# CHAPTER 2003-254

## Committee Substitute for Senate Bill No. 1176

An act relating to taxation; amending ss. 202.11, 202.125, 202.22, 202.27, 202.28, 202.34, and 202.35, F.S., relating to the local communications services tax; changing sourcing requirements for third number and calling card calls; providing an exemption for homes for the aged; providing limitations on credits for taxes collected; providing legislative intent with respect to provisions clarifying the law; providing penalties for failure to report revenue and taxes due; providing for repeal of certain penalty provisions; authorizing the Department of Revenue to allocate local taxes to and between local governments under certain circumstances; requiring that a taxpayer provide customer records to the Department of Revenue; providing penalties for noncompliance; amending s. 206.02, F.S.; prohibiting a person from engaging in business as a biodiesel manufacturer unless the person is licensed by the department; revising licensing requirements; requiring biodiesel manufacturers to meet the reporting, bonding, and licensing requirements prescribed for wholesalers of motor fuel; amending s. 206.026, F.S.; requiring the department to obtain fingerprints for criminal background checks for certain license holders; amending s. 206.14, F.S.; providing a penalty for failure to provide records as required by the department; amending s. 206.414, F.S., relating to local option fuel taxes; providing for the tax to be collected when fuel is removed through the loading rack; amending s. 206.416, F.S.; deleting certain provisions authorizing a change in the destination of fuel; requiring that a wholesaler or exporter register as an importer under certain circumstances; providing penalties; amending s. 206.485, F.S., relating to tracking reports for petroleum products; imposing a penalty for failure to provide such reports; amending s. 206.86, F.S.; defining the terms "biodiesel" and "biodiesel manufacturer" for purposes of part II of ch. 206, F.S.; amending s. 206.89, F.S., relating to the regulating of alternative fuels; requiring the licensure of retailers rather than wholesalers; amending s. 212.0606, F.S., relating to the rental car surcharge; requiring dealers to report the surcharge collections by county where collected; amending s. 212.08, F.S.; authorizing certain carriers to prorate the state tax on motor or diesel fuels used in interstate commerce in the initial year of operation; amending s. 212.12, F.S.; deleting a prohibition on certain allowances if the tax is delinquent; revising a limitation on certain penalties; providing an additional penalty for failure to timely disclose a tax or fee; requiring that the department make certain tax amounts and brackets available in an electronic format; deleting a requirement that the amounts and brackets be established pursuant to rule; amending s. 213.21, F.S.; revising the period during which a taxpayer may voluntarily disclose a tax liability; providing for applicability; amending s. 336.021, F.S.; revising certain dates for purposes of certifying distributions of local option fuel taxes; amending s. 336.025, F.S.; expanding the uses of proceeds from local option fuel taxes on motor fuel and diesel fuel; amending ss. 443.036, 443.131, 443.1316, and

443.163, F.S., relating to the unemployment compensation tax; requiring that a limited liability company be treated at the same status as it is classified for federal income tax purposes; providing that an employee may not be considered a successor under certain circumstances; increasing the limit on recovery of overhead or indirect costs from the Agency for Workforce Innovation; revising requirements of electronic reporting and remitting for certain persons who prepare and report; revising penalties for failure to report or remit taxes by electronic means; providing for retroactive application of provisions relating to electronic reporting and remitting of taxes; amending s. 832.062, F.S.; prohibiting certain electronic funds transfers if the taxpayer knows at the time of such transfer that funds are insufficient to cover the transfer; amending s. 206.052, F.S., relating to the export of tax-free fuels; conforming a cross-reference to changes made by the act; repealing s. 199.052(13), F.S., relating to a requirement to permit a voluntary contribution to the Election Campaign Financing Trust Fund when filing an intangible tax return; amending s. 213.053, F.S.; authorizing the Department of Revenue to share information with the Department of Transportation on rental car surcharge revenues; amending s. 213.0535, F.S.; providing that a local government that collects a municipal resort tax may participate in the Registration Information Sharing Program; amending s. 624.509, F.S.; authorizing a certain affiliated group of corporations that created a service company to allocate the salary of each employee to the companies for which the employees perform services for the purpose of the salary credit against the insurance premium tax; providing definitions for "affiliated group of corporations," and "service company"; providing that changes shall take effect for tax years beginning January 1, 2003; amending ss. 213.053, 213.21, and 213.285, F.S.; deleting the repeal of the certified audit program; amending s. 212.08, F.S.; expanding the definition of "housing project" to include construction in a designated brownfield area of affordable housing; amending s. 212.055, F.S.; providing additional uses for revenues raised by the charter county transit system surtax; repealing s. 212.055(2)(f), F.S.; relating to the restriction on the use of Local Government Infrastructure Surtax revenue to supplant or replace user fees or reduce ad valorem taxes; amending s. 193.461, F.S.; authorizing the governing body of a county to revoke the waiver of annual property classification; revising the date by which the property appraiser must provide notice to property owners; providing for waiver and revocation of the waiver of the notice and certification requirement for land classification; defining the term "extenuating circumstances" to include failure to return the agricultural classification form under certain circumstances; providing for effect of waiver of annual application requirements; providing effective dates.

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

Section 1. Paragraph (a) of subsection (15) of section 202.11, Florida Statutes, is amended to read:

202.11 Definitions.—As used in this chapter:

(15) "Service address" means:

(a) Except as otherwise provided in this section, the location of the communications equipment from which communications services originate or at which communications services are received by the customer. ~~If the location of such equipment cannot be determined as part of the billing process, as in the case of third-number and calling-card calls and similar services, the term means the location determined by the dealer based on the customer's telephone number, the customer's mailing address to which bills are sent by the dealer, or another street address provided by the customer.~~ In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, and in the case of third-number and calling-card calls, the service address is the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number.

Section 2. Subsection (4) of section 202.125, Florida Statutes, is amended to read:

202.125 Sales of communications services; specified exemptions.—

(4) The sale of communications services to a home for the aged, religious institution or educational institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code, or by a religious institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code having an established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on, is exempt from the taxes imposed or administered pursuant to ss. 202.12 and 202.19. As used in this subsection, the term:

(a) "Religious institution" means an organization owning and operating an established physical place for worship at which nonprofit religious services and activities are regularly conducted. The term also includes:

1. Any nonprofit corporation the sole purpose of which is to provide free transportation services to religious institution members, their families, and other religious institution attendees.

2. Any nonprofit state, district, or other governing or administrative office the function of which is to assist or regulate the customary activities of religious institutions.

3. Any nonprofit corporation that owns and operates a television station in this state of which at least 90 percent of the programming consists of programs of a religious nature and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the public.

4. Any nonprofit corporation the primary activity of which is making and distributing audio recordings of religious scriptures and teachings to blind or visually impaired persons at no charge.

5. Any nonprofit corporation the sole or primary purpose of which is to provide, upon invitation, nonprofit religious services, evangelistic services, religious education, administrative assistance, or missionary assistance for a religious institution, or established physical place of worship at which nonprofit religious services and activities are regularly conducted.

(b) "Educational institution" includes:

1. Any state tax-supported, parochial, religious institution, and nonprofit private school, college, or university that conducts regular classes and courses of study required for accreditation by or membership in the Southern Association of Colleges and Schools, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc.

2. Any nonprofit private school that conducts regular classes and courses of study which are accepted for continuing education credit by a board of the Division of Medical Quality Assurance of the Department of Health.

3. Any nonprofit library.

4. Any nonprofit art gallery.

5. Any nonprofit performing arts center that provides educational programs to school children, which programs involve performances or other educational activities at the performing arts center and serve a minimum of 50,000 school children a year.

6. Any nonprofit museum that is open to the public.

(c) "Home for the aged" includes any nonprofit corporation:

1. In which at least 75 percent of the occupants are 62 years of age or older or totally and permanently disabled; which qualifies for an ad valorem property tax exemption under s. 196.196, s. 196.197, or s. 196.1975; and which is exempt from the sales tax imposed under chapter 212.

2. Licensed as a nursing home or an assisted living facility under chapter 400 and which is exempt from the sales tax imposed under chapter 212.

Section 3. Subsection (8) is added to section 202.22, Florida Statutes, to read:

202.22 Determination of local tax situs.—

(8) All local communications services taxes collected by a dealer are subject to the provisions of s. 213.756. The hold harmless protection provided by subsection (1) does not entitle a dealer to retain or take credits for taxes collected from any customers that are assigned to an incorrect local taxing jurisdiction in excess of the taxes due to the correct local taxing jurisdiction for that customer. Dealers are entitled to refunds of or credits for such excess collections only upon making refunds or providing credits to the customer.

Section 4. Subsection (8) of section 202.22, Florida Statutes, as created by this act is remedial and intended to clarify existing law.

Section 5. Present subsection (6) of section 202.27, Florida Statutes, is redesignated as subsection (8), and new subsections (6) and (7) are added to that section to read:

202.27 Return filing; rules for self-accrual.—

(6) In addition to the contact person identified on the return, each dealer of communications services obligated to collect and remit local communications services tax imposed under s. 202.19 may at any time, and shall within 10 days after a request, designate a managerial representative to whom the department shall direct any inquiry regarding the completeness or accuracy of the dealer's return when the response provided by the contact person identified on the return has been inadequate. When the representative designated under this subsection is contacted by the department, the dealer shall respond to the department within 30 days.

(7)(a) If the department determines it is probable that a return filed pursuant to this chapter contains a material error in the reporting of local communications service taxes by jurisdiction as required by s. 202.37(2), it may, subject to the provisions of this subsection, issue a notice as described herein to the dealer that filed the return. The notice shall be in writing and shall be issued as soon as possible following the date the department received the return. Prior to issuing the notice, the department shall attempt to resolve the issue in the manner provided in subsection (6), shall consult with the affected local jurisdictions, and shall consult other sources of information available to it that would have a bearing on whether the existence of a material error in the return is probable. Such inquiry by the department shall include, without limitation, whether local rate changes, changes in jurisdictional boundaries, or fluctuations in the taxes reported by other dealers are consistent with the reporting on the return that is the subject of the notice. The notice shall specify the schedule, specify line or lines of the return that are the subject of the notice, describe the reporting error, and describe the other sources of information consulted by the department as required in this paragraph and the results of such inquiry.

(b) The dealer shall respond in writing to the notice within 90 days after receipt of the notice, except that an extension of this 90-day period must be granted if requested by the dealer for reasonable cause. The dealer's response shall state either that the return contained a material error conforming to the department's description and that the error has been corrected by filing a corrected return, or that the dealer has been unable to locate such an error. In the latter event, the dealer's response shall also state whether any of the following events have occurred which might reasonably account for the condition described in the notice as a probable reporting error:

1. The dealer has changed from one of the methods specified in s. 202.22(1) of assigning customers to local jurisdictions to another method specified therein.

2. There has been an acquisition or disposition of an entity providing communications services, an acquisition or disposition of such an entity's assets used to provide such services, or a change in the dealer's licensed service area.

3. The dealer has implemented a new billing system.

4. There has been an update to the dealer's database or corrections in assignments of service addresses pursuant to s. 202.22(4)(b).

5. Substantial credits, refunds, or adjustments to customer accounts are reflected in the return identified in the notice.

(c) If the dealer responds as required in paragraph (b), and provides information prescribed in subparagraphs (b)1.-5. which is incorrect and, after audit, the return is finally determined to contain the specific material error identified in the notice, the dealer shall be subject to a penalty not to exceed the lesser of 10 percent of any taxes reported for an incorrect jurisdiction as a result of the error or $10,000, which penalty may be compromised pursuant to s. 213.21. If the dealer fails to respond to the notice or request an extension within the time prescribed, the dealer shall be subject to a specific penalty of $5,000, except that the department shall waive the specific penalty if the dealer responds as required within 30 days after notification that the specific penalty has been imposed.

(d) For purposes of this subsection, a "material error" is an error in the reporting of tax on a return for a specific local jurisdiction that exceeds the greater of $50,000 or 50 percent of the tax reported for such local jurisdiction. "Material error" also includes a return for which Schedule I or Schedule II is not included, regardless of the tax amount reported. "Material error" does not include, and the penalties set forth in this subsection do not apply, to any error resulting from the assignment of a service address to an incorrect local taxing jurisdiction for which the dealer is held harmless under s. 202.22(1).

This subsection does not require the dealer to perform a self-audit to ascertain whether the condition described in the notice is attributable to any of the foregoing events, nor does the issuance of the notice determine the dealer's substantial interests or constitute an audit for purposes of this chapter.

Section 6. Effective June 30, 2004, subsection (7) of section 202.27, Florida Statutes, as created by this act, is repealed.

Section 7. Paragraphs (d) and (e) are added to subsection (2) of section 202.28, Florida Statutes, to read:

202.28 Credit for collecting tax; penalties.—

(2)

(d) If a dealer fails to separately report and identify local communications services taxes on the appropriate return schedule, the dealer shall be subject to a penalty of $5,000 per return.

(e) If a dealer of communications services does not use one or more of the methods specified in s. 202.22(1) for assigning service addresses to local jurisdictions and assigns one or more service addressed to an incorrect local

jurisdiction in collecting and remitting local communications services taxes imposed under s. 202.19, the dealer shall be subject to a specific penalty of 10 percent of any tax collected but reported to the incorrect jurisdiction as a result of incorrect assignment, except that the penalty imposed under this paragraph with respect to a single return may not exceed $10,000.

Section 8. Subsection (5) is added to section 202.34, Florida Statutes, to read:

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

(5) If a dealer retains records in both machine-readable and hardcopy formats, upon a request by the department, the dealer shall make the records available to the department in the machine-readable format in which such records are retained. Any dealer or other person who fails or refuses to provide such records within 60 days after the department's request or any extension thereof shall, in addition to all other penalties provided by law, be subject to a specific penalty of $5,000 per audit.

Section 9. Subsection (3) of section 202.35, Florida Statutes, is amended to read:

202.35 Powers of department in dealing with delinquents; tax to be separately stated.—

(3) If a dealer or other person fails or refuses to make his or her records available for inspection so that an audit or examination of his or her books and records cannot be made, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this chapter, makes a grossly incorrect report, or makes a report that is false or fraudulent, the department shall make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of the dealer, together with any accrued interest and penalties. The department shall then proceed to collect the taxes, interest, and penalties on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary rests upon the dealer or other person. If the dealer fails to respond to a contact made pursuant to s. 202.27(6) or a notice issued pursuant to s. 202.27(7), or if a dealer's records are determined to be inadequate for purposes of determining whether the dealer properly allocated tax to and between local governments, the department may determine the proper allocation or reallocation based upon the best information available to the department and shall seek the agreement of the affected local governments.

Section 10. Section 206.02, Florida Statutes, is amended to read:

206.02 Application for license; temporary license; terminal suppliers, importers, exporters, blenders, biodiesel manufacturers, and wholesalers.—

(1) It is unlawful for any person to engage in business as a terminal supplier, importer, exporter, blender, biodiesel manufacturer, or wholesaler of motor fuel within this state unless such person is the holder of an unrevoked license issued by the department to engage in such business. A person is engaging in such business if he or she:

(a) Imports or causes any motor fuel to be imported and sells such fuel at wholesale, retail, or otherwise within this state.

(b) Imports and withdraws for use within this state by himself or herself or others any motor fuel from the tank car, truck, or other original container or package in which such motor fuel was imported into this state.

(c) Manufactures, refines, produces, or compounds any motor fuel and sells such fuel at wholesale or retail, or otherwise within this state for use or consumption within this state.

(d) Imports into this state from any other state or foreign country, or receives by any means into this state, any motor fuel which is intended to be used for consumption in this state and keeps such fuel in storage in this state for a period of 24 hours or more after it loses its interstate or foreign commerce character as a shipment in interstate or foreign commerce.

(e) Is primarily liable under the fuel tax laws of this state for the payment of motor fuel taxes.

(f) Purchases or receives in this state motor fuel upon which the tax has not been paid.

(g) Exports taxable motor or diesel fuels either from substorage at a bulk facility or directly from a terminal rack to a destination outside the state.

(2) To procure a terminal supplier license, a person shall file with the department an application under oath, and in such form as the department may prescribe, setting forth:

(a) The name under which the person will transact business within the state and that person's registration number under s. 4101 of the Internal Revenue Code.

(b) The location, with street number address, of his or her principal office or place of business and the location where records will be made available for inspection.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he or she shall also indicate the state, territory, or county where the corporation is organized and the date the corporation was registered with ~~file with the application a certified copy of the certificate or license issued by~~ the Department of State as a foreign corporation ~~showing that such corporation is~~ authorized to transact business in the state.

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license tax.

(3) To procure an importer, exporter, or blender of motor fuels license, a person shall file with the department an application under oath, and in such form as the department may prescribe, setting forth:

(a) The name under which the person will transact business within the state.

(b) The location, with street number address, of his or her principal office or place of business and the location where records will be made available for inspection.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he or she shall also indicate the state, territory, or country where the corporation is organized and the date the corporation was registered with ~~file with the application a certified copy of the certificate or license issued by~~ the Department of State as a foreign corporation ~~showing that such corporation is~~ authorized to transact business in the state.

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license tax.

(4) To procure a wholesaler of motor fuel license, a person shall file with the department an application under oath and in such form as the department may prescribe, setting forth:

(a) The name under which the person will transact business within the state.

(b) The location, with street number address, of his or her principal office or place of business within this state and the location where records will be made available for inspection.

(c) The name and complete residence address of the owner or the names and addresses of the partners, if such person is a partnership, or of the principal officers, if such person is a corporation or association; and, if such person is a corporation organized under the laws of another state, territory, or country, he or she shall also indicate the state, territory, or country where the corporation is organized and the date the corporation was registered with ~~file with the application a certified copy of the certificate or license issued by~~ the Department of State as a foreign corporation ~~showing that such corporation is~~ authorized to transact business in the state.

The application shall require a $30 license tax. Each license shall be renewed annually through application, including an annual $30 license fee.

(5) Each biodiesel manufacturer must meet the reporting, bonding, and licensing requirements prescribed for wholesalers by this chapter. ~~Any importer who establishes a business location in this state must, prior to beginning business in the state, apply for and be issued a wholesaler's license. An importer's license becomes invalid on the date business operations begin from a location within this state.~~

(6) Upon the filing of an application for a license and concurrently therewith, a bond of the character stipulated and in the amount provided for shall

be filed with the department. No license shall issue upon any application unless accompanied by such a bond, except as provided in s. 206.05(1).

(7)(a) If all applicants for a license hold a current license in good standing of the same type and kind, the department shall issue a temporary license upon the filing of a completed application, payment of all fees, and the posting of adequate bond. A temporary license shall automatically expire 90 days after its effective date or, prior to the expiration of 90 days or the period of any extension, upon issuance of a permanent license or of a notice of intent to deny a permanent license. A temporary license may be extended once for a period not to exceed 60 days, upon written request of the applicant, subject to the restrictions imposed by this subsection.

(b) A publicly held corporation, the securities of which are regularly traded on a national securities exchange and not over the counter, which begins a new business and which applies for a license as a terminal supplier, importer, exporter, or wholesaler shall be issued a license without the department's background investigation.

Section 11. Subsection (5) of section 206.026, Florida Statutes, is amended to read:

206.026 Certain persons prohibited from holding a terminal supplier, importer, exporter, blender, carrier, terminal operator, or wholesaler license; suspension and revocation.—

(5) The department shall obtain the fingerprints and personal data from persons ~~make such rules for the photographing, fingerprinting, and obtaining of personal data of individuals~~ described in paragraph (1)(a) for purposes of determining whether such persons have a criminal background and shall obtain ~~the obtaining of such~~ data regarding the business entities described in paragraph (1)~~(a) as are necessary~~ to effectuate the provisions of this section. Such fingerprints shall be used for statewide criminal and juvenile records checks through the Department of Law Enforcement and federal criminal records checks through the Federal Bureau of Investigation.

Section 12. Subsection (2) of section 206.14, Florida Statutes, is amended to read:

206.14 Inspection of records; audits; hearings; forms; rules and regulations.—

(2)(a) The department or any authorized deputy, employee, or agent is authorized to audit and examine the records, books, papers, and equipment of terminal suppliers, importers, exporters, or wholesalers, retail dealers, terminal operators, or all private and common carriers to verify the truth and accuracy of any statement or report and ascertain whether or not the tax imposed by this law has been paid. No prior written notification is necessary. In addition to making all records available to the department to determine the accuracy of tax payments to the state and suppliers, all persons, including retail dealers, wholesalers, importers, exporters, terminal suppliers, and end users with storage other than the fuel tank of a highway vehicle, shall make available to the department, during normal

business hours, records disclosing all receipts, sales, inventory records, fuel payments, and tax payment information. These records shall cover all transactions within the last 3 complete calendar months and shall be made available within 3 business days of the department's request. The department may correct by credit or refund any overpayment of tax, penalty, or interest revealed by an audit or examination and shall make assessment of any deficiency in tax, penalty, or interest determined to be due.

(b) Any person who fails to provide the records required by this section shall, in addition to all other penalties, be subject to a fine of $5,000.

Section 13. Section 206.414, Florida Statutes, is amended to read:

206.414 Collection of certain taxes; prohibited credits and refunds.—

(1) Notwithstanding s. 206.41, which requires the collection of taxes due when motor fuel is removed through the terminal loading rack, the taxes imposed by s. 206.41(1)(d), (e), and (f) shall be collected in the following manner:

(a) Prior to January 1 each year the department shall determine the minimum amount of taxes to be imposed by s. 206.41(1)(d), (e), and (f) in any county.

(b) The minimum tax imposed by s. 206.41(1)(d), (e), and (f) shall be collected in the same manner as the taxes imposed under s. 206.41(a), (b), and (c); at the point of removal through the terminal loading rack; or as provided in paragraph (c). All taxes collected, refunded, or credited shall be distributed based on the current applied period.

(c)~~(1)~~ The taxes imposed by s. 206.41(1)(d), (e), and (f) above the annual minimum shall be collected and remitted by licensed wholesalers and terminal suppliers upon each sale, delivery, or consignment to retail dealers, resellers, and end users.

(2) Terminal suppliers and wholesalers shall not collect the taxes imposed by s. 206.41(1)(d), (e), and (f) above the annual minimum established in this section on authorized exchanges and sales to terminal suppliers, wholesalers, and importers.

(3) Terminal suppliers, wholesalers, and importers shall not pay the taxes imposed by s. 206.41(1)(d), (e), and (f) above the annual minimum established in this section to their suppliers. There shall be no credit or refund for any of the taxes imposed by s. 206.41(1)(d), (e), and (f) above the annual minimum established in this section paid by a terminal supplier, wholesaler, or importer to any supplier.

Section 14. Subsection (1) of section 206.416, Florida Statutes, is amended to read:

206.416 Change in state destination.—

(1)~~(a) A terminal supplier or person who is receiving fuel pursuant to an exchange agreement who sells fuel destined for sale or use in this state may~~

~~change the destination state designated on the original shipping paper upon notification by the purchaser of the fuel by the 10th day of the month following the date of the transaction. The terminal supplier or position holder shall document a timely change in destination state by issuing a new invoice bearing the corrected destination state. Each terminal supplier and position holder shall report monthly to the department all changes in the state of destination issued, including the name of purchaser, date, number of gallons of fuel, and the basis for the change.~~

~~(b) A terminal supplier or position holder who issues a change in the state of destination on the invoice to this state from another state shall collect and remit to the department the tax levied pursuant to this part on such fuel. A terminal supplier or position holder who issues a change in the state of destination from this state to another state shall be entitled to a credit or refund of any tax levied pursuant to this part on such fuel which it has collected and remitted to the department.~~

(a)~~(c)~~ A terminal supplier or position holder may sell motor or diesel fuel, other than by bulk transfer, a portion of which fuel is destined for sale or use in this state and a portion of which fuel is destined for sale or use in another state or states. However, such sale shall be documented by the terminal supplier or position holder by issuing shipping papers designating the state of destination for each portion of the fuel.

(b)~~(d)~~ A licensed terminal supplier, wholesaler, importer, or exporter who intends to sell or use motor fuel in this state which was purchased pursuant to shipping papers bearing an out-of-state destination shall obtain a diversion number issued by the department which shall be manually recorded by the terminal supplier, wholesaler, importer, or exporter on the shipping paper prior to importing the fuel into this state. The terminal supplier, ~~If the licensed wholesaler, importer, or exporter fails to timely notify the terminal supplier or position holder pursuant to paragraph (a) to obtain a corrected invoice, the licensed~~ wholesaler, importer, or exporter is ~~shall be~~ liable for reporting and remitting ~~to report and remit~~ all applicable taxes on ~~said~~ fuel with the return required pursuant to s. 206.43.

(c) If a wholesaler or exporter diverts to this state, within 3 consecutive months, more than six loads of fuel which were originally destined for allocation outside the state, the wholesaler or exporter must register as an importer within 30 days after such diversion. A wholesaler or exporter who violates this paragraph is subject to the penalties prescribed under ss. 206.413 and 206.872.

Section 15. Section 206.485, Florida Statutes, is amended to read:

206.485 Tracking system reporting requirements.—

(1) The information required for tracking movements of petroleum products pursuant to ss. 206.08, 206.09, 206.095, and 206.48 shall be submitted in the manner prescribed by the executive director of the department by rule. The rule shall include, but not be limited to, the data elements, the format of the data elements, and the method and medium of transmission to the department.

(2) Any person liable for reporting under this chapter who fails to meet the requirements of this section within 3 months after notification of such failure by the department shall, in addition to all other penalties prescribed by this chapter, be subject to an additional penalty of $5,000 for each month such failure continues.

Section 16. Subsection (1) of section 206.86, Florida Statutes, is amended, and subsections (14) and (15) are added to that subsection to read:

206.86 Definitions.—As used in this part:

(1) "Diesel fuel" means all petroleum distillates commonly known as diesel #2, biodiesel, or any other product blended with diesel or any product placed into the storage supply tank of a diesel-powered motor vehicle.

(14) "Biodiesel" means any product made from nonpetroleum-base oils or fats which is suitable for use in diesel-powered engines. Biodiesel is also referred to as alkyl esters.

(15) "Biodiesel manufacturer" means those industrial plants, regardless of capacity, where organic products are used in the production of biodiesel. This includes businesses that process or blend organic products that are marketed as biodiesel.

Section 17. Section 206.89, Florida Statutes, is amended to read:

206.89 Licenses; necessity; prerequisites; issuance; nonassignability.—

(1)(a) A ~~No~~ person may not ~~shall~~ act as a retailer ~~wholesaler~~ of alternative fuel unless he or she holds a valid retailer ~~wholesaler~~ of alternative fuel license issued by the department. A person who has no facilities for placing diesel fuel into the supply system of a motor vehicle and who sells into containers of 5 gallons or less is ~~shall~~ not ~~be~~ required to be licensed as a retailer ~~wholesaler~~ of alternative fuel.

(b) Any person who acts as a retailer ~~wholesaler~~ of alternative fuel and does not hold a valid retailer ~~wholesaler~~ of alternative fuel license shall pay a penalty of 25 percent of the tax assessed on the total purchases.

(2) To procure a retailer ~~wholesaler~~ of alternative fuel license, a person must ~~shall~~ file with the department an application in such form as the department may prescribe, with a bond. A ~~No~~ license may not ~~shall~~ be issued upon any application unless accompanied by such bond, except as provided in s. 206.90(1).

(3) When an application for a retailer ~~wholesaler~~ of alternative fuel license is filed by a person whose license has been canceled for cause by the department or when the department is of the opinion that such application is not filed in good faith or is filed by some person as a subterfuge for the real person in interest whose license has theretofore been canceled, the department may ~~shall have authority~~, if the evidence warrants, ~~to~~ refuse to issue to that person a license.

(4) At the time of filing an application for a license, a filing fee of $5 shall be paid to the department for deposit into the General Revenue Fund.

(5) All requirements of this section having been complied with, the department shall issue to the applicant a license, and such license shall remain in effect until canceled as provided in this part.

(6) Such license may ~~shall~~ not be assigned ~~assignable~~ and is ~~shall be~~ valid only for the retailer ~~wholesaler~~ of alternative fuel in whose name it is issued. It shall be displayed conspicuously by the retailer ~~wholesaler~~ of alternative fuel in the principal place of business for which it was issued.

(7) Every person as defined in this part, except those licensed under this chapter, including, but not limited to, a state agency, federal agency, municipality, county, or special district, which operates as a retailer ~~wholesaler~~ of alternative fuel must ~~and~~ report monthly to the department and~~, or~~ pay tax on all fuel purchases.

Section 18. Effective January 1, 2004, subsections (2) and (3) of section 212.0606, Florida Statutes, are amended to read:

212.0606 Rental car surcharge.—

(2)(a) Notwithstanding the provisions of section 212.20, and less costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. For the purposes of this subsection, "proceeds" of the surcharge means all funds collected and received by the department under this section, including interest and penalties on delinquent surcharges. The department shall provide the Department of Transportation rental car surcharge revenue information for the previous state fiscal year by September 1 of each year.

(b) Notwithstanding any other provision of law, in fiscal year 2007-2008 and each year thereafter, the proceeds deposited in the State Transportation Trust Fund shall be allocated on an annual basis in the Department of Transportation's work program to each department district, except the Turnpike District. The amount allocated for each district shall be based upon the amount of proceeds attributed to ~~collected in~~ the counties within each respective district.

(3)(a) Except as provided in this section, the department shall administer, collect, and enforce the surcharge as provided in this chapter.

(b) The department shall require dealers to report surcharge collections according to the county to which the surcharge was attributed. For purposes of this section, the surcharge shall be attributed to the county where the rental agreement was entered into.

(c) Dealers who collect the rental car surcharge shall report to the department all surcharge revenues attributed to the county where the rental

agreement was entered into on a timely filed return for each required reporting period. The provisions of this chapter which apply to interest and penalties on delinquent taxes shall apply to the surcharge. The surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 shall not apply to any amount collected under this section.

Section 19. Paragraph (a) of subsection (4) of section 212.08, Florida Statutes, is amended to read:

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

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

(a) Also exempt are:

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

2. All fuels used by a public or private utility, including any municipal corporation or rural electric cooperative association, in the generation of electric power or energy for sale. Fuel other than motor fuel and diesel fuel is taxable as provided in this chapter with the exception of fuel expressly exempt herein. Motor fuels and diesel fuels are taxable as provided in chapter 206, with the exception of those motor fuels and diesel fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce, which are taxable under this chapter only to the extent provided herein. The basis of the tax shall be the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels that were used in interstate or foreign commerce and that had at least some Florida mileage during the previous fiscal year of the carrier, such ratio to be determined at the close of the fiscal year of the carrier. However, during the fiscal year in which the carrier begins its initial operations in this state, the carrier's mileage apportionment factor may be determined on the basis of an estimated ratio of anticipated miles in this state to anticipated total miles for that year, and subsequently, additional tax shall be paid on the motor fuel and diesel fuels, or a refund may be applied for, on the basis of the actual ratio of the carrier's railroad locomotives' or vessels' miles in this state to its total miles for that year. This ratio shall be applied each month to the total Florida purchases made in this state of

motor and diesel fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this chapter. The basis for imposition of any discretionary surtax shall be set forth in s. 212.054. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

3. The transmission or wheeling of electricity.

Section 20. Subsections (1), (2), (9), (10), and (11) of section 212.12, Florida Statutes, are 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.~~

(a)~~(b)~~ The Department of Revenue may deny the collection allowance if a taxpayer files an incomplete return or if the required tax return or tax is delinquent at the time of payment.

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

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

(b)~~(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.

(2)(a) When any person~~, firm, or corporation~~ required hereunder to make any return or to pay any tax or fee imposed by this chapter either fails to timely file such return or fails to pay the tax or fee shown due on the return within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the tax or fee in the amount of 10 percent of either the tax or fee shown on the return that is not timely filed or any ~~unpaid~~ tax or fee not paid timely ~~if the failure is for not more than 30 days, with an additional 10 percent of any unpaid tax or fee for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax or fee. In no event may~~ The penalty may not be less than $50 ~~$10~~ for failure to timely file a tax return required by s. 212.11(1)~~(b)~~ or timely pay the tax or fee shown due on the return except as provided in s. 213.21(10). If a person fails to timely file a return required by s. 212.11(1) and to timely pay the tax or fee shown due on the return, only one penalty of 10 percent, which may not be less than $50, shall be imposed ~~$5 for failure to timely file a tax return authorized by s. 212.11(1)(c) or (d)~~.

(b) When any person required under this section to make a return or to pay a tax or fee imposed by this chapter fails to disclose the tax or fee on the return within the time required, excluding a noncompliant filing event generated by situations covered in paragraph (a), in addition to all other penalties provided in this section and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the additional tax or fee owed in the amount of 10 percent of any such unpaid tax or fee not paid

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

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

(d)~~(c)~~ Any person who makes a false or fraudulent return with a willful intent to evade payment of any tax or fee imposed under this chapter shall, in addition to the other penalties provided by law, be liable for a specific penalty of 100 percent of the tax bill or fee and, upon conviction, for fine and punishment as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

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

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

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

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, communication services, and upon the sale or use of services as herein taxed shall be collected upon the basis of an addition

of the tax imposed by this chapter to the total price of such admissions, license fees, rentals, communication or other services, or sale price of such article or articles that are purchased, sold, or leased at any one time by or to a customer or buyer; the dealer, or person charged herein, is required to pay a privilege tax in the amount of the tax imposed by this chapter on the total of his or her gross sales of tangible personal property, admissions, license fees, rentals, and communication services or to collect a tax upon the sale or use of services, and such person or dealer shall add the tax imposed by this chapter to the price, license fee, rental, or admissions, and communication or other services and collect the total sum from the purchaser, admittee, licensee, lessee, or consumer. The department shall make available in an electronic format or otherwise the tax amounts and ~~Notwithstanding the rate of taxes imposed upon the privilege of sales, admissions, license fees, rentals, and communication services, or upon the sale or use of services,~~ the following brackets ~~shall be~~ applicable to all transactions taxable at the rate of 6 percent:

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

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

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

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

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

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

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

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

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

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

(b) On single sales in amounts from 10 cents to 14 cents, both inclusive, 1 cent shall be added for taxes.

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

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

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

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

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

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

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

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

(11) The department shall make available in an electronic format or otherwise ~~is authorized to provide by rule~~ the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department shall make available in an electronic format or otherwise ~~is authorized to promulgate by rule~~ the tax amounts and brackets applicable to transactions taxable at 2.5 or 3 percent pursuant to s. 212.08(3), transactions taxable at 7 percent pursuant to s. 212.05(1)(e), and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.

Section 21. Effective upon this act becoming a law, paragraph (a) of subsection (7) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(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 3 ~~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.

Section 22. The amendment to section 213.21, Florida Statutes, made by this act shall take effect upon becoming a law and applies to any voluntary self-disclosure made to the Department of Revenue on or after that date.

Section 23. Paragraphs (c) and (d) of subsection (1) of section 336.021, Florida Statutes, are amended to read:

336.021 County transportation system; levy of ninth-cent fuel tax on motor fuel and diesel fuel.—

(1)

(c) Local option taxes collected on sales or use of diesel fuel in this state shall be distributed in the following manner:

1. The fiscal year of July 1, 1995, through June 30, 1996, shall be the base year for all distributions.

2. Each year the tax collected, less the service and administrative charges enumerated in s. 215.20 and the allowances allowed under s. 206.91, on the number of gallons reported, up to the total number of gallons reported in the base year, shall be distributed to each county using the distribution percentage calculated for the base year.

3. After the distribution of taxes pursuant to subparagraph 2., additional taxes available for distribution shall first be distributed pursuant to this subparagraph. A distribution shall be made to each county in which a qualified new retail station is located. A qualified new retail station is a retail station that began operation after June 30, 1996, and that has sales of diesel fuel exceeding 50 percent of the sales of diesel fuel reported in the county in which it is located during the 1995-1996 state fiscal year. The determination of whether a new retail station is qualified shall be based on the total gallons of diesel fuel sold at the station during each full month of operation during the 12-month period ending January 31 ~~March 31~~, divided by the number of full months of operation during those 12 months, and the result multiplied by 12. The amount distributed pursuant to this subparagraph to each county in which a qualified new retail station is located shall equal the local option taxes due on the gallons of diesel fuel sold by the new retail station during the year ending January 31 ~~March 31~~, less the service charges enumerated in s. 215.20 and the dealer allowance provided for by s. 206.91. Gallons of diesel fuel sold at the qualified new retail station shall be certified to the department by the county requesting the additional distribution by June 15, 1997, and by March 1 ~~May 1~~ in each subsequent year. The certification shall include the beginning inventory, fuel purchases and sales, and the ending inventory for the new retail station for each month of operation during the year, the original purchase invoices for the period, and any other information the department deems reasonable and necessary to establish the certified gallons. The department may review and audit the retail dealer's records provided to a county to establish the gallons sold by the new retail station. Notwithstanding the provisions of this subparagraph, when more than one county qualifies for a distribution pursuant to this subparagraph and the requested distributions exceed the total taxes available for distribution, each county shall receive a prorated share of the moneys available for distribution.

4. After the distribution of taxes pursuant to subparagraph 3., all additional taxes available for distribution shall be distributed based on vehicular

diesel fuel storage capacities in each county pursuant to this subparagraph. The total vehicular diesel fuel storage capacity shall be established for each fiscal year based on the registration of facilities with the Department of Environmental Protection as required by s. 376.303 for the following facility types: retail stations, fuel user/nonretail, state government, local government, and county government. Each county shall receive a share of the total taxes available for distribution pursuant to this subparagraph equal to a fraction, the numerator of which is the storage capacity located within the county for vehicular diesel fuel in the facility types listed in this subparagraph and the denominator of which is the total statewide storage capacity for vehicular diesel fuel in those facility types. The vehicular diesel fuel storage capacity for each county and facility type shall be that established by the Department of Environmental Protection by June 1, 1997, for the 1996-1997 fiscal year, and by January 31 for each succeeding fiscal year. The storage capacities so established shall be final. The storage capacity for any new retail station for which a county receives a distribution pursuant to subparagraph 3. shall not be included in the calculations pursuant to this subparagraph.

(d) The tax received by the department on motor fuel pursuant to this paragraph shall be distributed monthly by the department to the county reported by the terminal suppliers, wholesalers, and importers as the destination of the gallons distributed for retail sale or use. The tax on diesel fuel shall be distributed monthly by the department to each county as provided in paragraph (c).

Section 24. Paragraph (b) of subsection (1) and subsection (7) of section 336.025, Florida Statutes, are amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. All impositions and rate changes of the tax shall be levied before July 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be

distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall use ~~utilize~~ moneys received pursuant to this paragraph ~~only~~ for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

(7) For the purposes of this section, "transportation expenditures" means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

(a) Public transportation operations and maintenance.

(b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.

(c) Roadway and right-of-way drainage.

(d) Street lighting.

(e) Traffic signs, traffic engineering, signalization, and pavement markings.

(f) Bridge maintenance and operation.

(g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

Section 25. Effective January 1, 2004, subsection (20) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(20) EMPLOYING UNIT.—"Employing unit" means any individual or type of organization, including any partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign; the receiver, trustee in bankruptcy, trustee, or successor of any of the foregoing; or the legal representative of a deceased person, which has or had in its employ one or more individuals performing services for it within this state.

(a) Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for all the purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or employee, provided the employing unit had actual or constructive knowledge of the work.

(b) All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be performing services for a single employing unit for all the purposes of this chapter.

(c) Any person who is an officer of a corporation or a member of a limited liability company classified as a corporation for federal income tax purposes and who performs services for such corporation or limited liability company within this state, whether or not such services are continuous, shall be deemed an employee of the corporation or the limited liability company during all of each week of his or her tenure of office, regardless of whether or not he or she is compensated for such services. Services shall be presumed to have been rendered the corporation in cases where such officer is compensated by means other than dividends upon shares of stock of such corporation owned by him or her.

(d) A limited liability company shall be treated as having the same status as it is classified for federal income tax purposes.

Section 26. Effective January 1, 2004, paragraph (g) of subsection (3) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—

(3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(g)1. For the purposes of this subsection, two or more employers who are parties to a transfer of business or the subject of a merger, consolidation, or other form of reorganization, effecting a change in legal identity or form, shall be deemed to be a single employer and shall be considered as one employer with a continuous employment record if the Agency for Workforce Innovation or its designee ~~division~~ finds that the successor employer continues to carry on the employing enterprises of the predecessor employer or employers and that the successor employer has paid all contributions required of and due from the predecessor employer or employers and has assumed liability for all contributions that may become due from the predecessor employer or employers. In addition, an employer may not be considered a successor under this subparagraph if the employer purchases a com-

pany with a lower rate into which employees with job functions unrelated to the business endeavors of the predecessor are transferred for the purpose of acquiring the low rate and avoiding payment of contributions. As used in this paragraph, the term "contributions" means all indebtedness to the Agency for Workforce Innovation or its designee ~~division~~, including, but not limited to, interest, penalty, collection fee, and service fee. A successor has 30 days from the date of the official notification of liability by succession to accept the transfer of the predecessor's or predecessors' employment record or records. If the predecessor or predecessors have unpaid contributions or outstanding quarterly reports, the successor has 30 days from the date of the notice listing the total amount due to pay the total amount with certified funds. After the total indebtedness has been paid, the employment record or records of the predecessor or predecessors will be transferred to the successor. ~~Employment records may be transferred by the division.~~ The tax rate of total successor and predecessor upon the transfer of employment records shall be determined by the Agency for Workforce Innovation or its designee ~~division~~ as prescribed by rule in order to calculate any tax rate change resulting from the transfer of employment records.

2. Whether or not there is a transfer of employment record as contemplated in this paragraph, the predecessor shall in the event he or she again employs persons be treated as an employer without previous employment record or, if his or her coverage has been terminated as provided in s. 443.121, as a new employing unit.

3. The division may provide by rule for partial transfer of experience rating when an employer has transferred at any time an identifiable and segregable portion of his or her payrolls and business to a successor employing unit. As a condition of such partial transfer of experience, the rules shall require an application by the successor, agreement by the predecessor, and such evidence as the division may prescribe of the experience and payrolls attributable to the transferred portion up to the date of transfer. The rules shall provide that the successor employing unit, if not already an employer, shall become an employer as of the date of the transfer and that the experience of the transferred portion of the predecessor's account shall be removed from the experience-rating record of the predecessor, and for each calendar year following the date of the transfer of the employment record on the books of the division, the division shall compute the rate of contribution payable by the successor on the basis of his or her experience, if any, combined with the experience of the portion of the record transferred. The rules may also provide what rates shall be payable by the predecessor and successor employers for the period between the date of the transfer of the employment record of the transferred unit on the books of the division and the first day of the next calendar year.

4. This paragraph shall not apply to the employee leasing company and client contractual agreement as defined in s. 443.036. The client shall, in the event of termination of the contractual agreement or failure by the employee leasing company to submit reports or pay contributions as required by the division, be treated as a new employer without previous employment record unless otherwise eligible for a rate computation.

Section 27. Section 443.1316, Florida Statutes, is amended to read:

443.1316 Contract with Department of Revenue for unemployment tax collection services.—

(1) ~~By January 1, 2001,~~ The Agency for Workforce Innovation shall enter into a contract with the Department of Revenue which shall provide for the Department of Revenue to provide unemployment tax collection services. ~~The Department of Revenue, in consultation with the Department of Labor and Employment Security, shall determine the number of positions needed to provide unemployment tax collection services within the Department of Revenue. The number of unemployment tax collection service positions the Department of Revenue determines are needed shall not exceed the number of positions that, prior to the contract, were authorized to the Department of Labor and Employment Security for this purpose. Upon entering into the contract with the Agency for Workforce Innovation to provide unemployment tax collection services, the number of required positions, as determined by the Department of Revenue, shall be authorized within the Department of Revenue. Beginning January 1, 2002, the Office of Program Policy Analysis and Government Accountability shall conduct a feasibility study regarding privatization of unemployment tax collection services. A report on the conclusions of this study shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.~~

(2)(a) The Department of Revenue is considered to be administering a revenue law of this state when the department provides unemployment compensation tax collection services pursuant to a contract of the department with the Agency for Workforce Innovation.

(b) Sections 213.018, 213.025, 213.051, 213.053, 213.055, 213.071, 213.10, 213.2201, 213.23, 213.24(2), 213.27, 213.28, 213.285, 213.37, 213.50, 213.67, 213.69, 213.73, 213.733, 213.74, and 213.757 apply to the collection of unemployment contributions by the Department of Revenue unless prohibited by federal law.

(c) Notwithstanding s. 216.346, the Department of Revenue may charge no more than 10 percent of the total cost of the interagency agreement for the overhead or indirect costs, or for any other costs not required for the payment of the direct costs, of providing unemployment tax collection services.

Section 28. Subsections (1) and (2) of section 443.163, Florida Statutes, are amended to read:

443.163 Electronic reporting and remitting of taxes.—

(1) An employer may choose to file any report and remit any taxes required by this chapter by electronic means. The Agency for Workforce Innovation or its designee shall prescribe by rule the format and instructions necessary for such filing of reports and remitting of taxes to ensure a full collection of contributions due. The acceptable method of transfer, the method, form, and content of the electronic means, and the method, if any,

by which the employer will be provided with an acknowledgment shall be prescribed by the agency or its designee. However, any employer who employed 10 or more employees in any quarter during the preceding state fiscal year~~, or any person that prepared and reported for 5 or more employers in the preceding state fiscal year,~~ must submit the Employers Quarterly Reports (UCT-6) for the current calendar year and remit the taxes due by electronic means approved by the agency or its designee. A person who prepared and reported for 100 or more employers in any quarter during the preceding state fiscal year must file the Employers Quarterly Reports (UCT-6) for each calendar quarter in the current calendar year, beginning with reports due for the second calendar quarter of 2003, by electronic means approved by the Agency for Workforce Innovation or its designee.

(2) Any employer or person who fails to file an Employers Quarterly Report (UCT-6) by electronic means, but who files the report by means other than electronic means, ~~required by law~~ is liable for a penalty of ~~10 percent of the tax due, but not less than~~ $10 for that ~~each~~ report, which is in addition to any other penalty provided by this chapter which may be applicable, unless the employer or person has first obtained a waiver for such requirement from the agency or its designee. Any employer ~~or person~~ who fails to remit tax by electronic means as required by law is liable for a penalty of $10 for each remittance submitted, which is in addition to any other penalty provided by this chapter which may be applicable.

Section 29. The amendments made by this act to section 443.163, Florida Statutes, shall apply retroactively for Employers Quarterly Reports (UCT-6) due on or after April 1, 2003.

Section 30. Section 832.062, Florida Statutes, is amended to read:

832.062 Prosecution for worthless checks, drafts, ~~or~~ debit card orders, or electronic funds transfers made ~~given~~ to pay any tax or associated amount administered by the Department of Revenue.—

(1) It is unlawful for any person, firm, or corporation to draw, make, utter, issue, or deliver to the Department of Revenue any check, draft, or other written order on any bank or depository, ~~or~~ to use a debit card, to make, send, instruct, order, or initiate any electronic funds transfer, or to cause or direct the making, sending, instructing, ordering, or initiating of any electronic funds transfer, for the payment of any taxes, penalties, interest, fees, or associated amounts administered by the Department of Revenue, knowing at the time of the drawing, making, uttering, issuing, or delivering such check, draft, or other written order, ~~or~~ at the time of using such debit card, at the time of making, sending, instructing, ordering, or initiating any electronic funds transfer, or at the time of causing or directing the making, sending, instructing, ordering, initiating, or executing of any electronic funds transfer, that the maker, ~~or~~ drawer, sender, or receiver thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same on presentation.~~; except that~~ This section does not apply to any check or electronic funds transfer when the Department of Revenue knows or has been expressly notified prior to the drawing or uttering of the check or the sending or initiating of the electronic

funds transfer, or has reason to believe, that the drawer, sender, or receiver did not have on deposit or to the drawer's, sender's, or receiver's credit with the drawee or receiving bank or depository sufficient funds to ensure payment as aforesaid, and ~~nor does~~ this section does not apply to any postdated check.

(2) A violation of ~~the provisions of~~ this section constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless the check, draft, debit card order, or other written order drawn, made, uttered, issued, or delivered, or electronic funds transfer made, sent, instructed, ordered, or initiated, or caused or directed to be made, sent, instructed, ordered, or initiated is in the amount of $150 or more. In that event, the violation constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For purposes of prosecution, a violation under this section occurs in the county in which the check is issued or the electronic funds transfer is sent and in the county in which it is received. A check will be deemed issued at the residence address of an individual taxpayer and at the business address of a business taxpayer.

Section 31. Subsection (2) of section 206.052, Florida Statutes, is amended to read:

206.052 Export of tax-free fuels.—

(2) A licensed exporter shall not divert for sale or use in this state any fuel designated to a destination outside this state without first obtaining a diversion number from the department as specified in s. 206.416(1)(b) ~~s. 206.416(1)(d)~~ and manually recording that number on the shipping paper prior to diversion of fuel for sale or use in this state.

Section 32. Subsection (13) of section 199.052, Florida Statutes, is repealed.

Section 33. Paragraph (f) of subsection (2) of section 212.055, Florida Statutes, is repealed.

Section 34. Effective January 1, 2004, paragraph (x) is added to subsection (7) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(x) Rental car surcharge revenues authorized by s. 212.0606, reported according to the county to which the surcharge was attributed to the Department of Transportation.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same require-

ments of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 35. 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.-8. ~~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.

8. A municipal resort tax as authorized under chapter 67-930, Laws of Florida.

(b) Level-two participants include the Department of Revenue and local officials responsible for collecting the tourist development tax pursuant to s. 125.0104, the tourist impact tax pursuant to s. 125.0108, or a convention development tax pursuant to s. 212.0305, or a municipal resort tax as authorized under chapter 67-930, Laws of Florida. Level-two participants shall, in addition to the data shared by level-one participants, exchange data relating to tax payment history, audit assessments, and registration cancellations of dealers engaging in transient rentals, and such data may relate only to sales and use taxes, tourist development taxes, ~~and~~ convention development taxes, and municipal resort tax. The department shall prescribe, by rule, the data elements to be shared and the frequency of sharing; however, audit assessments must be shared at least quarterly.

(c) A level-two participant may disclose information as provided in paragraph (b) in response to a request for such information from any other level-two participant. Information relative to specific taxpayers shall be requested or disclosed under this paragraph only to the extent necessary in the administration of a tax or licensing provision as enumerated in paragraph (a).

When a disclosure made under this paragraph involves confidential information provided to the participant by the Department of Revenue, the participant who provides the information shall maintain records of the disclosures, which records shall be subject to review by the Department of Revenue for a period of 5 years after the date of the disclosure.

Section 36. Subsection (5) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(5) There shall be allowed a credit against the net tax imposed by this section equal to 15 percent of the amount paid by the insurer in salaries to employees located or based within this state and who are covered by the provisions of chapter 443. For purposes of this subsection:

(a) The term "salaries" does not include amounts paid as commissions.

(b) The term "employees" does not include independent contractors or any person whose duties require that the person hold a valid license under the Florida Insurance Code, except persons defined in s. 626.015(1), (16), and (18).

(c) The term "net tax" means the tax imposed by this section after applying the calculations and credits set forth in subsection (4).

(d) An affiliated group of corporations that created a service company within its affiliated group on July 30, 2002 shall allocate the salary of each service company employee covered by contracts with affiliated group members to the companies for which the employees perform services. The salary allocation is based on the amount of time during the tax year that the individual employee spends performing services or otherwise working for each company over the total amount of time the employee spends performing services or otherwise working for all companies. The total amount of salary allocated to an insurance company within the affiliated group shall be included as that insurer's employee salaries for purposes of this section.

1. The term "affiliated group of corporations" means two or more corporations that are entirely owned by a single corporation and that constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

2. The term "service company" means a separate corporation within the affiliated group of corporations whose employees provide services to affiliated group members and which are treated as service company employees for unemployment compensation and common law purposes. The holding company of an affiliated group may not qualify as a service company. An insurance company may not qualify as a service company.

3. If an insurance company fails to substantiate, whether by means of adequate records or otherwise, its eligibility to claim the service company exception under this section, or its salary allocation under this section, no credit shall be allowed.

Section 37. The amendment to section 624.509(5), Florida Statutes, made by this act shall take effect for tax years beginning January 1, 2003.

Section 38. Paragraph (n) of subsection (7) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(n) Information contained in returns, reports, accounts, or declarations to the Board of Accountancy in connection with a disciplinary proceeding conducted pursuant to chapter 473 when related to a certified public accountant participating in the certified audits project, or to the court in connection with a civil proceeding brought by the department relating to a claim for recovery of taxes due to negligence on the part of a certified public accountant participating in the certified audits project. In any judicial proceeding brought by the department, upon motion for protective order, the court shall limit disclosure of tax information when necessary to effectuate the purposes of this section. ~~This paragraph is repealed on July 1, 2006.~~

Section 39. Subsection (8) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(8) In order to determine whether certified audits are an effective tool in the overall state tax collection effort, the executive director of the department or the executive director's designee shall settle or compromise penalty liabilities of taxpayers who participate in the certified audits project. As further incentive for participating in the program, the department shall abate the first $25,000 of any interest liability and 25 percent of any interest due in excess of the first $25,000. A settlement or compromise of penalties or interest pursuant to this subsection shall not be subject to the provisions of paragraph (3)(a), except for the requirement relating to confidentiality of records. The department may consider an additional compromise of tax or interest pursuant to the provisions of paragraph (3)(a). This subsection does not apply to any liability related to taxes collected but not remitted to the department. ~~This subsection is repealed on July 1, 2006.~~

Section 40. Subsection (2) of section 213.285, Florida Statutes, is amended to read:

213.285 Certified audits.—

(2)(a) The department is authorized to initiate a certified audits project to further enhance tax compliance reviews performed by qualified practitioners and to encourage taxpayers to hire qualified practitioners at their own expense to review and report on their tax compliance. The nature of certified audit work performed by qualified practitioners shall be agreed-upon procedures in which the department is the specified user of the resulting report.

(b) As an incentive for taxpayers to incur the costs of a certified audit, the department shall compromise penalties and abate interest due on any tax liabilities revealed by a certified audit as provided in s. 213.21. This authority to compromise penalties or abate interest shall not apply to any liability for taxes that were collected by the participating taxpayer but that were not remitted to the department.

~~(c) The certified audits project is repealed on July 1, 2006, or upon completion of the project as determined by the department, whichever occurs first.~~

Section 41. Paragraph (o) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(o) Building materials in redevelopment projects.—

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of a housing project or a mixed-use project.

b. "Housing project" means the conversion of an existing manufacturing or industrial building to housing units in an urban high-crime area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area and in which the developer agrees to set aside at least 20 percent of the housing units in the project for low-income and moderate-income persons <u>or the construction in a designated brownfield area of affordable housing for persons described in s. 420.0004(9), (10), or (14), or in s. 159.603(7)</u>.

c. "Mixed-use project" means the conversion of an existing manufacturing or industrial building to mixed-use units that include artists' studios, art and entertainment services, or other compatible uses. A mixed-use project must be located in an urban high-crime area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area, and the developer must agree to set aside at least 20 percent of the square footage of the project for low-income and moderate-income housing.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

2. Building materials used in the construction of a housing project or mixed-use project are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the requirements of this paragraph have been met. This exemption inures to the owner

through a refund of previously paid taxes. To receive this refund, the owner must file an application under oath with the department which includes:

a. The name and address of the owner.

b. The address and assessment roll parcel number of the project for which a refund is sought.

c. A copy of the building permit issued for the project.

d. A certification by the local building code inspector that the project is substantially completed.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the owner contracted to construct the project, which statement lists the building materials used in the construction of the project and the actual cost thereof, and the amount of sales tax paid on these materials. If a general contractor was not used, the owner shall provide this information in a sworn statement, under penalty of perjury. Copies of invoices evidencing payment of sales tax must be attached to the sworn statement.

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the project is deemed to be substantially completed by the local building code inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. The provisions of s. 212.095 do not apply to any refund application made under this paragraph.

4. The department shall establish by rule an application form and criteria for establishing eligibility for exemption under this paragraph.

5. The exemption shall apply to purchases of materials on or after July 1, 2000.

Section 42. Subsection (1) of section 212.055, Florida Statutes, 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 January 1, 1984, 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 applied to as many or as few of the uses enumerated below in whatever combination the county commission deems appropriate:

1. Deposited by the county in the trust fund and shall be used 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, 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; ~~and~~

3. For each county, as defined in s. 125.011(1), used for the development, construction, operation, and maintenance of roads and bridges in the county; for the expansion, operation, and maintenance of bus and fixed guideway systems; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus 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, bus systems, roads, or bridges and no more than 25 percent used for nontransit uses; and~~.~~

4. Used by the charter county for the planning, development, construction, operation, and maintenance of roads and bridges in the county; for the planning, development, expansion, operation, and maintenance of bus and fixed guideway systems; and for the payment of principal and interest on bonds issued for the construction of fixed guideway rapid transit systems, bus 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, bus systems, roads, or bridges. Pursuant to an interlocal agreement entered into pursuant to chapter 163, the governing body of the char-

ter county may distribute proceeds from the tax to a municipality, or an expressway or transportation authority created by law to be expended for the purpose authorized by this paragraph.

Section 43. Paragraphs (a) and (e) of subsection (3) of section 193.461, Florida Statutes, are amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.—

(3)(a) No lands shall be classified as agricultural lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying such lands, may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 may file an application for the classification and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s. 194.011(1). Notwithstanding the provisions of s. 194.013, the applicant must pay a nonrefundable fee of $15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the classification, the property appraiser or the value adjustment board may grant the classification. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from ~~the property appraiser,~~ the value adjustment board~~,~~ or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or the land is reclassified as nonagricultural pursuant to subsection (4). The property appraiser must, no later than January 31 ~~15~~ of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither

the ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. ~~However,~~ This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

Section 44. (1) For purposes of granting an agricultural classification for January 1, 2003, the term "extenuating circumstances," as used in section 193.461(3)(a), Florida Statutes, includes the failure of a property owner in a county that waived the annual application process to return the agricultural classification form or card, which return was required by operation of section 193.461(3)(e), Florida Statutes, as created by chapter 2002-18, Laws of Florida.

(2) Any waiver of the annual application granted under section 193.461(3)(a), Florida Statutes, which is in effect on December 31, 2002, shall remain in full force and effect until subsequently revoked as provided by section 193.461(3)(a), Florida Statutes.

Section 45. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2003.

Approved by the Governor June 25, 2003.

Filed in Office Secretary of State June 25, 2003.