school capital outlay projects to be funded by the surtax. If applicable, the resolution must state that the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program. The statement shall conform to the requirements of s. 101.161 and shall be placed on the ballot by the governing body of the county. The following question shall be placed on the ballot:

....FOR THE	....CENTS TAX
....AGAINST THE	....CENTS TAX

~~(c) Notwithstanding s. 212.054(5), the sales surtax may take effect on the first day of any month, as fixed by the resolution adopted pursuant to paragraph (a), but may not take effect until at least 60 days after the date of approval by the electors of the resolution adopted pursuant to paragraph (a).~~

(c)~~(d)~~ The resolution providing for the imposition of the surtax shall set forth a plan for use of the surtax proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses which have a useful life expectancy of 5 or more years, and any land acquisition, land improvement, design, and engineering costs related thereto. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects authorized by this subsection, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses. If the district school board has been recognized by the State Board of Education as having a Florida Frugal Schools Program, the district's plan for use of the surtax proceeds must be consistent with this subsection and with uses assured under the Florida Frugal Schools Program.

(d)~~(e)~~ Any school board imposing the surtax shall implement a freeze on noncapital local school property taxes, at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least 3 years from the date of imposition of the surtax. This provision shall not apply to existing debt service or required state taxes.

~~(e)~~(f) Surtax revenues collected by the Department of Revenue pursuant to this subsection shall be distributed to the school board imposing the surtax in accordance with law.

Section 10. Paragraph (c) of subsection (2) of section 212.097, Florida Statutes, is amended to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

(2) As used in this section, the term:

(c) "New business" means any eligible business first beginning operation on a site in a qualified high-crime area and clearly separate from any other commercial or business operation of the business entity within a qualified high-crime area. A business entity that operated an eligible business within a qualified high-crime area within the 48 months before the period provided for application by subsection (3) is ~~date shall~~ not ~~be~~ considered a new business.

Section 11. Paragraph (d) of subsection (2) of section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

(2) As used in this section, the term:

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the period provided for application by subsection (3) is ~~date shall~~ not ~~be~~ considered a new business.

Section 12. Subsection (1) of section 212.11, Florida Statutes, is amended to read:

212.11 Tax returns and regulations.—

(1)(a) Each dealer shall calculate his or her estimated tax liability for any month by one of the following methods:

1. Sixty-six percent of the current month's liability pursuant to this part as shown on the tax return;

2. Sixty-six percent of the tax reported on the tax return pursuant to this part by a dealer for the taxable transactions occurring during the corresponding month of the preceding calendar year; or

3. Sixty-six percent of the average tax liability pursuant to this part for those months during the preceding calendar year in which the dealer reported taxable transactions.

(b) For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers to file ~~make~~ a return and remit

the tax, on or before the 20th day of the month, to the department, upon forms prepared and furnished by it or in a format prescribed by it. Such return must show, ~~showing~~ the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

(c) However, the department may require:

1. A quarterly return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $1,000.

2. A semiannual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $500.

3. An annual return and payment when the tax remitted by the dealer for the preceding four calendar quarters did not exceed $100.

4. A quarterly return and monthly payment when the tax remitted by the dealer for the preceding four calendar quarters exceeded $1,000 but did not exceed $12,000.

(d) The department may authorize dealers who are newly required to file returns and pay tax quarterly to file returns and remit the tax for the 3-month periods ending in February, May, August, and November, and may authorize dealers who are newly required to file returns and pay tax semiannually to file returns and remit the tax for the 6-month periods ending in May and November.

(e) The department shall accept returns, except those required to be initiated through an electronic data interchange, as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns shall be accepted as timely if postmarked on the next succeeding workday. Any dealer who operates two or more places of business for which returns are required to be filed with the department and maintains records for such places of business in a central office or place shall have the privilege on each reporting date of filing a consolidated return for all such places of business in lieu of separate returns for each such place of business; however, such consolidated returns must clearly indicate the amounts collected within each county of the state. Any dealer who files a consolidated return shall calculate his or her estimated tax liability for each county by the same method the dealer uses to calculate his or her estimated tax liability on the consolidated return as a whole. Each dealer shall file a return for each tax period even though no tax is due for such period.

(f)1. A taxpayer who is required to remit taxes by electronic funds transfer shall make a return in a manner ~~form~~ that is initiated through an electronic data interchange. The acceptable method of transfer, the method, form, and content of the electronic data interchange, giving due regard to developing uniform standards for formats as adopted by the American National Standards Institute, the circumstances under which an electronic data interchange shall serve as a substitute for the filing of another form of

return, and the means, if any, by which taxpayers will be provided with acknowledgments, shall be as prescribed by the department. The department must accept such returns as timely if initiated and accepted on or before the 20th day of the month. If the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns must be accepted as timely if initiated and accepted on the next succeeding workday.

2. The department may waive the requirement to make a return through an electronic data interchange due to problems arising from the taxpayer's computer capabilities, data systems changes, and taxpayer operating procedures. To obtain a waiver, the taxpayer shall demonstrate in writing to the department that such circumstances exist.

Section 13. Subsection (1) of section 212.12, Florida Statutes, is amended to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records, filing timely tax returns, and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner, and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his or her report and paying the amount due by him or her; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax and making of tax returns in the manner herein provided, for paying the amount due to be paid by him or her, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, no allowance shall be allowed for all amounts in excess of $1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the required tax return or tax is delinquent at the time of payment.

(b) The Department of Revenue may deny ~~reduce~~ the collection allowance ~~by 10 percent or $50, whichever is less,~~ if a taxpayer files an incomplete return.

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

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, reported, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. ~~For returns remitted on or after February 1, 1992, the department shall also require that~~ Sales made through vending machines as defined in s. 212.0515 must be separately shown on the return. ~~For returns remitted on or after February 1, 1995,~~ Sales made through coin-operated amusement machines as defined by s. 212.02 and the number of machines operated must be separately shown on the return or on a form prescribed by the department. If a separate form is required, the same penalties for late filing, incomplete filing, or failure to file as provided for the sales tax return shall apply to said form.

(c) The collection allowance and other credits or deductions provided in this chapter shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

Section 14. Subsection (4) of section 212.17, Florida Statutes, is amended to read:

212.17 Credits for returned goods, rentals, or admissions; additional powers of department.—

(4)(a) The department shall design, prepare, print and furnish to all dealers, except dealers filing through electronic data interchange, or make available or prescribe to the ~~said~~ dealers, all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms does ~~shall~~ not relieve the ~~such~~ dealer from the payment of the ~~said~~ tax at the time and in the manner ~~herein~~ provided.

(b) The department shall prescribe the format and instructions necessary for filing returns in a manner that is initiated through an electronic data interchange to ensure a full collection from dealers and an accounting

for the taxes due. The failure of any dealer to use such format does not relieve the dealer from the payment of the tax at the time and in the manner provided.

Section 15. Effective January 1, 1999, subsection (1) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(1) The provisions of this section apply to s. 125.0104, county government; s. 125.0108, tourist impact tax; chapter 175, municipal firefighters' pension trust funds; chapter 185, municipal police officers' retirement trust funds; chapter 198, estate taxes; chapter 199, intangible personal property taxes; chapter 201, excise tax on documents; chapter 203, gross receipts taxes; chapter 211, tax on severance and production of minerals; chapter 212, tax on sales, use, and other transactions; chapter 220, income tax code; chapter 221, emergency excise tax; s. 252.372, emergency management, preparedness, and assistance surcharge; s. 370.07(3), Apalachicola Bay oyster surcharge; chapter 376, pollutant spill prevention and control; s. 403.718, waste tire fees; s. 403.7185, lead-acid battery fees; s. 403.7195, waste newsprint disposal fees; ~~s. 403.7197, advance disposal fees;~~ s. 538.09, registration of secondhand dealers; s. 538.25, registration of secondary metals recyclers; ss. 624.501 and 624.509-624.515 ~~ss. 624.509-624.514~~, insurance code~~: administration and general provisions~~; s. 681.117, motor vehicle warranty enforcement; and s. 896.102, reports of financial transactions in trade or business.

Section 16. Effective October 1, 1998, paragraph (a) of subsection (4) of section 213.0535, Florida Statutes, is amended to read:

213.0535 Registration Information Sharing and Exchange Program.—

(4) There are two levels of participation:

(a) Each unit of state or local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level-one participant. Level-one participants shall exchange, monthly or quarterly, as determined jointly by each participant and the department, the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued pursuant to chapter 509.

7. Beverage law licenses issued pursuant to chapter 561.

Section 17. Paragraph (a) of subsection (2) of section 213.21, Florida Statutes, is amended and subsection (7) is added to that section to read:

213.21 Informal conferences; compromises.—

(2)(a) The executive director of the department or his or her designee is authorized to enter into a written closing agreement with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). When such a closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of $250,000 ~~$100,000~~ or less.

(7)(a) When a taxpayer voluntarily self-discloses a liability for tax to the department, the department may settle and compromise the tax and interest due under the voluntary self-disclosure to those amounts due for the 5 years immediately preceding the date that the taxpayer initially contacted the department concerning the voluntary self-disclosure. For purposes of this paragraph, the term "years" means tax years or calendar years, whichever is applicable to the tax that is voluntarily self-disclosed. A voluntary self-disclosure does not occur if the department has contacted or informed the taxpayer that the department is inquiring into the taxpayer's liability for tax or whether the taxpayer is subject to tax in this state.

(b) The department may further settle and compromise the tax and interest due under a voluntary self-disclosure when the department is able to determine that such further settlement and compromise is in the best interests of this state. When making this determination the department shall consider, but is not limited to, the following:

1. The amount of tax and interest that will be collected and compromised under the voluntary self-disclosure;

2. The financial ability of the taxpayer and the future outlook of the taxpayer's business and the industry involved;

3. Whether the taxpayer has paid or will be paying other taxes to the state;

4. The future voluntary compliance of the taxpayer; and

5. Any other factor that the department considers relevant to this determination.

(c) This subsection does not limit the department's ability to enter into further settlement and compromise of the liability that is voluntarily self-disclosed based on any other provision of this section.

(d) This subsection does not apply to a voluntary self-disclosure when the taxpayer collected, but failed to remit, the tax to the state.

Section 18. Subsection (6) of section 213.28, Florida Statutes, is amended to read:

213.28 Contracts with private auditors.—

(6) Certified public accountants entering into such contracts must be in good standing under the laws of the state in which they are licensed ~~and in which the work is performed~~. They shall be bound by the same confidentiality requirements and subject to the same penalties as the department under s. 213.053. Any return, return information, or documentation obtained from the Internal Revenue Service under an information-sharing agreement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and shall not be divulged or disclosed in any manner by an officer or employee of the department to any certified public accountant under a contract authorized by this section, unless the department and the Internal Revenue Service mutually agree to such disclosure.

Section 19. Section 213.67, Florida Statutes, is amended to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest owed to the department, the executive director or his or her designee may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or personal property, exclusive of wages, belonging to the delinquent taxpayer, or owing any debts to such delinquent taxpayer at the time of receipt by them of such notice. Thereafter, any person who has been notified may not transfer or make any other disposition of such credits, other personal property, or debts until the executive director or his or her designee consents to a transfer or disposition or until 60 days after the receipt of such notice. If during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld hereunder, he or she is liable to the state for any indebtedness owed to the department by the person with respect to whose obligation the notice was given to the extent of the value of the property or the amount of the debts thus transferred or paid if, solely by reason of such transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given. If the delinquent taxpayer contests the intended levy in circuit court or under chapter 120, the notice under this section remains effective until that final resolution of the contest. Any financial institution receiving such notice will maintain a right of set-off for any transaction involving a debit card occurring on or before the date of receipt of such notice. ~~The notice provided for in this section may be renewed when the taxpayer contests the intended levy in circuit court or under chapter 120, pending the final resolution of that action.~~

(2) All persons who have been notified must, within 5 days after receipt of the notice, advise the executive director or his or her designee of the credits, other personal property, or debts in their possession, under their control, or owing them, and must advise the executive director or designee within 5 days after coming into possession or control of any subsequent credits, personal property, or debts owed during the time prescribed by the notice. Any such person coming into possession or control of such subsequent credits, personal property, or debts may not transfer or dispose of them during the time prescribed by the notice or before the department consents to a transfer.

(3) During the last 30 days of the 60-day period set forth in subsection (1), the executive director or his or her designee may levy upon such credits, other personal property, or debts. The levy must be accomplished by delivery of a notice of levy by registered mail, upon receipt of which the person possessing the credits, other personal property, or debts shall transfer them to the department or pay to the department the amount owed to the delinquent taxpayer.

(4) A notice that is delivered under this section is effective at the time of delivery against all credits, other personal property, or debts of the delinquent taxpayer which are not at the time of such notice subject to an attachment, garnishment, or execution issued through a judicial process.

(5) Any person acting in accordance with the terms of the notice or levy issued by the executive director or his or her designee is expressly discharged from any obligation or liability to the delinquent taxpayer with respect to such credits, other personal property, or debts of the delinquent taxpayer affected by compliance with the notice of freeze or levy.

(6)(a) Levy may be made under subsection (3) upon credits, other personal property, or debt of any person with respect to any unpaid tax, penalties, and interest only after the executive director or his or her designee has notified such person in writing of the intention to make such levy.

(b) No less than 30 days before the day of the levy, the notice of intent to levy required under paragraph (a) shall be given in person or sent by certified or registered mail to the person's last known address.

(c) The notice required in paragraph (a) must include a brief statement that sets forth in simple and nontechnical terms:

1. The provisions of this section relating to levy and sale of property;

2. The procedures applicable to the levy under this section;

3. The administrative and judicial appeals available to the taxpayer with respect to such levy and sale, and the procedures relating to such appeals; and

4. The alternatives, if any, available to taxpayers which could prevent levy on the property.

(7) A taxpayer may contest the notice of intent to levy provided for under subsection (6) by filing an action in circuit court. Alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. After an action has been initiated under chapter 120 to contest the notice of intent to levy, an action relating to the same levy may not be filed by the taxpayer in circuit court, and judicial review is exclusively limited to appellate review pursuant to s. 120.68. Also, after an action has been initiated in circuit court, an action may not be brought under chapter 120.

(8) An action may not be brought to contest a notice of intent to levy under chapter 120 or in circuit court, later than 21 days after the date of receipt of the notice of intent to levy.

(9) The department shall provide notice to the Comptroller, in electronic or other form specified by the Comptroller, listing the taxpayers for which tax warrants are outstanding. Pursuant to subsection (1), the Comptroller shall, upon notice from the department, withhold all payments to any person or business, as defined in s. 212.02, which provides commodities or services to the state, leases real property to the state, or constructs a public building or public work for the state. The department may levy upon the withheld payments in accordance with subsection (3). The provisions of s. 215.422 do not apply from the date the notice is filed with the Comptroller until the date the department notifies the Comptroller of its consent to make payment to the person or 60 days after receipt of the department's notice in accordance with subsection (1), whichever occurs earlier.

(10) The department may bring an action in circuit court for an order compelling compliance with any notice issued under this section.

Section 20. Section 213.755, Florida Statutes, is amended to read:

213.755 Payment of taxes by electronic funds transfer.—

(1) The executive director of the Department of Revenue shall have authority to require a taxpayer to remit taxes by electronic funds transfer where the taxpayer, including consolidated filers, is subject to tax and has paid that tax in the prior state fiscal year in an amount of $50,000 or more.

(2) As used in any revenue law administered by the department, the term:

(a) "Payment" means any payment or remittance required to be made or paid within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility for regulating, controlling, and administering. The term does not include any remittance unless the amount of the remittance is actually received by the department.

(b) "Return" means any report, claim, statement, notice, application, affidavit, or other document required to be filed within a prescribed period or on or before a prescribed date under the authority of any provision of a revenue law which the department has the responsibility of regulating, controlling, and administering.

(3) Solely for the purposes of administering this section:

(a)~~(1)~~ Taxes levied under parts I and II of chapter 206 shall be considered a single tax.

(b)~~(2)~~ A person required to remit a tax acting as a collection agent or dealer for the state shall nonetheless be considered the taxpayer.

Section 21. Effective retroactively to January 1, 1998, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 1998 ~~1997~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code shall have the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 1998 ~~1997~~. However, if subsection (3) is implemented, the meaning of any term shall be taken at the time the term is applied under this code.

Section 22. Subsection (11) is added to section 220.02, Florida Statutes, to read:

220.02 Legislative intent.—

(11) Notwithstanding any other provision of this chapter, it is the intent of the Legislature that, except as otherwise provided under the Internal Revenue Code, for the purposes of this chapter, the term "qualified subchapter S subsidiary," as that term is defined in s. 1361(b)(3) of the Internal Revenue Code, shall not be treated as a separate corporation or entity from the S corporation parent to which the subsidiary's assets, liabilities, income, deductions, and credits are attributed under s. 1361(b)(3) of the Internal Revenue Code.

Section 23. The Department of Revenue, in consultation with the Division of Economic and Demographic Research, shall conduct a study on the equity of the refund provisions for diesel fuel taxes pursuant to section 206.8745, Florida Statutes, with regard to their applicability to commercial carriers using fuel in a similar manner. The department shall issue a report on its findings to the President of the Senate and the Speaker of the House of Representatives before December 31, 1998.

Section 24. Paragraph (b) of subsection (2) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(2)

(b) The date on which an assessment or a denial of refund becomes final and procedures ~~a procedure~~ by which a taxpayer must be notified of the assessment or of the denial of refund must be established:

1. By rule adopted by the Department of Revenue;

2. With respect to assessments or refund denials under chapter 207, by rule adopted by the Department of Highway Safety and Motor Vehicles;

3. With respect to assessments or refund denials under chapters 210, 550, 561, 562, 563, 564, and 565, by rule adopted by the Department of Business and Professional Regulation; or

4. With respect to taxes that a county collects or enforces under s. 125.0104(10) or s. 212.0305(5), by an ordinance that may additionally provide for informal dispute resolution procedures in accordance with s. 213.21.

Section 25. Subsection (5) of section 199.052, Florida Statutes, is amended to read:

199.052 Annual tax returns; payment of annual tax.—

(5) The trustee of a Florida-situs trust is primarily responsible for returning the trust's intangible personal property and paying the annual tax on it.

(a) A trust has a Florida situs when:

1. All trustees are residents of the state;

2. There are three or more trustees sharing equally in the ownership, management, or control of the trust's intangible property, and the majority of the trustees are residents of this state; or

3. Trustees consist of both residents and nonresidents and management or control of the trust is with a resident trustee.

(b) When trustees consist of both residents and nonresidents and management or control is with a nonresident trustee, the trust does not have Florida situs and no return is necessary by any resident trustee.

(c) A portion of the trust has Florida situs when there are two trustees, one a resident of this state and one a nonresident, and they share equally in the ownership, management, or control of the trust's intangible property. The tax on such property shall be based on the value apportioned between them.

(d) If there is more than one trustee in the state, only one tax return for the trust must be filed.

(e) The trust's beneficiaries, however, may individually return their equitable shares of the trust's intangible personal property and pay the tax on such shares, in which case the trustee need not return such property or pay such tax, although the department may require the trustee to file an informational return.

Section 26. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 213.21, Florida Statutes, are amended to read:

213.21 Informal conferences; compromises.—

(1)(a) The Department of Revenue may adopt rules for establishing informal conference procedures within the department for resolution of disputes relating to assessment of taxes, interest, and penalties and the denial of refunds, and for informal hearings under ss. 120.569 and 120.57(2).

(2)(a) The executive director of the department or his or her designee is authorized to enter into ~~a written~~ closing agreements ~~agreement~~ with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1). Such agreements shall be in writing when the amount of tax, penalty, or interest compromised exceeds $30,000 or for lesser amounts when the department deems it appropriate or when requested by the taxpayer. When ~~such~~ a written closing agreement has been approved by the department and signed by the executive director or his or her designee and the taxpayer, it shall be final and conclusive; and, except upon a showing of fraud or misrepresentation of material fact or except as to adjustments pursuant to ss. 198.16 and 220.23, no additional assessment may be made by the department against the taxpayer for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the taxpayer shall not be entitled to institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid pursuant to the closing agreement. The department is authorized to delegate to the executive director the authority to approve any such closing agreement resulting in a tax reduction of $100,000 or less.

Section 27. Paragraph (c) is added to subsection (2) of section 220.222, Florida Statutes, to read:

220.222 Returns; time and place for filing.—

(2)

(c) For purposes of this subsection, a taxpayer is not in compliance with the requirements of s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2000 or 30 percent of the tax shown on the return when filed.

Section 28. Subsection (1) of section 624.515, Florida Statutes, is amended to read:

624.515 State Fire Marshal regulatory assessment and surcharge; levy and amount.—

(1)(a) In addition to any other license or excise tax now or hereafter imposed, and such taxes as may be imposed under other statutes, there is hereby assessed and imposed upon every domestic, foreign, and alien insurer authorized to engage in this state in the business of issuing policies of fire insurance, a regulatory assessment in an amount equal to 1 percent of the gross amount of premiums collected by each such insurer on policies of fire insurance issued by it and insuring property in this state. The assessment shall be payable annually on or before March 1 to the Department of Revenue by the insurer on such premiums collected by it during the preceding calendar year.

(b) When it is impractical, due to the nature of the business practices within the insurance industry, to determine the percentage of fire insurance contained within a line of insurance written by an insurer on risks located or resident in Florida, the Department of Revenue may establish by rule such percentages for the industry. The Department of Revenue may also amend the percentages as the insurance industry changes its practices concerning the portion of fire insurance within a line of insurance.

Section 29. Subsection (3) of section 896.102, Florida Statutes, is amended to read:

896.102 Currency more than $10,000 received in trade or business; report required; noncompliance penalties.—

(3) The Department of Revenue may adopt rules and guidelines to administer and enforce these reporting requirements.

Section 30. Except as otherwise expressly provided by this act, this act shall take effect July 1, 1998.

Became a law without the Governor's approval May 30, 1998.

Filed in Office Secretary of State May 29, 1998.