



Journal of the Senate

Number 5—Special Session B

Wednesday, September 30, 1987

CALL TO ORDER

The Senate was called to order by the President at 9:26 a.m. A quorum present—38:

Mr. President	Girardeau	Kiser	Ros-Lehtinen
Barron	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Excused: Senator Plummer at 3:00 p.m.

PRAYER

The following prayer was offered by Senator Peterson:

Our gracious Heavenly Father, we thank you for this day which you have given us as an opportunity to serve the people of Florida. We ask that your blessings be on all that we do here; that you will give us patience, wisdom, and the knowledge to do what is best for the people of Florida. We ask you to forgive us if we fail on the way. Strengthen us in the knowledge that the most important task you have given us on this earth is to serve each other. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Wednesday, September 30, 1987: SB 24-B, SB 25-B, SB 27-B, CS for CS for SB 5-B, CS for SB 26-B

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Governmental Operations recommends the following pass: SB 25-B, SB 26-B with 3 amendments

The bills were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 5-B

The bill with committee substitute attached was referred to the Committee on Appropriations under the original reference.

The Committee on Appropriations recommends the following pass: SB 24-B, SB 25-B

The Committee on Transportation recommends the following pass: SB 27-B

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Appropriations recommends a committee substitute for the following: SB 26-B

The bill with committee substitute attached was referred to the Committee on Rules and Calendar under the original reference.

The Committee on Appropriations recommends a committee substitute for the following: CS for SB 5-B

The bill with committee substitute attached was placed on the calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Finance, Taxation and Claims—

CS for SB 5-B—A bill to be entitled An act relating to taxation; amending ss. 212.02, 212.03, 212.031, 212.04, 212.05, 212.054, 212.055, 212.0598, 212.06, 212.07, 212.08, 212.095, 212.11, 212.12, 212.13, 212.14, 212.17, 212.18, 212.21, 212.61, F.S.; repealing ss. 212.059, 212.0591, 212.0592, 212.0593, 212.0594, 212.0595, F.S.; amending s. 32, ch. 87-86, Laws of Florida, as amended; repealing ss. 31, 37, 47, ch. 87-6, Laws of Florida, as amended; repealing the sales tax on services and conforming various statutes to that repeal; providing exemptions from the tax on sales, use, and other transactions; increasing the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; providing for retention of records relating to the sales tax on services for a certain period; amending s. 240.533, F.S.; requiring an amount equal to lost sales tax revenue to be used by certain education institutions for women's athletics; amending s. 288.385, F.S.; providing tax exemptions for certain currency and barter exchanges; amending ss. 201.02, 201.15, 215.32, F.S.; repealing the increase in the documentary stamp tax and providing for redistribution of tax proceeds; repealing ss. 206.87(1)(b), 206.875(3), F.S.; repealing the increase in diesel fuel taxes; amending s. 207.026, F.S.; providing for redistribution of taxes; amending s. 212.235, F.S.; revising certain limitations on the State Infrastructure Fund funding; providing for certain allocations from the fund for certain purposes; providing for application of the additional sales or use tax to certain utility services; providing transition rules for the repeal of the services tax; providing for refund of additional taxes paid by certain contractors; providing penalties; saving certain actions from abatement; amending s. 218.61, F.S.; revising the local government half-cent sales tax distribution formula; creating in the Advisory Committee on Intergovernmental Relations commissions to study issues of budget reform; providing for membership, meetings, and duties of the commissions; requiring reports; providing for travel and per diem expenses; providing an appropriation; creating in the Executive Office of the Governor a State Tax Study Committee to study state and local government taxing structures and funding sources; providing for membership, meetings, duties, and staff of the committee; requiring reports; providing for per diem and travel expenses; providing an appropriation; providing an effective date.

By the Committees on Appropriations; and Finance, Taxation and Claims—

CS for CS for SB 5-B—A bill to be entitled An act relating to taxation; amending ss. 212.02, 212.03, 212.031, 212.04, 212.05, 212.054, 212.055, 212.0598, 212.06, 212.07, 212.08, 212.095, 212.11, 212.12, 212.13, 212.14, 212.17, 212.18, 212.21, 212.61, F.S.; repealing ss. 212.059, 212.0591, 212.0592, 212.0593, 212.0594, 212.0595, F.S.; amending s. 32, ch. 87-86, Laws of Florida, as amended; repealing ss. 31, 37, 47, ch. 87-6, Laws of Florida, as amended; repealing the sales tax on services and conforming various statutes to that repeal; providing exemptions from the tax on sales, use, and other transactions; increasing the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; providing for retention of records relating to the sales tax on services for a certain period; amending s. 240.533, F.S.; requiring an amount equal to lost sales tax revenue to be used by certain education institutions for women's athletics; amending s. 288.385, F.S.; providing tax exemptions for certain currency and barter exchanges; amending ss. 201.02, 201.15, 215.32, F.S.; repealing the increase in the documentary stamp tax and providing for redistribution of tax proceeds; repealing ss. 206.87(1)(b), 206.875(3), F.S.; repealing the increase in diesel fuel taxes; amending s. 207.026, F.S.; providing for redistribution of taxes; amending s. 212.235, F.S.; revising certain limitations on the State Infrastructure Fund funding; providing for certain allocations from the fund for certain

purposes; providing for application of the additional sales or use tax to certain utility services; providing transition rules for the repeal of the services tax; providing for refund of additional taxes paid by certain contractors; providing penalties; saving certain actions from abatement; amending s. 218.61, F.S.; revising the local government half-cent sales tax distribution formula; creating in the Advisory Committee on Intergovernmental Relations commissions to study issues of budget reform; providing for membership, meetings, and duties of the commissions; requiring reports; providing for travel and per diem expenses; providing an appropriation; creating in the Executive Office of the Governor a State Tax Study Committee to study state and local government taxing structures and funding sources; providing for membership, meetings, duties, and staff of the committee; requiring reports; providing for per diem and travel expenses; providing an appropriation; providing an effective date.

By the Committee on Appropriations and Senators Jennings, Scott, Dudley, Beard, Kiser, Woodson, Langley, Deratany, Johnson, Grizzle, Myers, Lehtinen, Ros-Lehtinen, Grant and Crenshaw (by request)—

CS for SB 26-B—A bill to be entitled An act relating to the state budgetary process; amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term "proviso"; providing for Governor's supplemental recommendations; providing for data on legislative expenses; providing for Governor's recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), (12), F.S., as amended, relating to information required in legislative budget requests; providing an effective date.

Motion

On motion by Senator Barron, by two-thirds vote SB 26-B was withdrawn from the Committee on Rules and Calendar.

SPECIAL ORDER

SB 24-B—A bill to be entitled An act relating to the state retirement system; amending s. 121.101, F.S.; revising the formula for cost-of-living adjustments to monthly benefits; deleting obsolete language pertaining to certain supplementary cost-of-living adjustments; providing for retroactivity; providing an effective date.

—was read the second time by title. On motion by Senator Hollingsworth, by two-thirds vote SB 24-B was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Kiser	Scott
Barron	Gordon	Langley	Stuart
Beard	Grant	Malchon	Thomas
Brown	Grizzle	Margolis	Thurman
Childers, D.	Hill	McPherson	Weinstein
Childers, W. D.	Hollingsworth	Meek	Weinstock
Crawford	Jenne	Myers	Woodson
Deratany	Jennings	Peterson	
Dudley	Johnson	Plummer	
Frank	Kirkpatrick	Ros-Lehtinen	

Nays—1

Lehtinen

Vote after roll call:

Yea—Crenshaw, Hair

SB 25-B—A bill to be entitled An act relating to family foster homes; amending s. 409.175, F.S.; requiring the Division of Risk Management of the Department of Insurance to provide liability insurance to certain individuals who own or operate family foster homes; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendment which was adopted:

Amendment 1—On page 1, line 24, before the period insert: *and the coverage shall be primary*

On motion by Senator Myers, by two-thirds vote SB 25-B as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Girardeau	Kiser	Ros-Lehtinen
Barron	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	
Frank	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Crenshaw, Hair

SB 27-B—A bill to be entitled An act relating to traffic control; amending s. 316.302, F.S.; providing exceptions to the amount of time certain drivers of agricultural vehicles may be on duty; providing that the amendments to s. 316.302, F.S., shall be null and void under certain circumstances; providing for the effect of such a contingency; providing an effective date.

—was read the second time by title. On motion by Senator Crawford, by two-thirds vote SB 27-B was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Girardeau	Langley	Scott
Barron	Grant	Lehtinen	Stuart
Beard	Grizzle	Malchon	Thomas
Brown	Hill	Margolis	Thurman
Childers, D.	Hollingsworth	McPherson	Weinstein
Childers, W. D.	Jenne	Meek	Weinstock
Crawford	Jennings	Myers	Woodson
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	
Frank	Kiser	Ros-Lehtinen	

Nays—1

Gordon

Vote after roll call:

Yea—Crenshaw, Hair

Consideration of CS for CS for SB 5-B was deferred.

On motion by Senator Scott, by two-thirds vote—

CS for SB 26-B—A bill to be entitled An act relating to the state budgetary process; amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term "proviso"; providing for Governor's supplemental recommendations; providing for data on legislative expenses; providing for Governor's recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), (12), F.S., as amended, relating to information required in legislative budget requests; providing an effective date.

—was read the second time by title.

Further consideration of CS for SB 26-B was deferred.

RECESS

On motion by Senator Barron, the Senate recessed at 9:58 a.m. to reconvene at 10:15 a.m.

CALL TO ORDER

The Senate was called to order by the President at 10:21 a.m. A quorum present.

The Senate resumed consideration of—

CS for SB 26-B—A bill to be entitled An act relating to the state budgetary process; amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term “proviso”; providing for Governor’s supplemental recommendations; providing for data on legislative expenses; providing for Governor’s recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), (12), F.S., as amended, relating to information required in legislative budget requests; providing an effective date.

Senator Stuart moved the following amendment which was adopted:

Amendment 1—On page 2, strike lines 1-3, and insert:

Section 2. Subsection (7) of section 216.031, Florida Statutes, as amended by section 5 of chapter 87-137, Laws of Florida, is hereby repealed.

On motion by Senator Scott, by two-thirds vote CS for SB 26-B as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—40

Mr. President	Frank	Johnson	Peterson
Barron	Girardeau	Kirkpatrick	Plummer
Beard	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crawford	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson

Nays—None

On motion by Senator Deratany, by two-thirds vote—

CS for CS for SB 5-B—A bill to be entitled An act relating to taxation; amending ss. 212.02, 212.03, 212.031, 212.04, 212.05, 212.054, 212.055, 212.0598, 212.06, 212.07, 212.08, 212.095, 212.11, 212.12, 212.13, 212.14, 212.17, 212.18, 212.21, 212.61, F.S.; repealing ss. 212.059, 212.0591, 212.0592, 212.0593, 212.0594, 212.0595, F.S.; amending s. 32, ch. 87-86, Laws of Florida, as amended; repealing ss. 31, 37, 47, ch. 87-6, Laws of Florida, as amended; repealing the sales tax on services and conforming various statutes to that repeal; providing exemptions from the tax on sales, use, and other transactions; increasing the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; providing for retention of records relating to the sales tax on services for a certain period; amending s. 240.533, F.S.; requiring an amount equal to lost sales tax revenue to be used by certain education institutions for women’s athletics; amending s. 288.385, F.S.; providing tax exemptions for certain currency and barter exchanges; amending ss. 201.02, 201.15, 215.32, F.S.; repealing the increase in the documentary stamp tax and providing for redistribution of tax proceeds; repealing ss. 206.87(1)(b), 206.875(3), F.S.; repealing the increase in diesel fuel taxes; amending s. 207.026, F.S.; providing for redistribution of taxes; amending s. 212.235, F.S.; revising certain limitations on the State Infrastructure Fund funding; providing for certain allocations from the fund for certain purposes; providing for application of the additional sales or use tax to certain utility services; providing transition rules for the repeal of the services tax; providing for refund of additional taxes paid by certain contractors; providing penalties; saving certain actions from abatement; amending s. 218.61, F.S.; revising the local government half-cent sales tax distribution formula; creating in the Advisory Committee on Intergovernmental Relations commissions to study issues of budget reform; providing for membership, meetings, and duties of the commissions; requiring reports; providing for travel and per diem expenses; providing an appropriation; creating in the Executive Office of the Governor a State Tax Study Committee to study state and local government taxing structures and funding sources; providing for membership, meetings, duties, and staff of the committee; requiring reports; providing for per diem and travel expenses; providing an appropriation; providing an effective date.

—was read the second time by title.

Senators Peterson, Brown, Beard, Weinstock, Malchon, Grizzle, Kirkpatrick, Meek and Hill offered the following amendment which was moved by Senator Peterson and failed:

Amendment 1—On page 2, line 30, strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (19) and subsection (21) of section 212.02, Florida Statutes, as amended by section 7 of chapter 87-6, section 12 of chapter 87-87, section 9 of chapter 87-101, and section 6 of chapter 87-402, Laws of Florida, are amended to read:

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

(19)(a) “Retail sale” or a “sale at retail” means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. “Retail sale” does not include fee-sharing for services described in s. 475.01(1)(c) ~~s. 475.011~~ by persons licensed under chapter 475. A sale of a service shall be considered a sale for resale only if:

1. The ~~purchaser of the service provides a direct and identifiable benefit to a single does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer of the purchaser;~~

2. The purchaser of the service buys the service pursuant to a written contract with the seller or other written documentation ~~which and such contract identifies the client or customer for whom the purchaser is buying the service;~~

3. The purchaser of the service separately states the value of the service purchased ~~for resale at the purchase price~~ in his charge for the service on its subsequent sale; ~~and~~

~~4. The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0592(1); and~~

4.5. The service is purchased pursuant to a service resale permit by a dealer who is primarily engaged in the business of selling services. *However, the department may authorize the issuance of a service resale permit to a dealer who is not primarily engaged in the sale of services, if such dealer is otherwise regularly engaged in brokering services for clients or customers.* The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

(21) “Sales price” means the total amount paid for tangible personal property or services, including any services that are a part of the sale and any tangible personal property that is part of the service, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. “Sales price” also includes the consideration for a transaction which requires labor or material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. *For purposes of transactions taxable pursuant to s. 212.059, “sales price” does not include travel and entertainment expenses, or taxes or other governmental fees, including postage charges, advanced on behalf of a client, if such expenses or charges are directly reimbursed at cost by the client.*

Section 2. Subsection (3) of section 212.055, Florida Statutes, as amended by section 8 of chapter 87-99, section 1 of chapter 87-100, and section 2 of chapter 87-239, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum

length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of up to 20 percent of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305. Such governing authority may levy such surtax in an amount equal to 5, 10, 15 or 20 percent of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority, ~~and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.~~

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

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

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal county population; or

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

(c)(d) The provisions of s. 212.054(2)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.

(d)(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(e)(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.

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

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

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

(h)(i) No ordinance referendum proposing the levying of such surtax shall be enacted held after November 30, 1992.

Section 3. Paragraph (c) is added to subsection (3) of section 212.059, Florida Statutes, as created by section 1 of chapter 87-6, Laws of Florida, and amended by section 1 of chapter 87-72 and section 1 of chapter 87-101, Laws of Florida, to read:

212.059 Sales and use tax on services.—It is hereby declared to be the legislative intent to levy an excise tax on the sale of services in this state as hereinafter provided. It is further declared to be the legislative intent to levy a complementary excise tax on the use of services in this state as hereinafter provided.

(3)

(c) If a person is providing services as a sales representative or broker, the purchaser of such services shall obtain an exempt purchase permit pursuant to s. 212.0593 and shall self-accrue any taxes which may be due on such services and remit them to the department as provided in this part. For purposes of this paragraph, a "sales representative or broker" is any person who sells tangible personal property or services on behalf of another person.

Section 4. Section 212.0593, Florida Statutes, as created by section 4 of chapter 87-6, Laws of Florida, and amended by section 4 of chapter 87-101, Laws of Florida, is amended to read:

212.0593 Administration of s. 212.0592(1).—

(1) Each multistate business having tax nexus in this state under this part shall obtain from the department an exempt purchase permit prior to claiming an exemption under s. 212.0592(1). Such permit shall be used when purchasing any service sold in this state except advertising, regardless of whether the service is used in this state. Upon purchasing a service from a dealer registered under this part, presentation by said multistate business of a valid exempt purchase permit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. The purchaser shall self-accrue any taxes which may be due on the service and remit them to the department in the manner and under the requirements applicable to dealers under this part, subject to such additional reporting requirements as the department may prescribe.

(2) Any business or group of businesses without tax nexus in this state under this part, and any individual resident in another state claiming an exemption under s. 212.0592(1), shall obtain an exempt purchase permit under subsection (1) and consent to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services, or shall execute and present to the selling dealer an exempt purchase affidavit on a form prescribed by the department. The affidavit shall include the federal employer identification number of the business or social security number of the individual, the purchaser's location and mailing address, a statement that the business does not have tax nexus in this state under this part or that the individual is not a resident of this state, the name and registration number of the selling dealer, and a statement of consent by the purchaser to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services. The affidavit shall also contain such other information as the department may prescribe. Acceptance of a valid exempt purchase permit or affidavit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service.

(3) Notwithstanding the provisions of subsection (2), if a purchaser refuses to execute an exempt purchase affidavit the seller may execute an affidavit which states his belief that the purchaser is without tax nexus in this state under this part and which provides the information about the purchaser required under subsection (2) and such other information as the department may prescribe. Submittal of a valid affidavit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. However, if such purchase is subsequently determined to have been taxable, the selling dealer shall be liable for any penalties and interest due because of late payment.

(4)(g) Each dealer shall maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt purchase affidavit under this

section. The log shall identify the purchaser, the exempt purchase permit number if applicable, the service sold, the price of the service and such other information as the department may prescribe. The logs and all affidavits accepted by the dealer shall be retained by the dealer for 5 years and made available to the department upon request. Failure to maintain these records or to make them available to the department shall subject the dealer to a \$100 mandatory penalty.

(5)(4) If a purchaser fails to obtain an exempt purchase permit or execute an exempt purchase affidavit, but otherwise qualifies for an exemption pursuant to s. 212.0592(1), the purchaser may apply to the department for a refund of taxes paid on the exempt amount of the purchase. The application for refund shall be accompanied by an exempt purchase affidavit and shall be submitted within 1 year of the purchaser's payment of the tax. A refund recommended by the department pursuant to this subsection shall be reduced by the amount of any applicable dealer collection allowance previously allowed on the transaction. The provisions of s. 212.095 shall not apply to refunds granted pursuant to this subsection.

Section 5. Section 212.0594, Florida Statutes, as created by section 6 of chapter 87-101, Laws of Florida, is amended to read:

212.0594 Construction services; special provisions.—

(1) For purposes of this section:

(a) "Prime contractor" means:

1. A person who enters into a contract to construct, improve, alter, or repair realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, *unless the contract specifies that the person for whose benefit the realty is being modified is assuming the responsibilities of a prime contractor pursuant to subparagraph 3., and that person is the final consumer of the realty;*

2. A person who enters into a contract to undertake the primary responsibility for supervising the construction, improvement, alteration or repair of realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, in which case, all other persons involved in the construction who would otherwise qualify as prime contractors under subparagraph 1. shall be deemed subcontractors;

3. A person who undertakes, on a speculative basis or for his own use, the construction, improvement or alteration of realty; or

4. A person who manufactures factory-built buildings.

(b) "Subcontractor" means a person who enters into a contract to provide construction services to a prime contractor or to another subcontractor.

(c) "Construction services" means any activity directly involving the construction, alteration, improvement or repair of realty.

~~(d) "Construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design and interior design services when such services directly relate to the construction, alteration, improvement or repair of realty.~~

(d)(e) "New Construction" means factory-built buildings and any construction, alteration, improvement or repair of realty ~~for which the contract price or cost price, including building materials used, exceeds \$5,000.~~

(e)(f) "Building materials" means tangible personal property physically incorporated into the affected realty.

(f)(g) "Contract price" means the total consideration paid pursuant to a contract for the construction, alteration, improvement or repair of realty, or in the case of new construction undertaken on a speculative basis, the total consideration paid pursuant to a contract to purchase the improved realty. However, the contract price shall not include the following:

1. The fair market value of land and any improvements to the land existing prior to the contract for the construction, alteration, improvement or repair of the realty; ~~or the value of construction support services provided by other than employees of the prime contractor.~~

2. The fair market value of any improvements to the land to the extent that the construction of the improvements has previously been taxed pursuant to this section;

3. Payments for services, other than construction services, that provide a direct and identifiable benefit to a single construction project and that have previously been taxed pursuant to s. 212.059; and

4. Payments for government fees and taxes specific to the construction project.

~~(g)(h)~~ "Fair market value" means 120 percent of the property's assessed value for ad valorem tax purposes, as reflected by the most recent assessment roll for the county prior to the new construction, unless the prime contractor can demonstrate to the satisfaction of the department by proof of comparable sales, actual purchase price, or appraisal, that such assessment understates the value of the property.

~~(h)(i)~~ "Cost price" means the direct and indirect costs of construction, including but not limited to, the cost of materials used, labor and service costs, interest charged, and overhead expenses; however, cost price shall not include any item excluded from the definition of "contract price."; ~~without any deduction whatsoever.~~

(2) The tax imposed by s. 212.059 shall be applied to the sale of construction services in the following manner:

(a) For new construction undertaken pursuant to a contract, or undertaken on a speculative basis ~~but sold within 6 months of completion of the new construction~~, the tax shall be imposed upon 50 percent of the contract price.

(b) For new construction undertaken for the prime contractor's own use, ~~or undertaken on a speculative basis and not sold within 6 months of completion~~, the tax shall be based upon 50 percent of the cost price.

(c) For new construction consisting of factory-built buildings, the tax shall be imposed upon the cost price, ~~less the amount paid for building materials incorporated into such buildings.~~

~~(d) For new construction undertaken for the prime contractor's own use or undertaken on a speculative basis, and directly related to real property registered or exempt pursuant to chapter 498, or regulated under chapter 721, the tax shall be imposed upon 50 percent of the cost price.~~

~~(e) For construction other than new construction, the tax shall be imposed upon the total contract price, less the amount paid by the prime contractor for building materials incorporated into the realty. However, the deduction for building materials shall only apply if the prime contractor has previously paid the sales tax on such materials, and the written contract or invoice provided by the prime contractor to the person for whom the construction was done specifically itemizes the building materials and the price paid by the prime contractor for such materials.~~

(d)(f) If new construction is undertaken pursuant to a contract that is not an arm's-length transaction, or if new construction is undertaken on a speculative basis and the realty is then sold within 6 months pursuant to a contract that is not an arm's-length transaction, the tax shall be imposed upon 50 percent of the cost price of the new construction, and not upon the contract price.

(g) For the construction or repair of roads pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6), the tax shall not apply.

(h) For the construction or repair of property used primarily for public worship, the tax shall not apply.

~~(i) The tax on construction support services shall be imposed upon the total sales price for such services and shall be due and payable in accordance with the provisions of s. 212.059(4).~~

(e)(j)1. Except as provided in subparagraph 2., prime contractors for new construction shall be considered the final consumer of construction services consumed in improving realty.

2. The owner of the affected real property shall be considered the final consumer of construction services involving the repair, alteration, or improvement of existing structures or appurtenances to existing structures other than those related to new construction. The prime contractor or subcontractor who purchases or uses building materials shall be considered the final consumer of the building materials.

(f) Construction services performed pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o) are exempt.

(g)(k)1. Notwithstanding other provisions of this subsection, no tax shall be imposed upon construction services or construction support services performed by one's own employees if the services are performed for an employer who is incidentally engaged in improving real property, such improvements are made in the furtherance of the employer's primary business, and the employer is not in the business of providing construction services.

2. No tax shall be due on construction services performed by a person who is engaged in constructing, improving, altering, or repairing his primary residence. Such person is the final consumer of the construction services. Notwithstanding paragraph (3)(c), any subcontractor who contracts with such person shall collect and remit any taxes due under this part on the subcontractor's services.

(h)(l) As an alternative method for computing the tax imposed in this subsection, a the prime contractor considered the final consumer of the construction services pursuant to subparagraph (e)1. may compute and pay the tax on construction services on new construction, as follows:

1. The tax on construction services purchased by prime contractors shall be due and payable by the prime contractor at the time consideration is paid for such services.

2. The tax on purchases of construction services by prime contractors shall be based on the total consideration paid to the subcontractor. However, if the written proposal, contract, or interim or final invoice of the subcontractor specifically describes, itemizes and states the price paid by the subcontractor for the building materials purchased by the subcontractor and incorporated into the improvement in fulfillment of his responsibilities under the subcontract, the tax shall be based on the total consideration less the price of said building materials.

3. The tax on the construction services any prime contractor provides with respect to new construction for himself or others shall be based upon the cost price to the prime contractor of the services he provides. However, the cost of building materials purchased by the prime contractor and incorporated into the new construction, and amounts paid to subcontractors upon which a sales tax has been paid, shall not be included in the cost price. The tax shall be due and payable as otherwise provided in this part at the time the contract for new construction is fulfilled or within 30 days after the certificate of occupancy is issued, whichever is sooner. The retail sale of new construction for which the prime contractor has paid tax pursuant to this paragraph shall be exempt from the tax imposed by this section.

4. This alternative method for computing the tax shall apply to construction services purchased or provided by a prime contractor for construction projects begun on or after October 1, 1987 July 1, 1988.

5. A prime contractor shall make the election to compute the tax pursuant to this paragraph on a form prescribed by the department. Any such election shall apply to all construction services purchased or provided by the prime contractor during the term of the election. The department shall promulgate rules regarding the application of the election to construction projects in progress at the time the election is made and construction projects which are in progress at the time the election is terminated. A prime contractor may not change the method for the payment of the tax more than once during any 12-month period.

(3) The tax imposed by s. 212.059 on construction services shall be due and payable in the following manner:

(a) Prime contractors and subcontractors licensed or registered pursuant to chapter 489 shall be entitled to obtain resale permits from the department to be utilized when purchasing building materials. However, when building materials are purchased tax exempt by a person other than a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o), and are used in construction done pursuant to or in furtherance of a contract with such an entity, the person purchasing the materials shall be deemed the ultimate consumer of the materials and shall be responsible for payment of a use tax on the sales price of the materials. The use tax shall be due when the materials are first used.

(b)(a) The prime contractor shall be responsible for remitting the tax on construction services performed by himself and by his subcontractors.

(c)(b) Subcontractors shall not be required to collect the tax on construction services they perform, except as provided in subparagraph (2)(g)2.

(d)(e) For new construction undertaken pursuant to a contract, the tax shall be due when the prime contractor receives payments under the contract. If the contract price is paid in draws or installments, the amount of tax to be paid with respect to each such draw or installment, before application of the dealer credit, shall be that proportion of the tax due on the total contract price which the amount of the draw or installment bears to the total contract price.

(e)(d) For new construction undertaken on a speculative basis, or for the prime contractor's own use, partial payment of the tax shall be due at such time payment is made by the prime contractor to the subcontractor based on 50 percent of the amount of such payment. Any tax amounts remaining shall be due 30 days after a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.

(e) For new construction undertaken for the prime contractor's own use, the tax shall be due when a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.

(f) For construction other than new construction, the tax shall be due when the prime contractor receives payment for the construction services rendered.

(f)(g) Taxes due and payable pursuant to this section shall be remitted in accordance with s. 212.11.

(g)(h) No unit of local government shall issue a certificate of occupancy for new construction until the prime contractor certifies, on a form promulgated by the department and submitted to the local government, that the new construction is substantially complete. Such forms shall be provided to local governments by the department, and completed forms shall be returned monthly to the department by the local governments.

(4) Notwithstanding the provisions of s. 212.235, the total taxes imposed under s. 212.059 on construction services and collected under the provisions of this section shall be paid into the State Infrastructure Fund.

(5)(4) The following provisions of this part shall not apply with regard to the tax on construction services:

(a) Section 212.02(5), the definition of "cost price."

(b) Section 212.02(21), the definition of "sales price."

(b)(e) Section 212.059(3), regarding the collection and remittance of the tax.

(c)(d) Section 212.059(4), regarding the time the tax is due.

(d)(e) Section 212.0591(4), regarding taxation of transactions previously taxed.

(e)(f) Section 212.0591(6), regarding separate statement of services and real property.

(f)(g) Section 212.0591(7), regarding separate statement of taxable and exempt services.

(g)(h) Section 212.0592(3), regarding occasional or isolated sales.

(h)(i) Section 212.0592(4), regarding services sold to partnerships.

(i)(j) Section 212.0592(5), regarding services sold between members of an affiliated group.

Section 6. Section 212.0595, Florida Statutes, as created by section 6 of chapter 87-6, Laws of Florida, and amended by section 3 of chapter 87-72 and section 7 of chapter 87-101, Laws of Florida, is amended to read:

212.0595 Advertising; special provisions.—The following special provisions shall be applicable to the sales and use tax on advertising:

(1) A tax is hereby imposed on advertising sold or used in this state. The tax shall be at the rate of 5 percent of the commission, service charge, or fee paid directly or indirectly in the placement of sales price or cost price of the advertising.

(2) Advertising shall be deemed to have been sold in this state if the greater proportion of the advertising is performed within this state based on costs of performance as defined in s. 212.02.

(3) Advertising shall be deemed to have been used in this state if it was sold outside this state for consumption in this state. Advertising shall be presumed to be consumed in this state to the extent the *commission, service charge, or fee paid* ~~cost-price~~ is apportioned to this state pursuant to subsection (4).

(4)(a) ~~The commission, service charge, or fee paid sales-price of the sale of advertising, or the cost-price of the use of advertising,~~ shall be apportioned to the state as provided in this subsection. There shall be included in the measure of the tax imposed by this section that proportion of the *commission, service charge, or fee paid sales-price or cost-price* which is equal to the proportion of market coverage within Florida to the total market coverage for the most recently completed accounting year of the service provider. However, in the case of new or restructured service providers, the department may prescribe by rule another time period or proportion that fairly reflects Florida market coverage.

(b) For purposes of this subsection, "market coverage" means average circulation within the geographic area of distribution for the publication in which the advertisement appears, in the case of print media, and means population within the signal reception area of the broadcaster, in the case of broadcast media, measured as prescribed by the department by rule.

(c) For advertising other than print or broadcast media, the department shall establish by rule a method for fairly apportioning advertising sold or used in this state.

(5) If advertising is sold in this state, the sales tax imposed by this section shall be collected and remitted by the advertising media provider, unless the advertising is purchased pursuant to a resale permit, in which case the person reselling the advertising shall collect and remit the tax.

(6) If advertising is not sold in this state, but is used in this state, the advertiser shall self-accrue the use tax imposed by this section and remit the tax directly to the department, if the advertiser has nexus for tax purposes with this state, unless the advertising is sold to a registered dealer for resale, in which case the registered dealer shall collect and remit the tax when the advertising is resold.

(7)(a) When advertising is sold or resold, the seller or reseller shall state the *commission, service charge, or fee paid* ~~sales-price~~ of the advertising and the applicable apportionment factor, if any, separately from any other charges which may be included in the invoice, charge slip or other tangible evidence of sale.

(b) When the tax on advertising is not collected by the seller of the advertising, it is the responsibility of the purchaser to secure the apportionment factor pursuant to subsection (4) from the advertising media.

(8) Nothing herein shall be construed to require the advertising media to furnish to the department a listing of persons placing advertising with the advertising media.

(9) Consideration paid pursuant to a written contract for a term in excess of two years, entered into prior to April 1, 1987, and which involves a transaction taxable under this section, shall be exempt from the tax imposed by this section until the expiration of such contract. This exemption shall not apply to advertising provided pursuant to any extension or renewal of such contract.

(10) For purposes of this part, the term "advertising" means the service of conveying the advertiser's message, and shall include any mark-up charged by an advertising agency or any other person for the service of brokering the medium. However, the term "advertising" shall not include creative services of a type customarily performed by an advertising agency.

(11) The following provisions of this part shall not apply to the sale or use of advertising:

- (a) Section 212.059(3), regarding collection of the tax on services; and
- (b) Section 212.0593, regarding administration of s. 212.0592(1).

Section 7. Paragraph (1) is added to subsection (2) of section 212.06, Florida Statutes, as amended by section 12 of chapter 87-6, section 3 of chapter 87-99, section 1 of chapter 87-370, and section 4 of chapter 87-402, Laws of Florida, to read:

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

(2)

(1) *Whenever the tax imposed by this part relates to real estate commissions or fees paid to a real estate agent in connection with the transfer or sale of an interest in real property, the term "dealer" means the closing agent who is responsible for recording in the official records of the county the documents that relate to the transfer of the real property and for remitting any documentary stamp tax due with respect to the transfer.*

Section 8. Subsection (10) is added to section 212.07, Florida Statutes, as amended by section 13 of chapter 87-6, Laws of Florida, to read:

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

(10) *Notwithstanding any other provision of this section, if a purchaser of a service subject to the tax imposed under s. 212.059 refuses to pay the tax and the seller of the service has made a good faith effort to collect the tax, the seller shall, after submitting such information as the department may require concerning the payment, be absolved from remitting such tax. The purchaser shall be liable for paying the tax and for any penalty and interest assessed upon such tax under this chapter. This subsection applies to only one payment between a seller and a purchaser and does not apply to any payment occurring after July 1, 1988.*

Section 9. Paragraph (d) of subsection (1) of section 212.11, Florida Statutes, as amended by section 16 of chapter 87-6, section 15 of chapter 87-101, and section 3 of chapter 87-239, Laws of Florida, is amended to read:

212.11 Tax returns and regulations.—

(1)

(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers registered as service providers and remitting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than \$1,000 \$500 in each month for the previous 3 months. Quarterly payments pursuant to this paragraph shall be due and payable in March, June, September, and December of each year.

Section 10. Section 33 of chapter 87-6, Laws of Florida, as amended by section 20 of chapter 87-101, Laws of Florida, is amended to read:

Section 33. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules shall remain effective for 1 year 6 months from the date of adoption, and the executive director of the Department of Revenue is authorized to amend such rules or adopt any additional emergency rules as he deems necessary for purposes of implementing chapter 87-6, Laws of Florida, as amended. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of chapter 87-6, Laws of Florida, and this act shall not be subject to a s. 120.54(4), Florida Statutes, rule challenge or a s. 120.54(17), Florida Statutes, drawout proceeding, but, once adopted, shall be subject to a s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes.

Section 11. Section 36 of chapter 87-6, Laws of Florida, as amended by section 21 of chapter 87-101, Laws of Florida, is amended to read:

Section 36. Any penalties provided for pursuant to s. 212.12(2), Florida Statutes, shall be waived by the executive director of the Department of Revenue for returns due for the tax on services newly imposed by this act. If the executive director determines that the interest owed pursuant to s. 212.12(3), Florida Statutes, will cause an undue hardship on the taxpayer, he may also waive the interest payment. The waiver for penalties and interest shall apply with respect to returns for taxes due and payable for the period between July 1, 1987, and December 31, 1987 September 30, 1987.

Section 12. This act shall take effect October 1, 1987, or upon becoming a law, whichever occurs later.

The vote was:

Yeas—14

Mr. President	Gordon	Kiser	Peterson
Beard	Grizzle	Malchon	Weinstock
Brown	Hill	McPherson	
Childers, D.	Kirkpatrick	Meek	

Nays—25

Barron	Girardeau	Lehtinen	Thomas
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Hollingsworth	Myers	Weinstein
Crenshaw	Jenne	Plummer	Woodson
Deratany	Jennings	Ros-Lehtinen	
Dudley	Johnson	Scott	
Frank	Langley	Stuart	

Vote after roll call:

Nay—Grant

Senator Myers moved the following amendment:

Amendment 2—On page 2, strike everything after the enacting clause and insert:

Section 1. Section 212.02, Florida Statutes, as amended by section 7 of chapter 87-6, section 12 of chapter 87-87, section 9 of chapter 87-101, and section 6 of chapter 87-402, Laws of Florida, is amended to read:

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

(1) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting, and boating facilities.

~~(2) "Affiliated group" means: an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b), (c), or (d) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes, or mutual insurance companies which are members of one insurance holding company system subject to s. 628.801; however, s. 1504(b)(2) shall not apply to this definition. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated to the business activities of other members of the group. However, in no event shall a parent corporation of an included member be excluded from the affiliated group.~~

(2)(3) "Business" means any activity engaged in by any person, or caused to be engaged in by him, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who does not hold himself out as engaged in business, but includes other charges for the sale or rental of tangible personal property, ~~sales of services taxable under this part,~~ sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or

licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

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

(4)(5) "Cost price" means the actual cost of articles of tangible personal property or services without any deductions whatsoever.

~~(6) "Costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the type of trade or business in which the service provider engages.~~

(5)(7) The term "department" means the Department of Revenue.

~~(8) "Employee" means any person who is not an independent contractor and whose wages or remuneration are subject to tax under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or whose wages or remuneration are subject to withholding for federal income tax purposes.~~

~~(9) "Employer" means any person who must pay taxes on wages under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or who must withhold taxes from wages for federal income tax purposes.~~

(6)(10) "Enterprise zone" means an area of the state authorized to be an enterprise zone pursuant to s. 290.0055 and approved by the secretary of the Department of Community Affairs pursuant to s. 290.0065. This subsection shall expire and be void on December 31, 1994.

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

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

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

(10)(14) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

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

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

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

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

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

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

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. ~~The term "lease," "let," "rental" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements.~~

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

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

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

(12)(16) "Nurseryman" or "grower" means any person engaged in the production of nursery stock or horticultural plants.

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

(14)(18) "Retailer" means and includes every person engaged in the business of making sales at retail, or for distribution, or use, or consumption, or storage to be used or consumed in this state.

(15)(19)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. ~~"Retail sale" does not include fee sharing for services described in s. 475.011 by persons licensed under chapter 475. A sale of a service shall be considered a sale for resale only if:~~

1. ~~The purchaser of the service does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;~~

2. ~~The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;~~

3. ~~The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;~~

4. ~~The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0592(1); and~~

5. ~~The service is purchased pursuant to a service resale permit by a dealer who is primarily engaged in the business of selling services. The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.~~

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

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

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

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

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

(16)(20) "Sale" means and includes:

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

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

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

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

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

~~(f) Any transfer, provision, or rendering of services for a consideration.~~

(17)(21) "Sales price" means the total amount paid for tangible personal property or services, including any services that are a part of the sale and any tangible personal property that is part of the service, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection.

~~(22) The term "service" or "services" as used in this part means those activities usually provided for consideration by the following establishments listed in the SIC Manual:~~

~~(a) Agricultural Services (Major Group Number 07).~~

~~(b) Forestry Services (Major Group Number 085).~~

~~(c) Metal Mining Services (Group Number 108).~~

- ~~(d) Oil and Gas Field Services (Group Number 138).~~
- ~~(e) Nonmetallic (Nonfuel) Mineral Services (Group Number 148).~~
- ~~(f) Building Construction General Contractors and Operative Builders (Major Group Number 16).~~
- ~~(g) Construction other than Building Construction General Contractors (Major Group Number 16).~~
- ~~(h) Construction Special Trade Contractors (Major Group Number 17).~~
- ~~(i) Printing, Publishing, and Allied Services (Major Group Number 27).~~
- ~~(j) Coating, Engraving, and Allied Services (Group Number 347).~~
- ~~(k) Railroad Transportation (Major Group Number 40).~~
- ~~(l) Local and Suburban Transit and Interurban Highway Passenger Transportation (Major Group Number 41).~~
- ~~(m) Motor Freight Transportation and Warehousing (Major Group Number 42).~~
- ~~(n) U.S. Postal Service (Major Group Number 43).~~
- ~~(o) Water Transportation (Major Group Number 44).~~
- ~~(p) Transportation by Air (Major Group Number 45).~~
- ~~(q) Pipelines, except Natural Gas (Major Group Number 46).~~
- ~~(r) Transportation Services (Major Group Number 47).~~
- ~~(s) Communications (Major Group Number 48).~~
- ~~(t) Electric, Gas, and Sanitary Services (Major Group Number 40).~~
- ~~(u) Food Brokers (Industry Number 5141).~~
- ~~(v) Banking (Major Group Number 60).~~
- ~~(w) Credit Agencies other than Banks (Major Group Number 61).~~
- ~~(x) Security and Commodity Brokers, Dealers, Exchanges, and Services (Major Group Number 62).~~
- ~~(y) Insurance (Major Group Number 63).~~
- ~~(z) Insurance Agents, Brokers, and Service (Major Group Number 64).~~
- ~~(aa) Real Estate (Major Group Number 65).~~
- ~~(bb) Combinations of Real Estate, Insurance, Loans, Law Offices (Major Group Number 66).~~
- ~~(cc) Holding and other Investment Offices (Major Group Number 67).~~
- ~~(dd) Personal Services (Major Group Number 72).~~
- ~~(ee) Business Services (Major Group Number 73).~~
- ~~(ff) Automotive Repair, Services, and Garages (Major Group Number 75).~~
- ~~(gg) Miscellaneous Repair Services (Major Group Number 76).~~
- ~~(hh) Motion Pictures (Major Group Number 79).~~
- ~~(ii) Amusement and Recreation Services, except Motion Pictures (Major Group Number 70).~~
- ~~(jj) Health Services (Major Group Number 80).~~
- ~~(kk) Legal Services (Major Group Number 91).~~
- ~~(ll) Educational Services (Major Group Number 82).~~
- ~~(mm) Social Services (Major Group Number 83).~~
- ~~(nn) Museums, Art Galleries, Botanical and Zoological Gardens (Major Group Number 84).~~
- ~~(oo) Membership Organizations (Major Group Number 86).~~
- ~~(pp) Miscellaneous Services (Major Group Number 89).~~

~~(qq) Legislative, Judicial, Administrative and Regulatory Activities of Federal, State, Local and International Governments (Major Group Numbers 91, 92, 93, 94, 95, 96, and 97).~~

~~In addition, the terms shall include the services of any independent broker of tangible personal property.~~

~~(18)(22) "Special fuel" means any liquid product, gas product, or combination thereof used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. This term includes, but is not limited to, all forms of fuel commonly or commercially known or sold as diesel fuel or kerosene. However, the term "special fuel" does not include butane gas, propane gas, or any other form of liquefied petroleum gas or compressed natural gas.~~

~~(24) "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1972, as published by the Office of Management and Budget, Executive Office of the President, and as amended in the 1977 Supplement.~~

~~(19)(25) "Storage" means and includes any keeping or retention in this state or for any purpose other than sale at retail in the regular course of business.~~

~~(20)(26) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term "tangible personal property" does not include stocks, bonds, notes, insurance, or other obligations or securities; intangibles as defined by the intangible tax law of the state; pari-mutuel tickets sold or issued under the racing laws of the state; or factory-built buildings during construction or thereafter.~~

~~(21)(27) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, or interest therein, except that it does not include the sale at retail of that property in the regular course of business. "Use" also means the consumption or enjoyment of the benefit of services.~~

~~(22)(28) The term "use tax" referred to in this chapter includes the use, the consumption, the distribution, and the storage as herein defined of tangible personal property or services.~~

Section 2. Section 212.03, Florida Statutes, is amended to read:

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

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp. For the exercise of such privilege, a tax is hereby levied in an amount equal to 5.5 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, or tourist or trailer camps whether or not there is in connection with any of the same any dining rooms, cafes, or other places where meals or lunches are sold or served to guests.

(2) The tax provided for herein shall be in addition to the total amount of the rental, shall be charged by the lessor or person receiving the rent in and by said rental arrangement to the lessee or person paying the rental, and shall be due and payable at the time of the receipt of such rental payment by the lessor or person, as defined in this chapter, who receives said rental or payment. The owner, lessor, or person receiving the rent shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter.

(3) When rentals are received by way of property, goods, wares, merchandise, services, or other things of value, the tax shall be at the rate of 5.5 5 percent of the value of the property, goods, wares, merchandise, services, or other things of value.

(4) The tax levied by this section shall not apply to, be imposed upon, or collected from any person who shall have entered into a bona fide written lease for longer than 6 months in duration for continuous residence at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium, or to any person who shall reside continuously longer than 6 months at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium and shall have paid the tax levied by this section for 6 months of residence in any one hotel, roominghouse, apartment house, tourist or trailer camp, or condominium. Notwithstanding other provisions of this chapter, no tax shall be imposed upon rooms provided guests when there is no consideration involved between the guest and the public lodging establishment. Further, any person who, on the effective date of this act, has resided continuously for 6 months at any one hotel, apartment house, roominghouse, tourist or trailer camp, or condominium, or, if less than 6 months, has paid the tax imposed herein until he shall have resided continuously for 6 months, shall thereafter be exempt, so long as such person shall continuously reside at such location. The Department of Revenue shall have the power to reform the rental contract for the purposes of this chapter if the rental payments are collected in other than equal daily, weekly, or monthly amounts so as to reflect the actual consideration to be paid in the future for the right of occupancy during the first 6 months.

(5) The tax imposed by this section shall constitute a lien on the property of the lessee or rentee of any sleeping accommodations in the same manner as and shall be collectible as are liens authorized and imposed by ss. 713.68 and 713.69.

(6) It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage spaces for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports. For the exercise of this privilege, a tax is hereby levied at the rate of 5.5 5 percent on the total rental charged.

(7)(a) Full-time students enrolled in an institution offering postsecondary education and military personnel currently on active duty who reside in the facilities described in subsection (1) shall be exempt from the tax imposed by this section. The department shall be empowered to determine what shall be deemed acceptable proof of full-time enrollment. The exemption contained in this subsection shall apply irrespective of any other provisions of this section. The tax levied by this section shall not apply to or be imposed upon or collected on the basis of rentals to any person who resides in any building or group of buildings intended primarily for lease or rent to persons as their permanent or principal place of residence.

(b) It is the intent of the Legislature that this subsection provide tax relief for persons who rent living accommodations rather than own their homes, while still providing a tax on the rental of lodging facilities that primarily serve transient guests.

(c) The rental of facilities, including trailer lots, which are intended primarily for rental as a principal or permanent place of residence is exempt from the tax imposed by this chapter. The rental of facilities that primarily serve transient guests is not exempt by this subsection. In the application of this law, or in making any determination against the exemption, the department shall consider and be guided by, among other things:

1. Whether or not a facility caters primarily to the traveling public;
2. Whether less than half of the total rental units available are occupied by tenants who have a continuous residence in excess of 3 months; and
3. The nature of the advertising of the facility involved.

(d) The rental of living accommodations in migrant labor camps is not taxable under this section. "Migrant labor camps" are defined as one or more buildings or structures, tents, trailers, or vehicles, or any portion thereof, together with the land appertaining thereto, established, operated, or used as living quarters for seasonal, temporary, or migrant workers.

Section 3. Section 212.031, Florida Statutes, as amended by sections 8 and 25 of chapter 87-6 and section 10 of chapter 87-101, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

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

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.
5. A public or private street or right-of-way occupied or used by a utility for utility purposes.
6. A public street or road which is used for transportation purposes.
7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.
8. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.
9. Property used as an integral part of the performance of qualified production services ~~as defined in s. 212.0592(19)(a)~~. *As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:*
 - a. *Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and make-up (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;*
 - b. *The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and*
 - c. *Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.*
10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a ~~movie theater~~, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., or 3. of paragraph (a), the department shall determine, from the lease or license and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5.5 5 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.5 5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

(2)(a) The tenant or person actually occupying, using, or entitled to the use of any property from which the rental or license fee is subject to taxation under this section shall pay the tax to his immediate landlord or other person granting the right to such tenant or person to occupy or use such real property.

(b) It is the further intent of this Legislature that only one tax be collected on the rental or license fee payable for the occupancy or use of any such property, that the tax so collected shall not be pyramided by a progression of transactions, and that the amount of the tax due the state shall not be decreased by any such progression of transactions.

(3) The tax imposed by this section shall be in addition to the total amount of the rental or license fee, shall be charged by the lessor or person receiving the rent or payment in and by a rental or license fee arrangement with the lessee or person paying the rental or license fee, and shall be due and payable at the time of the receipt of such rental or license fee payment by the lessor or other person who receives the rental or payment. The owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage any leases or operate real property, hotels, apartment houses, roominghouses, or tourist and trailer camps and all persons who collect or receive rents or license fees taxable under this chapter on behalf of owners or lessors.

(4) The tax imposed by this section shall constitute a lien on the property of the lessee or licensee of any real estate in the same manner as, and shall be collectible as are, liens authorized and imposed by ss. 713.68 and 713.69.

~~(6) When space is subleased to a convention or industry trade show in a convention hall, exhibition hall, or auditorium, whether publicly or privately owned, the sponsor who holds the prime lease is subject to tax on the prime lease and the sublease is exempt.~~

~~(7) The lease or rental of land or a hall or other facilities by a fair association subject to the provisions of chapter 616 to a show promoter or prime operator of a carnival or midway attraction is exempt from the tax imposed by this section; however, the sublease of land or a hall or other facilities by the show promoter or prime operator is not exempt from the provisions of this section.~~

Section 4. Section 212.04, Florida Statutes, as amended by sections 9 and 25 of chapter 87-6 and section 11 of chapter 87-101, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)(a) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who sells or receives anything of value by way of admissions.

(b) For the exercise of such privilege, a tax is levied at the rate of 5.5 5 percent of sales price, or the actual value received from such admissions, which 5.5 5 percent shall be added to and collected with all such admissions from the purchaser thereof; and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket shall show on its face the actual sales price of admission, and the

tax shall be computed and collected on the basis of each such admission price. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes, if any, imposed upon such admission; and the rate of tax on each admission shall be according to the brackets established by s. 212.12(9)(10).

~~(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and utilized by each institution to support women's athletics as provided in s. 240.533(4)(c).~~

~~2. No tax shall be levied on dues, membership fees and admission charges imposed by not for profit religious sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not for profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.~~

~~3. No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.~~

~~4. No tax shall be levied on admissions to the National Football League championship game.~~

~~(b)5. No tax shall be levied on admissions to athletic or other events sponsored by governmental entities.~~

~~(c)(b) No municipality of the state shall levy an excise tax on admissions.~~

~~(d)(e) The taxes imposed by this section shall be collected in addition to the admission tax collected pursuant to s. 550.09, but the amount collected under s. 550.09 shall not be subject to taxation under this chapter.~~

(3) Such taxes shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property, as hereinafter provided.

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s. 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of \$5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than 3 years, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for a period of not less than 3 years. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property; and the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of 5 percent per month for a total amount of tax delinquent up to a total of 25 percent of such tax, and at the rate of 50-percent penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department.

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section; and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe; and the department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 3 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,000, the 3-percent discount shall be reduced to 1 percent for all amounts in excess of \$1,000.

(6) Admission taxes required to be paid by this chapter shall be paid to the department by the owner or the collector of such admission. When any place of business is sold or transferred by any owner, wherein such admission taxes have accrued or are accruing, such owner shall be obligated before such sale becomes effective to notify the department of such pending sale and secure from the department a certificate of registration as prescribed in this section, and the purchaser shall become obligated to withhold from the sales price such sum of money as will safely be required to discharge all accrued admission taxes upon such places of business; and, upon the failure of any such purchaser to withhold, he shall become obligated to pay all accrued admission taxes, and the same shall become a lien upon all of the purchaser's assets until the same have been paid and fully discharged.

(7) The taxes under this section shall become a lien upon the assets of the owner of any business exercising the privilege of selling admissions, and the collection of such admissions, as defined hereunder, and shall remain a lien until fully paid and discharged. Such lien may be enforced in the manner provided hereinafter for the enforcement of the collection of taxes imposed upon the sales of tangible personal property.

(8) The word "owners" as used in this chapter shall be taken to include and mean all persons obligated to collect and pay over to the state the tax imposed under this section, inclusive of all holders of certificates of registration issued as herein provided. Wherever the word "owner" or "owners" is used herein, it shall be taken to mean and include all persons liable for such admission taxes unless it appears from the context that the words are descriptive of property owners.

Section 5. Section 212.05, Florida Statutes, as amended by section 10 of chapter 87-6, sections 2 and 9 of chapter 87-99, section 12 of chapter 87-101, and section 7 of chapter 87-402, Laws of Florida, is amended to read:

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

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

(a)1.a. At the rate of 5.5 5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

2.b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to

be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

~~2.—This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:~~

~~a.—Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;~~

~~b.—Requires the purchaser to sign an affidavit that he has read the provisions of this section; and~~

~~c.—Makes the affidavit a part of his permanent record.~~

~~In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.~~

(b) At the rate of 5.5 5 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state.

(c) At the rate of 5.5 5 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the lease or rental of a commercial motor vehicle as defined in s. 316.003(67)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the acquisition of such vehicle by the lessor, when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

(d) At the rate of 5.5 5 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 5.5 5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, wired television, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(f) At the rate of 5.5 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

(g) At the rate of 5 percent of the price, as determined pursuant to part II, of each gallon of motor fuel or special fuel taxable pursuant to that part, except that motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

(h) Any person who purchases, installs, rents, or leases a telephone system or telecommunication system for his own use to provide himself with telephone service or telecommunication service which is a substitute for any telephone company switched service or a substitute for any dedicated facility by which a telephone company provides a communication path is exercising a taxable privilege and shall register with the Department of Revenue and pay into the State Treasury a yearly amount equal to 6.5 percent of the actual cost of operating such system, notwithstanding the provisions of s. 212.081(3)(b). "Actual cost" includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this paragraph, the depreciation expense to be included in actual cost shall be the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

(i) At the rate of 5.5 percent on the retail price of newspapers and magazines sold or used in Florida.

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

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

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

Section 6. Effective July 1, 1988, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, as amended by section 83 of chapter 87-6 and section 52 of chapter 87-101, Laws of Florida, is amended to read:

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

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

(a)1.a. At the rate of 5.5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

2.b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph. For purposes of this subparagraph, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.37(1)(c).

2.—This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

a.—Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

b.—Requires the purchaser to sign an affidavit that he has read the provisions of this section; and

c.—Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or

~~alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.~~

Section 7. Section 212.054, Florida Statutes, as amended by section 11 of chapter 87-6, Laws of Florida, is reenacted to read:

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

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

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which are subject to the state tax imposed on sales, use, rentals, admissions, and other transactions by this part. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.055, and shall be rounded to the nearest penny.

(b) However:

1. The tax on any sales amount above \$1,000 on any item of tangible personal property and on long distance telephone service shall not be subject to the surtax.

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

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

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

(a) The dealer is located in the county and the sale includes tangible personal property or services, except as otherwise provided herein;

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

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

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

consumed in the county is located in the county; however, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county. The provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county;

(e) The real property which is leased or rented is located in the county;

(f) The transient rental transaction occurs in the county;

(g) The delivery of any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county; however, the provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county; or

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

(4) The department shall administer, collect, and enforce the tax authorized under s. 212.055 pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under the provisions of this chapter, except as provided in this section. The provisions of this chapter regarding interest and penalties on delinquent taxes shall apply to the surtax. Discretionary sales surtaxes shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a). Notwithstanding any other provision of law, a dealer need not separately state the amount of the surtax on the charge ticket, sales slip, invoice, or other tangible evidence of sale. For the purposes of this section and s. 212.055, the "proceeds" of any surtax shall be construed to mean all funds collected and received by the department pursuant to a specific authorization and levy under s. 212.055, including any interest and penalties on delinquent surtaxes. Notwithstanding the provisions of s. 212.20, the proceeds of each discretionary sales surtax imposed by each county, less the costs of administration, shall be transferred to a discretionary sales surtax trust fund. A separate trust fund shall be established in the State Treasury for each county imposing a discretionary surtax. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenue generated for all counties levying a surtax authorized in s. 212.055. The amount deducted for the costs of administration shall be used only for those costs which are solely and directly attributable to the surtax. The total cost of administration shall be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties. No later than March 1 of each year, the department shall submit a written report which details the expenses and amounts deducted for the costs of administration to the President of the Senate, the Speaker of the House of Representatives, and the governing authority of each county levying a surtax. Proceeds shall be distributed monthly to the appropriate counties, unless otherwise provided in s. 212.055.

(5) No discretionary sales surtax shall take effect on a date other than January 1. No discretionary sales surtax shall terminate on a day other than the last day of a calendar quarter.

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

Section 8. Effective July 1, 1988, paragraph (b) of subsection (2) of section 212.054, Florida Statutes, as amended by section 84 of chapter 87-6, Laws of Florida, is reenacted to read:

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

(2)

(b) However:

1. The tax on any sales amount above \$1,000 on any item of tangible personal property and on long distance telephone service shall not be subject to the surtax.

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

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

Section 9. Section 212.055, Florida Statutes, as amended by section 8 of chapter 87-99, section 1 of chapter 87-100, and section 2 of chapter 87-239, Laws of Florida, is amended to read:

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

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county.

(b)1. The rate shall be *two-elevenths one-fifth (20 percent)* of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

2. Notwithstanding subparagraph 1., for any county the government of which is consolidated with that of one or more municipalities, upon the retirement of any bonds which were issued for the construction of roads and bridges and which were outstanding on the effective date of this act, the rate shall be *one-eleventh one-tenth (10 percent)* of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

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

(d) Proceeds from the surtax shall be:

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

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, the operation and maintenance

of a bus system, or 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.

(2) INDIGENT CARE SURTAX.—

(a) The governing authority in each county which has a publicly owned, publicly operated, and publicly managed regional referral hospital, as defined in s. 154.304(4), which hospital has an affiliation agreement with a state university medical school located in that county and which hospital would have received from the county between October 1, 1982, and September 30, 1983, more than it actually received for providing health care for recipient indigent patients had 1982-1983 federal poverty guidelines been applied, is authorized to levy by ordinance, for the period January 1, 1986, through March 31, 1987, or any quarterly portion thereof, a discretionary sales surtax.

(b) The rate shall be 5 percent of any tax paid to the state pursuant to this part, except this section and s. 212.054.

(c) The provisions of s. 212.054(2)(b)1. shall not apply to the surtax authorized by this subsection.

(d) The ordinance adopted by the governing body providing for the imposition of the surtax shall set forth criteria for the selection of the providers of the health care services to be paid therefor from the proceeds thereof.

(e) The department shall disburse the moneys to the clerk of the circuit court as ex officio custodian of the funds of the authorizing county, who shall maintain the moneys in an Indigent Health Care Trust Fund. Any funds on deposit in the trust fund created pursuant to this paragraph shall be invested pursuant to general law. The moneys in an Indigent Health Care Trust Fund for an authorizing county and any interest thereon shall be expended within that county or, in the case of a negotiated joint county agreement by that authorizing county with another county, within such other county, to provide health care to certified indigent patients as defined by s. 154.304(1) who are residents of the authorizing county.

(f) In enacting this subsection the Legislature expressly finds that it would be an unconstitutional use of the taxing power of the state for any holders of any hospital revenue obligation bonds to have a lien on any of the funds raised under this subsection until those funds are received by the health care provider for services rendered as provided. The moneys in an Indigent Health Care Trust Fund for an authorizing county, and any interest thereon, shall remain the property of the State of Florida and shall be distributed by the Department of Revenue on a regular and periodic basis to the governing authority of the authorizing county, in trust, until they are paid to the account of the appropriate provider of health care services to certified indigent patients for services rendered after the effective date of this act, and the funds shall not be disbursed from the trust fund until the authorizing county has paid out of county funds for indigent health care a sum equal to the amount which the authorizing county paid for indigent health care out of county funds in the fiscal year preceding the adoption of the authorizing ordinance.

(3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of 15 years from the date of levy, a discretionary sales surtax of up to *two-elevenths 20 percent* of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305. Such governing authority may levy such surtax in an amount equal to *one twenty-second, two twenty-seconds, or three twenty-seconds 5, 10, 15 or 20 percent* of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.

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

. . . . FOR the -cent sales tax
 AGAINST the -cent sales tax

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county population; or

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

(d) The provisions of s. 212.054(2)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.

(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.

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

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

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

(i) No referendum proposing the levying of such surtax shall be held after November 30, 1992.

(4) **ADDITIONAL LOCAL-OPTION SURTAX.—**

(a) *The governing authority in any county may, by a vote of a majority of the authority plus one, levy an additional discretionary sales surtax. The rate of the additional discretionary sales surtax shall be one-eleventh of any amount of tax paid to the state pursuant to this part, except this section and section 212.054.*

(b) *The proceeds of the surtax imposed pursuant to this subsection shall be distributed to the county and to the municipalities within the county according to an interlocal agreement. The proceeds shall be used for the same purposes as moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund created by section 218.61.*

Section 10. Section 212.059, Florida Statutes, as created by section 1 of chapter 87-6, Laws of Florida, and amended by section 1 of chapter 87-72 and section 1 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 11. Section 212.0591, Florida Statutes, as created by section 2 of chapter 87-6, Laws of Florida, and amended by section 2 of chapter 87-72 and section 2 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 12. Section 212.0592, Florida Statutes, as created by section 3 of chapter 87-6, Laws of Florida, and amended by section 3 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 13. Section 212.0593, Florida Statutes, as created by section 4 of chapter 87-6, Laws of Florida, and amended by section 4 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 14. Section 212.0594, Florida Statutes, as created by section 6 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 15. Section 212.0595, Florida Statutes, as created by section 6 of chapter 87-6, Laws of Florida, and amended by section 3 of chapter 87-72 and section 7 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 16. Section 212.0598, Florida Statutes, as created by section 8 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 17. Section 212.06, Florida Statutes, as amended by section 12 of chapter 87-6, section 3 of chapter 87-99, section 1 of chapter 87-370, and section 4 of chapter 87-402, Laws of Florida, is amended to read:

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

(1)(a) The aforesaid tax at the rate of 5.5 5 percent of the retail sales price as of the moment of sale, 5.5 5 percent of the cost price as of the moment of purchase, or 5.5 5 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of tangible personal property ~~or services taxable under this part~~. The full amount of the tax on a credit sale, installment sale, or sale made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as on a cash sale.

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. ~~Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a qualified motion picture as defined in s. 212.0592(18)(b) prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes.~~

(2)(a) The term "dealer" as used in this chapter includes every person who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

(b) The term "dealer" is further defined to mean every person, as used in this chapter, who imports, or causes to be imported, tangible personal property from any state or foreign country for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

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

(d) The term "dealer" is further defined to mean any person who has sold at retail, or used, or consumed, or distributed, or stored for use or consumption in this state tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of such tangible personal property.

(e) The term "dealer" is further defined to mean any person, as used in this chapter, who leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of such property without transferring title thereto, except as expressly provided for to the contrary herein.

(f) The term "dealer" is further defined to mean any person as used in this chapter, who maintains or has within this state, directly or by a subsidiary, an office, distributing house, salesroom, or house, warehouse, or other place of business.

(g) "Dealer" also means and includes every person who solicits business either by direct representatives, indirect representatives, or manufacturers' agents or by distribution of catalogs or other advertising matter or by any other means whatsoever and by reason thereof receives orders for tangible personal property or services from consumers for use, consumption, distribution, and storage for use or consumption in the state; and such dealer shall collect the tax imposed by this chapter from the purchaser, and no action either in law or in equity on a sale or transaction as provided by the terms of this chapter may be had in this state by any such dealer unless it is affirmatively shown that the provisions of this chapter have been fully complied with.

(h) "Dealer" also means and includes every person who, as a representative, agent, or solicitor of an out-of-state principal or principals, solicits, receives, and accepts orders from consumers in the state for future delivery and whose principal refuses to register as a dealer.

(i) "Dealer" also means and includes the state, county, municipality, any political subdivision, agency, bureau or department or other state or local governmental instrumentality.

(j) The term "dealer" is further defined to mean any person who leases, or grants a license to use, occupy, or enter upon, living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles, docking or storage space or spaces for boats in boat docks or marinas, or tie down or storage space or spaces for aircraft at airports. The term "dealer" also means any person who has leased, occupied, or used or was entitled to use any living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space or spaces for boats in boat docks or marinas, or who has purchased communication services or electric power or energy, and who cannot prove that the tax levied by this chapter has been paid to the vendor or lessor on any such transactions.

~~(k) "Dealer" also means any person who sells, provides, or performs a service taxable under this part. "Dealer" also means any person who purchases, uses, or consumes a service taxable under this part who cannot prove that the tax levied by this part has been paid to the seller of the taxable service.~~

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

(4) On all tangible personal property imported or caused to be imported from other states, territories, the District of Columbia, or any foreign country, and used by him, ~~and on all services purchased in other states, territories, the District of Columbia, or any foreign country, and used by him,~~ the dealer as herein defined, shall pay the tax imposed by this chapter on all articles of tangible personal property so imported and used, ~~and on all services so purchased and used,~~ the same as if such arti-

~~cles or services~~ had been sold at retail for use or consumption in this state. For the purposes of this chapter, the use, or consumption, or distribution, or storage to be used or consumed in this state of tangible personal property shall each be equivalent to a sale at retail; and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(5)(a)1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

2.a. Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d. However, a Florida dealer will be relieved from the requirements of collecting taxes pursuant to this subparagraph if the Florida dealer obtains from the purchaser an affidavit setting forth the purchaser's name, address, state taxpayer identification number, and a statement that the purchaser is aware of his state's use tax laws, is a registered dealer in Florida or another state, or is purchasing the tangible personal property for resale or is otherwise not required to pay the tax on the transaction. The department may, by rule, provide a form to be used for the purposes set forth herein.

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

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

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

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

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

(V) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

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

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

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

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

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

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

2. The burden of proof of subparagraph 1. rests with the seller, who must retain the proper documentation to support the exempt sale. The exempt transaction is subject to verification by the department.

(c) It is not the intention of this chapter to levy a tax upon the sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any telecommunications satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This intention is not affected by:

1. The destruction in whole or in part of the satellite or launch vehicle.
2. The failure of a launch to occur or be successful.
3. The absence of any transfer of title to, or possession of, the satellite or launch vehicle after launch.
4. Anything in this chapter to the contrary.

(6) It is however, the intention of this chapter to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state of tangible personal property after it has come to rest in this state and has become a part of the mass property of this state.

(7) The provisions of this chapter do not apply in respect to the use or consumption of tangible personal property ~~or services~~, or distribution or storage of tangible personal property ~~or services~~ for use or consumption in this state, upon which a like tax equal to or greater than the amount imposed by this chapter has been lawfully imposed and paid in another state, territory of the United States, or the District of Columbia. The proof of payment of such tax shall be made according to rules and regulations of the department. If the amount of tax paid in another state, territory of the United States, or the District of Columbia is not equal to or greater than the amount of tax imposed by this chapter, then the dealer shall pay to the department an amount sufficient to make the tax paid in the other state, territory of the United States, or the District of Columbia and in this state equal to the amount imposed by this chapter.

(8) Use tax will apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that it shall be presumed that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state. The rental or lease of tangible personal property which is used or stored in this state shall be taxable without regard to its prior use or tax paid on purchase outside this state.

(9) The taxes imposed by this chapter do not apply to the use, sale, or distribution of religious publications, bibles, hymn books, prayer books, vestments, altar paraphernalia, sacramental chalices, and like church service and ceremonial raiments and equipment.

(10) No title certificate may be issued on any boat, mobile home, motor vehicle, or other vehicle, or, if no title is required by law, no license or registration may be issued for any boat, mobile home, motor vehicle, or other vehicle, unless there is filed with such application for title certificate or license or registration certificate a receipt issued by an authorized dealer or a designated agent of the Department of Revenue, evidencing the payment of the tax imposed by this chapter where the same is payable. For the purpose of enforcing this provision, all county tax collectors and all persons or firms authorized to sell or issue boat, mobile home, and motor vehicle licenses are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. All transfers of title to boats, mobile homes, motor vehicles, and other vehicles are taxable transactions, unless expressly exempt under this chapter.

Section 18. Section 212.07, Florida Statutes, as amended by section 13 of chapter 87-6, Laws of Florida, is amended to read:

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

(1)(a) ~~The privilege tax herein levied measured by retail sales shall be collected by the dealers from the purchaser or consumer. Except as otherwise specifically provided, the sales and use tax on services herein levied measured by retail sales shall likewise be collected by the dealers from the purchaser or consumer.~~

(b) A resale must be in strict compliance with the rules and regulations, and any dealer who makes a sale for resale which is not in strict compliance with the rules and regulations shall himself be liable for and pay the tax. A dealer may, through the informal protest provided for in s. 213.21 and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. The Department of Revenue shall adopt rules which provide that valid resale certificates and consumer certificates of exemption executed by those dealers or exempt entities which were registered with the department at the time of sale shall be accepted by the department when submitted during the protest period but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale. Such tax shall constitute a part of such price, charge, or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Where it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish an effective tax rate for such industry. The department may also amend this effective tax rate as the industry's pricing or practices change. Except as otherwise specifically provided, any dealer who neglects, fails, or refuses to collect the tax herein provided upon any, every, and all retail sales made by him or his agents or employees of tangible personal property ~~that is or services which are~~ subject to the tax imposed by this chapter shall be liable for and pay the tax himself.

(3) Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, is, in addition to the penalty of being liable for and paying the tax himself, guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) A dealer engaged in any business ~~or in selling any services~~ taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property ~~or services~~ sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this chapter, provided such sales are made directly by the producers. The producers shall be entitled to such exemptions although the livestock so sold in this state may have been registered with a breeders' or registry association prior to the sale and although the sale takes place at a livestock show or race meeting, so long as the sale is made by the original producer and within this state. When sales of livestock, poultry, or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by this chapter. The foregoing exemption does not apply to ornamental nursery stock offered for retail sale by the producer.

(6) It is specifically provided that the use tax as defined herein does not apply to livestock and livestock products, to poultry and poultry products, or to farm and agricultural products, when produced by the farmer and used by him and members of his family and his employees on the farm.

(7) Provided, however, that each and every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade shall be and is exempted from any and all provisions of this chapter, including payment of the tax applicable to the sale, storage, use, or transfer, or any other utilization or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer; and in no case shall more than one tax be exacted.

(8) The term "agricultural commodity," for the purposes hereof, means horticultural, poultry and farm products, and livestock and livestock products.

(9) Any person who has purchased at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property, admissions, communication ~~or other services taxable under this part~~, or leased tangible personal property, or who has leased, occupied, or used or was entitled to use any real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space, or spaces for boats in boat docks or marinas and cannot prove that the tax levied by this chapter has been paid to his vendor, lessor, or other person is directly liable to the state for any tax, interest, or penalty due on any such taxable transactions.

Section 19. Effective July 1, 1988, subsections (3) and (4) of section 212.07, Florida Statutes, as amended by section 85 of chapter 87-6 and section 53 of chapter 87-101, Laws of Florida, are amended to read:

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

(3) Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, is, in addition to the penalty of being liable for and paying the tax himself, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A dealer engaged in any business ~~or in selling any services~~ taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property ~~or services~~ sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method what-

soever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 20. Section 212.08, Florida Statutes, as amended by sections 14 and 25 of chapter 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99, section 13 of chapter 87-101, and section 2 of chapter 87-370, Laws of Florida, 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 part I of this chapter.

(1) EXEMPTIONS; GENERAL GROCERIES.—

(a) There are exempt from the tax imposed by this chapter food and drinks for human consumption except candy. Unless the exemption provided by paragraph (7)(q)(b) for school lunches, paragraph (7)(i)(e) for meals to certain patients or inmates, or paragraph (7)(k)(b) for meals provided by certain nonprofit organizations pertains, none of such items of food or drinks means:

1. Food or drinks served, prepared, or sold in or by restaurants; drug-stores; lunch counters; cafeterias; hotels; amusement parks; racetracks; taverns; concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of business; or by any business or place required by law to be licensed by the Division of Hotels and Restaurants of the Department of Business Regulation, except bakery products sold in or by pastry shops, doughnut shops, or like establishments for consumption off the premises;

2. Foods and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle;

3. Soft drinks, which include, but are not limited to, any nonalcoholic beverage; any preparation or beverage commonly referred to as a "soft drink"; or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" does not include: natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; coffee or coffee substitutes; tea except when sold in containers as provided herein; cocoa; products intended to be mixed with milk; or natural fluid milk;

4. Foods or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises, excluding bakery products for off-premises consumption unless such foods are taxed under subparagraph 1. or subparagraph 2.; or

5. Sandwiches sold ready for immediate consumption.

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

(b)1. Food or drinks not exempt under paragraph (a) shall be exempt, notwithstanding that paragraph, when purchased with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

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

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

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

1. "Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs or according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.

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

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

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

(d) This subsection shall be strictly construed and enforced.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5.5 percent.

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

(a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

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 special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in part II. Motor fuels and special fuels are taxable as provided in part II, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part 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 loco-

motives or vessels which were used in interstate or foreign commerce and which 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. This ratio shall be applied each month to the total Florida purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

(b) Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this paragraph have the same meanings ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the Legislature that the classification of alcoholic beverages made in this paragraph for the purpose of extending the tax imposed by this chapter is reasonable and just; and it is intended that such tax be separate from, and in addition to, any other tax imposed on alcoholic beverages.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(a) Items in agricultural use and certain nets.—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; fertilizers, insecticides, herbicides, and fungicides used for application on crops or groves; portable containers used for processing farm products; field and garden seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein.

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations ~~and services directly related to the installation of such machinery and equipment, excluding construction services~~, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state ~~and services directly related to the installation of such machinery and equipment, excluding construction services~~, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery ~~and~~ equipment, ~~or services~~ pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail. The department shall have 4 years from the date of delivery or date of receipt to perform an audit of such purchases, notwithstanding the provisions of s. 212.14(6).

c. If, in a subsequent audit conducted by the department, it is determined that the machinery ~~and~~ equipment, ~~or services~~ purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery *or*; equipment, ~~or services~~ purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

(c) Machinery *and*, equipment, ~~or services~~ used in production of electrical or steam energy.—The purchase of machinery and equipment for use at a fixed location, which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil, ~~is and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter.~~ Such electrical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed under chapter 212 shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law.

(d) Machinery *and*, equipment, ~~or services~~ used under federal procurement contract.—

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state ~~and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are partially exempt from the tax imposed in this chapter on that portion of the tax which is in excess of

\$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent. The percentage of increase is measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. In no case may the commencement of production begin later than 2 years following completion of installation of the machinery or equipment.

2. The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery *or*; equipment, ~~or services~~ reduced by the percentage of gross receipts from cost-reimbursement type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.

3. The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Such refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.

4. For the purposes of this paragraph, the term:

a. "Cost-reimbursement type contracts" has the same meaning as in 32 C.F.R. s. 3-405.

b. "Deflated implicit productive output" means the product of implicit productive output times the quotient of the national defense implicit price deflator for the preceding calendar year divided by the deflator for the year of completion or commencement.

c. "Eligible costs" means the total direct and indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding general and administrative costs, selling expenses, and profit, defined by the uniform cost-accounting standards adopted by the Cost-Accounting Standards Board created pursuant to 50 U.S.C. s. 2168.

d. "Implicit productive output" means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used.

e. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and are used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption of such parts and accessories is consistent with the provisions of this paragraph.

f. "National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.

5. The exclusions provided in subparagraph (b)5. apply to this exemption. This exemption applies only to machinery or equipment purchased pursuant to production contracts with the United States Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons. In no event shall the provisions of this paragraph apply to any expanding business the increase in productive output of which could be measured under the provisions of subparagraph (b)6.b. as physically comparable between the two periods.

(e) Gas used for certain agricultural purposes.—Butane gas, propane gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use. This exemption shall inure to the taxpayer only through refund of previously paid taxes. Refunds under this paragraph shall be authorized and administered as provided in s. 212.67.

(f) Motion picture or video equipment used in motion picture or television production activities and sound recording equipment used in the production of master tapes and master records.—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities. The exemption provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of production activities or on a quarterly basis. Notwithstanding the provisions of chapter 213, the department shall provide the Department of Commerce with a copy of each refund application and the amount of such refund, if any.

2. For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "Section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

b. "Production activities" means activities directed toward the preparation of a:

(I) Master tape or master record embodying sound; or

(II) Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

3. This paragraph shall expire and be void July 1, 1988.

(g) ~~Building materials used in the rehabilitation of real property located in an enterprise zone.—~~

1. ~~Building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath which includes:~~

a. ~~The name and address of the person claiming the refund.~~

b. ~~The refund permit number assigned pursuant to s. 212.095 to such person.~~

c. ~~An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.~~

d. ~~A description of the improvements made to accomplish the rehabilitation of the real property.~~

e. ~~A copy of the building permit issued for the rehabilitation of the real property.~~

f. ~~A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the appli-~~

~~cant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.~~

g. ~~Either the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the rehabilitated real property is located in an enterprise zone.~~

h. ~~A certification by the property appraiser that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed and that the assessed value for ad valorem tax purposes is, or on the next ad valorem tax roll will be, 30 percent or more greater than the assessed value for ad valorem tax purposes of the real property on the prior year's assessment roll.~~

2. ~~This exemption inures to a city, county, or other governmental agency through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, or other governmental agency must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, or other governmental agency seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant or similar grant or loan program.~~

3. ~~The provisions of s. 212.095(4) do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds \$500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of 5 percent of the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.f. or \$5,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.~~

4. ~~The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.~~

5. ~~The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 219.61 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.~~

6. ~~For the purposes of the exemption provided in this paragraph, the term:~~

a. ~~"Building materials" means tangible personal property which becomes a component part of improvements to real property.~~

b. ~~"Real property" has the same meaning as provided in s. 192.001(12).~~

c. ~~"Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property such that when substantially completed the assessed value for ad valorem tax purposes is 30 percent or more greater than the assessed value for ad valorem tax purposes of the real property on the prior year's assessment roll.~~

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

~~7. The provisions of this paragraph shall expire and be void on December 31, 1994.~~

~~(h) Business property used in an enterprise zone.—~~

~~1. Business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary employees. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.~~

~~2. To receive a refund, the business must file under oath, after the employment requirements of subparagraph 8. have been satisfied, an application which includes:~~

~~a. The name and address of the business claiming the refund.~~

~~b. The refund permit number assigned pursuant to s. 212.095 to such business.~~

~~c. Either the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the business is located, or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.~~

~~d. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.~~

~~e. The location of the property.~~

~~f. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.~~

~~g. The name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the employee resides or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.~~

~~3. The provisions of s. 212.095(4) do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be 97 percent of the sales tax paid on such business property. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60 day time period.~~

~~4. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.~~

~~5. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter.~~

~~6. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.~~

~~7. For the purposes of this exemption, the term "business property" means new or used property defined as "recovery property" in s. 168(e) of the Internal Revenue Code of 1954, as amended, except:~~

~~a. Property classified as 3-year property under s. 168(e)(2)(A) of the Internal Revenue Code of 1954, as amended;~~

~~b. Industrial machinery and equipment as defined in subparagraph (b)6.a.; and~~

~~c. Building materials as defined in sub-subparagraph (g)6.a.~~

~~8. The employment requirements established by this paragraph shall be met during the time period beginning 90 days prior to the date of the initial purchase for which a refund is sought and ending 90 days after the date of the last purchase for which a refund is sought under this paragraph. However, if the business did not exist or was not operating in the enterprise zone 90 days prior to the date of the initial purchase, the employment requirements established by this paragraph shall be met for not less than 90 days after the date of the last purchase for which a refund is sought.~~

~~9. The provisions of this paragraph shall expire and be void on December 31, 1994.~~

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Artificial commemorative flowers.—Exempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

(b) Boiler fuels.—When purchased for use as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residues or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter; however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the use of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation.

(c) Crustacea bait.—Also exempt from the tax imposed by this chapter is the purchase by commercial fishermen of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

(d) Feeds.—Feeds for poultry and livestock, including racehorses and dairy cows, are exempt.

(e) Film rentals.—Film rentals are exempt when an admission is charged for viewing such film, and license fees and direct charges for films, videotapes, and transcriptions used by television or radio stations or networks are exempt. However, this exemption shall not be construed to exempt the sale or use of advertising.

(f) Flags.—Also exempt are sales of the flag of the United States and the official state flag of Florida.

(g) Florida Retired Educators Association and its local chapters.—Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

(h) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as "seeing-eye dogs," and the sale of food or other items for such guide dogs.

1. The department shall issue a consumer's certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer's certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer's certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention.

(j) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households or owners of residential models, including oil, kerosene, liquefied petroleum gas, coal, wood, and other fuel products used in the household or residential model for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose, the entire sale is taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption.

(k) Meals provided by certain nonprofit organizations.—There is exempt from the tax imposed by this chapter the sale of prepared meals by a nonprofit volunteer organization to handicapped, elderly, or indigent persons when such meals are delivered as a charitable function by the organization to such persons at their places of residence.

(l) Military museums.—Also exempt are sales to nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and whose primary purpose is to raise money for military museums.

(m) Nonprofit corporation; home for the aged, nursing home, or hospice.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2) or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

(n) Organizations providing special educational, cultural, recreational, and social benefits to minors.—There shall be exempt from the tax imposed by this part nonprofit organizations which are incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors. This exemption is extended only to that level of the organization that has a salaried executive officer or an elected nonsalaried executive officer.

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property or services by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified

veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

~~(p) Resource recovery equipment.—Also exempt is resource recovery equipment which is owned and operated by or on behalf of any county or municipality, certified by the Department of Environmental Regulation under the provisions of s. 403.715.~~

~~(p)(q) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches served to students, in public, parochial, or nonprofit schools operated for and attended by pupils of grades 1 through 12. School books and food sold or served at community colleges and other institutions of higher learning are taxable.~~

~~(r) State Theater Program facilities.—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as State Theater Program facilities as provided in s. 265.287 are exempt from the tax imposed by this chapter.~~

~~(q)(e) Volunteer fire departments.—Also exempt are firefighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit.~~

~~(r)(t) Vinous and alcoholic beverages provided by distributors or vendors for the purpose of "wine tasting" and "spirituous beverage tasting" as contemplated under the provisions of section 564.06 and 565.12 respectively, are exempt from the tax imposed by this part. This exemption shall be effective retroactively to July 1, 1981.~~

~~(s)(w) Boats temporarily docked in state.—~~

1. Notwithstanding the provisions of chapters 327 and 328, Florida Statutes, pertaining to the registration of vessels, a boat upon which sales tax has not been paid, which has not been licensed, titled, or registered in another taxing jurisdiction within the United States, or which is being used in the waters of this state under a permit issued by an agency of the United States government is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 10 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 10-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility. The 10-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 10-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must furnish to the department, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must furnish the department, within 72 hours after the date of release, with a copy of the release form which shows the date of release and any other information the department requires. When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the 10-day period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this part; however, the sales tax levied under this part applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

(I) Is located on a navigable body of water;

(II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;

(III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or

c. A shoreside facility that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work.

(t) Professional services.—

1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.

2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term "information services" includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

~~(w) Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.~~

(8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) The sale or use of vessels and parts thereof used to transport persons or property in interstate or foreign commerce is subject to the taxes imposed in 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 vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year. The ratio would be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total Florida purchases of such vessels and parts thereof which are used in Florida to establish that portion of the total used and consumed in intrastate movement and subject to the tax at the applicable rate. Items, appropriate to carry out the purposes for which a vessel is designed or equipped and used, purchased by the owner, operator, or agent of a vessel for use on board such vessel shall be deemed to be parts of the vessel upon which the same are used or consumed. Vessels and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

(b) The partial exemption provided for in this subsection shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be partially exempted are for the exclusive use designated herein and setting forth the extent of such partial exemption. Any person furnishing a false affidavit to such effect for the purpose of evading payment of any tax imposed under this part is subject to the penalties set forth in s. 212.12 and as otherwise provided by law.

(c) It is the intent of the Legislature that neither subsection (4) nor this subsection, whether as currently in effect or as amended by chapter 73-240, Laws of Florida, and in effect between June 22, 1973, and June 13, 1977, shall be construed as imposing the tax provided by this part on vessels used as common carriers, contract carriers, or private carriers, engaged in interstate or foreign commerce, except to the extent provided by the pro rata formula provided in subsection (4) and in paragraph (a).

(9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in 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 during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of the railroad which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part.

(b) Motor vehicles which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in 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 motor vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of such motor vehicles and parts thereof which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Motor vehicles which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Motor vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

~~(10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT OF ANOTHER STATE.—The tax collected on the sale of a new or used motor vehicle in this state to a resident of another state shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state of which the purchaser is a resident, except that such tax shall not exceed the tax that would otherwise be imposed under this chapter. At the time of the sale, the purchaser shall execute a notarized statement of his intent to license the vehicle in the state of which he is a resident within 10 days of the sale and of the fact of the payment to the State of Florida of a sales tax in an amount equivalent to the sales tax of his state of residence and shall submit the statement to the appropriate sales tax collection agency in his state of residence.~~

~~(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—~~

~~(a) The tax imposed on the sale by a manufacturer of flyable aircraft, who designs such aircraft, which sale may include necessary equipment and modifications placed on such flyable aircraft prior to delivery by the manufacturer, shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state in which the aircraft will be domiciled.~~

~~(b) This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in this state, or if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.~~

~~(c) The maximum tax collectible under this subsection may not exceed 5 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.~~

~~(d) The purchaser shall execute a sworn affidavit attesting that he is not a resident of this state and stating where the aircraft will be domiciled. If the aircraft is subsequently used in this state within 6 months of the time of purchase, in violation of the intent of this subsection, the purchaser shall be liable for payment of the full use tax imposed by this chapter and shall be subject to the penalty imposed by s. 212.12(2), which penalty shall be mandatory.~~

~~(10)(12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS, OR VIDEO TAPES.—~~

(a) There are exempt from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, or master films or master video tapes; except that amounts paid to recording studios or motion picture or television studios for the tangible elements of such master tapes, records, films, or video tapes are taxable as otherwise provided in this part.

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

1. "Amounts paid for the tangible elements" does not include any amounts paid for the copyrightable, artistic, or other intangible elements of such master tapes, records, films, or video tapes, whether designated as royalties or otherwise, including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting a "sale" under s. 212.02.

2. "Master films or master video tapes" means films or video tapes utilized by the motion picture and television production industries in making visual images for reproduction.

3. "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

4. "Motion picture or television studio" means a facility in which film or video tape productions or parts of productions are made and which contains the necessary equipment and personnel for this purpose and includes a mobile unit or vehicle that is equipped in much the same manner as a stationary studio and used in the making of film or video tape productions.

5. "Recording studio" means a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

6. "Recording industry" means any person engaged in an occupation or business of making recordings embodying sound for a livelihood or for a profit.

7. "Motion picture or television production industry" means any person engaged in an occupation or business for a livelihood or for profit of making visual motion picture or television visual images for showing on screen or television for theatrical, commercial, advertising, or educational purposes.

(c) This subsection shall expire and be void July 1, 1988.

~~(11)(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. All laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14, 315.11, 348.65, 348.762, 349.13, 374.132, 403.1834, 616.07, 623.09, 637.131, and 637.291 and the following Laws of Florida, acts of the year indicated: s. 31, ch. 30843, 1955; s. 19, ch. 30845, 1955; s. 12, ch. 30927, 1955; s. 8, ch. 31179, 1955; s. 15, ch. 31263, 1955; s. 13, ch. 31343, 1955; s. 16, ch. 59-1653; s. 13, ch. 59-1356; s. 12, ch. 61-2261; s. 19, ch. 61-2754; s. 10, ch. 61-2686; s. 11, ch. 63-1643; s. 11, ch. 65-1274; s. 16, ch. 67-1446; and s. 10, ch. 67-1681.~~

(12)(14) The department shall establish a technical assistance advisory committee with public and private sector members to advise the Department of Revenue and the Department of Health and Rehabilitative Services in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines which are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.

~~(15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—~~

~~(a) Charges for electrical energy used by a qualified business at a fixed location in an enterprise zone in a municipality which has enacted an ordinance pursuant to s. 166.231(8) which provides for exemption of municipal utility taxes on such businesses shall be exempt from the tax imposed by this chapter for a period of 5 years from the billing period beginning not more than 30 days following notification to the applicable utility company by the department that an exemption has been authorized pursuant to this subsection.~~

~~(b) To receive this exemption, a business must file an application, on a form provided by the department for the purposes of this subsection and s. 166.231(8). The application shall be made under oath and shall include:~~

~~1. The name and location of the business.~~

~~2. Either the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the business is located or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.~~

~~3. The date on which electrical service is to be first initiated to the business.~~

~~4. The name and mailing address of the entity from which electrical energy is to be purchased.~~

~~5. The date of the application.~~

~~6. The name of the city in which the business is located.~~

~~7. The name and address of each permanent employee of the business including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 200.0065 to the enterprise zone in which the employee resides or such alternate proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.~~

~~(c) If, in a subsequent audit conducted by the department, it is determined that the business did not meet the criteria mandated in this subsection, the amount of taxes exempted shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the due date of each bill for the electrical energy purchased as exempt under this subsection, in the manner prescribed by this chapter.~~

~~(d) The department shall adopt rules governing applications for, issuance of, and the form of applications for the exemption authorized in this subsection and provisions for recapture of taxes exempted under this subsection; and the department may establish guidelines as to qualifications for exemption.~~

~~(e) For the purpose of the exemption provided in this subsection, the term "qualified business" means a business for which not less than 20 percent of its employees are residents of an enterprise zone, excluding temporary employees, for the 5-year duration of this exemption, except as provided in paragraph (f), and which is:~~

~~1. First occupying a new structure to which electrical service, other than that used for construction purposes, has not been previously provided or furnished;~~

~~2. Newly occupying an existing, remodeled, renovated, or rehabilitated structure to which electrical service, other than that used for remodeling, renovation, or rehabilitation of the structure, has not been provided or furnished in the three preceding billing periods; or~~

~~3. Occupying a new, remodeled, rebuilt, renovated, or rehabilitated structure for which a refund has been granted pursuant to paragraph (5)(g);~~

~~(f) The employment requirements established by this subsection shall be satisfied, without exception, for the first 6 months of the exemption period authorized in this subsection. Subsequently, any qualified business which fails for a period of 30 consecutive days to maintain such employment requirements will be ineligible for the remainder of the exemption authorized in this subsection.~~

~~(g) This subsection shall expire and be void on December 31, 1994, except that:~~

~~1. Paragraph (e) shall not expire; and~~

~~2. Any qualified business which has been granted an exemption under this subsection prior to that date shall be allowed the full benefit of this exemption as if this subsection had not expired on that date.~~

Section 21. Effective July 1, 1988, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, as amended by section 59 of chapter 87-6 and section 34 of chapter 87-101, Laws of Florida, 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 part I of this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state and services directly related to the installation of such machinery and equipment, excluding construction services, are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment, or services pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment, or services purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the depart-

ment required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment, or services purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

Section 22. Section 212.095, Florida Statutes, as amended by section 15 of chapter 87-6 and section 14 of chapter 87-101, Laws of Florida, is amended to read:

212.095 Refunds.—

(1) No exemption granted on a refund basis pursuant to this part is authorized except as provided in this section.

(2)(a) No person may secure a refund under this part unless such person is the holder of an unrevoked refund permit issued by the department before the purchase for which a refund is sought, which permit shall be numbered and issued annually.

(b) To procure a permit, a person must file with the department an application, on forms furnished by the department, stating that he is entitled to a refund according to the provisions of this part and that he intends to file an application for refund for the current calendar year, and must furnish the department such other information as the department requests.

(c) No person may in any event be allowed a refund unless he has filed the application provided for in paragraph (b) with the department. A permit shall be effective on the date issued by the department.

(d) If an applicant for a refund permit has violated any provision of this section or any regulation pursuant hereto, or has been convicted of bribery, theft, or false swearing within the period of 5 years preceding the

application, or if the department has evidence of the financial irresponsibility of the applicant, the department may require the applicant to execute a corporate surety bond of \$1,000 to be approved by the department, conditioned upon the payment of all taxes, penalties, and fines for which such applicant may become liable under this part.

(3)(a) When a sale is made to a person who claims to be entitled to a refund under this section, the seller shall make out a sales invoice, which shall contain the following information:

1. The name and business address of the purchaser.
2. A description of the item or services sold.
3. The date on which the purchase was made.
4. The price and amount of tax paid for the item or services.
5. The name and place of business of the seller at which the sale was made.
6. The refund permit number of the purchaser.

(b) The sales invoice shall be retained by the purchaser for attachment to his application for a refund, as a part thereof. No refund will be allowed unless the seller has executed such an invoice and unless proof of payment of the taxes for which the refund is claimed is attached. The department may refuse to grant a refund if the invoice is incomplete and fails to contain the full information required in this subsection.

(c) No person may execute a sales invoice, as described in paragraph (a), except a dealer duly registered pursuant to this part, or an authorized agent thereof.

(4)(a) No refund may be authorized unless a sworn application therefor containing the information required in this section is filed with the department not later than 30 days immediately following the quarter for which the refund is claimed. When a claim is filed after such 30 days and a justified excuse for late filing is presented to the department and the last preceding claim was filed on time, such late filing may be accepted through 60 days following the quarter. No refund will be authorized unless the amount due is for \$5 or more in any quarter and unless application is made upon forms prescribed by the department.

(b) Claims shall be filed and paid for each calendar quarter. The department shall deduct a fee of \$2 for each claim, which fee shall be deposited in the General Revenue Fund.

(c) Refund application forms shall include at a minimum the following information:

1. The name and address of the person claiming the refund.
2. The refund permit number of such person.
3. The location at which the items or services for which a refund is claimed are used.
4. A description of each such item or service and the purpose for which such item or service was acquired.
5. Copies of the sales invoices of items or services for which a refund is being claimed.

(5) The right to receive any refund under the provisions of this section is not assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in an insolvency proceeding, of the person entitled to the refund.

(6)(a) Each registered dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the location where the sale is made a complete record or duplicate sales tickets of all items or services sold by him for which a refund provided in this section may be claimed, which records shall contain the information required in paragraph (3)(a).

(b) Every person to whom a refund permit has been issued under this section shall, in accordance with the requirements of the department, keep at his residence or principal place of business in this state a record of each purchase for which a refund is claimed, including the information required in paragraph (3)(a).

(c) The records required to be kept under this subsection shall at all reasonable hours be subject to audit or inspection by the department or

by any person duly authorized by it. Such records shall be preserved and may not be destroyed until 3 years after the date the item to which they relate was sold or purchased.

(d) The department shall keep a permanent record of the amount of refund claimed and paid to each claimant. Such records shall be open to public inspection.

(7) Agents of the department are authorized to go upon the premises of any refund permitholder, or duly authorized agent thereof, to make an inspection to ascertain any matter connected with the operation of this section or the enforcement hereof. However, no agent may enter the dwelling of any person without the consent of the occupant or authority from a court of competent jurisdiction.

(8) If any taxes are refunded erroneously, the department shall advise the payee by registered mail of the erroneous refund. If the payee fails to reimburse the state within 15 days after the receipt of the letter, an action may be instituted by the department against such payee in the circuit court, and the department shall recover from the payee the amount of the erroneous refund plus a penalty of 25 percent.

(9) No person shall:

(a)1. Knowingly make a false or fraudulent statement in an application for a refund permit or in an application for a refund of any taxes under this section;

(b)2. Fraudulently obtain a refund of such taxes; or

(c)3. Knowingly aid or assist in making any such false or fraudulent statement or claim.

(10) The refund permit of any person who violates any provision of this section shall be revoked by the department and may not be reissued until 2 years have elapsed from the date of such revocation. The refund permit of any person who violates any other provision of this part may be suspended by the department for any period, in its discretion, not exceeding 6 months.

(11) Refund permits and refund application forms shall include instructions for dealers and purchasers as to the relevant requirements of this section.

Section 23. Section 212.11, Florida Statutes, as amended by section 16 of chapter 87-6, section 15 of chapter 87-101, and section 3 of chapter 87-239, Laws of Florida, is amended to read:

212.11 Tax returns and regulations.—

(1)(a)1. ~~Except as provided in subparagraph 3,~~ Each dealer shall calculate his estimated tax liability for any month by one of the following methods:

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

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

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

2. Any estimated tax liability greater than or equal to the threshold amount specified in subsection (5) shall be due, payable, and remitted by the 20th day of the month for which the liability applies. The difference between the estimated tax liability paid and the actual amount and taxes due under this part for such month shall become due and payable by the first day of the following month and shall be remitted by the 20th day thereof.

3. For any dealer who has an estimated tax liability of less than the threshold amount specified in subsection (5) or who was not registered for sales tax purposes for the corresponding month of the preceding year ~~or who first remits taxes to the department on or after the effective date of this section,~~ the current taxes levied pursuant to this part shall be due and payable monthly on the first day of the following month and shall be remitted by the 20th day thereof.

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

before the 20th day of the month, to the department, upon forms prepared and furnished by it, showing the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

(c) However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$100 and may authorize a semiannual return and payment when the tax remitted by the dealer for the preceding 6 months did not exceed \$200.

~~(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers registered as service providers and remitting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than \$500 in each month for the previous 3 months. Quarterly payments pursuant to this paragraph shall be due and payable in March, June, September, and December of each year.~~

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

(2) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the department may prescribe.

(3) Except as otherwise expressly provided for herein, it is hereby declared to be the intention of this chapter to impose a tax on the gross proceeds of all leases and rentals of tangible personal property in this state when the lease or rental is a part of the regularly established business, or the same is incidental or germane thereto.

(4) The 66 percent rate provided in subsection (1) shall be reduced over a period of 5 years beginning January 1, 1986, and is repealed December 31, 1990. During such period the following rates shall be applicable:

(a) From January 1, 1986, through December 31, 1986, the rate shall be 50 percent.

(b) From January 1, 1987, through December 31, 1987, the rate shall be 40 percent.

(c) From January 1, 1988, through December 31, 1988, the rate shall be 30 percent.

(d) From January 1, 1989, through December 31, 1989, the rate shall be 20 percent.

(e) From January 1, 1990, through December 31, 1990, the rate shall be 10 percent.

(5) The threshold amount to be used pursuant to subsection (1) shall be:

(a) \$1,650 before January 1, 1986.

(b) \$1,250 from January 1, 1986, through December 31, 1986.

(c) \$1,000 from January 1, 1987, through December 31, 1987.

(d) \$750 from January 1, 1988, through December 31, 1988.

(e) \$500 from January 1, 1989, through December 31, 1989.

(f) \$250 from January 1, 1990, through December 31, 1990.

Section 24. Section 212.12, Florida Statutes, as amended by section 17 of chapter 87-6, section 6 of chapter 87-99, section 16 of chapter 87-101, and section 8 of chapter 87-402, Laws of Florida, is amended to read:

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

(1) 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~~, and for the purpose of compensating owners of places where admissions are collected, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, and owner (except dealers who make mail order sales) shall be allowed 3 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 report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, 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 \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000. 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 tax is delinquent at the time of payment.

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

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return 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, 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.

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due 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, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 25 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than \$5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50 percent of the tax bill and for fine and punishment as provided by law for a conviction of a misdemeanor of the second degree.

(b) 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 5 percent of any unpaid estimated tax. Through December 31, 1984, this penalty shall be waived upon application by the dealer unless the department has determined that there was willful intent by the dealer to evade payment of the 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.

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

(3) When any dealer, or other person charged herein, fails to remit the tax, or any portion thereof, on or before the day when such tax is required by law to be paid, there shall be added to the amount due interest at the rate of 1 percent per month of the amount due from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 21st day of the month following the month for which the tax is due, except as otherwise provided in this part.

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

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

(b) In the event any dealer or other person charged herein fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, or fails to make a report and pay the tax as provided by this chapter; or makes a grossly incorrect report, or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state ~~or of the sales or cost price of all services the sale or use of which is taxable under this part~~, together with interest, plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

(6)(a) The department is given the power to prescribe the records to be kept by all persons subject to taxes imposed by this chapter; and it shall be the duty of every person required to make a report and pay any tax under this chapter, every person receiving rentals or license fees, and owners of places of admission, to keep and preserve suitable records of the sales, leases, rentals, license fees, admissions, or purchases, as the case may be, taxable under this chapter; such other books of account as may be necessary to determine the amount of the tax due hereunder; and other information as may be required by the department. It shall be the duty of every such person so charged with such duty, moreover, to keep and preserve for a period of 3 years all invoices and other records of goods, wares, and merchandise, records of admissions, leases, license fees and rentals, and all other subjects of taxation under this chapter; and all such books, invoices, and other records shall be open to examination at all reasonable hours to the department or any of its duly authorized agents.

(b) For the purpose of this subsection, if a dealer does not have adequate records of his retail sales or purchases, the department may, upon the basis of a test or sampling of the dealer's available records or other

information relating to the sales or purchases made by such dealer, for a representative period, determine the proportion that taxable retail sales bear to total retail sales or the proportion that taxable purchases bear to total purchases. This subsection does not affect the duty of the dealer to collect, or the liability of any consumer to pay, any tax imposed by or pursuant to this part.

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

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

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

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, and 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; and 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 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. 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 5.5 5 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 18 20 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 19 21 cents to 36 40 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 37 41 cents to 54 60 cents, both inclusive, 3 cents shall be added for taxes.
- (e) On sales in amounts from 55 61 cents to 72 80 cents, both inclusive, 4 cents shall be added for taxes.
- (f) On sales in amounts from 73 81 cents to 90 cents \$1, both inclusive, 5 cents shall be added for taxes.
- (g) On sales in amounts from 91 cents to \$1.09, both inclusive, 6 cents shall be added for taxes.
- (h) On sales in amounts from \$1.09 to \$1.27, both inclusive, 7 cents shall be added for taxes.

(i) On sales in amounts from \$1.28 to \$1.45, both inclusive, 8 cents shall be added for taxes.

(j) On sales in amounts from \$1.46 to \$1.63, both inclusive, 9 cents shall be added for taxes.

(k) On sales in amounts from \$1.64 to \$1.81, both inclusive, 10 cents shall be added for taxes.

(l) On sales in amounts from \$1.82 to \$2, both inclusive, 11 cents shall be added for taxes.

(m)(g) On sales in amounts of more than \$2 \$1, 5.5 5 percent shall be charged upon each two dollars dollar of price, plus the appropriate bracket charge upon any fractional part of two dollars a-dollar.

(10) In charter counties which have adopted the discretionary 1-percent tax, the following brackets shall be applicable to all taxable transactions which would otherwise have been transactions taxable at the rate of 5.5 5 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 15 16 cents, both inclusive, 1 cent shall be added for taxes.
 - (c) On sales in amounts from 16 17 cents to 30 33 cents, both inclusive, 2 cents shall be added for taxes.
 - (d) On sales in amounts from 31 34 cents to 46 50 cents, both inclusive, 3 cents shall be added for taxes.
 - (e) On sales in amounts from 47 51 cents to 61 66 cents, both inclusive, 4 cents shall be added for taxes.
 - (f) On sales in amounts from 62 67 cents to 76 83 cents, both inclusive, 5 cents shall be added for taxes.
 - (g) On sales in amounts from 77 84 cents to 92 cents \$1, both inclusive, 6 cents shall be added for taxes.
 - (h) On sales in amounts from 93 cents to \$1.07, both inclusive, 7 cents shall be added for taxes.
 - (i) On sales in amounts from \$1.08 to \$1.23, both inclusive, 8 cents shall be added for taxes.
 - (j) On sales in amounts from \$1.24 to \$1.38, both inclusive, 9 cents shall be added for taxes.
 - (k) On sales in amounts from \$1.39 to \$1.53, both inclusive, 10 cents shall be added for taxes.
 - (l) On sales in amounts from \$1.54 to \$1.69, both inclusive, 11 cents shall be added for taxes.
 - (m) On sales in amounts from \$1.70 to \$1.84, both inclusive, 12 cents shall be added for taxes.
 - (n) On sales in amounts from \$1.85 to \$2, both inclusive, 13 cents shall be added for taxes.
 - (o)(h) On sales in amounts from \$2 \$1 up to, and including, the first \$1,000 in price, 6.5 6 percent shall be charged upon each two dollars dollar of price, plus the appropriate bracket charge upon any fractional part of two dollars a-dollar.
 - (p)(i) On sales in amounts of more than \$1,000 in price, 6.5 6 percent shall be added upon the first \$1,000 in price, and 5.5 5 percent shall be added upon each two dollars dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of two dollars a-dollar as provided for in subsection (9).
- (11) The department shall promulgate by rule the tax amounts and brackets applicable to transactions taxable at 3 percent pursuant to s. 212.08(3) and on transactions which would otherwise have been so taxable in counties which have adopted the discretionary 1-percent tax.
- (12) It is hereby declared to be the legislative intent that, whenever in the construction, administration, or enforcement of this chapter there may be any question respecting a duplication of the tax, the end consumer, or last retail sale, be the sale intended to be taxed and insofar as may be practicable there be no duplication or pyramiding of the tax.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records for a period of not less than 3 years, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for the first offense; and for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 25. Effective January 1, 1988, subsection (1) of section 212.12, Florida Statutes, as amended by section 17 of chapter 87-6 and section 16 of chapter 87-101, Laws of Florida, is amended to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services ~~and taxable services~~, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records 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 3 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 report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, 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 \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000. *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 tax is delinquent at the time of payment.

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

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return 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, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; ~~the amount of taxable purchases~~; 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 the amounts of gross sales, taxable sales, taxable purchases, and tax collected or due shall be reported by major sales tax source: services, tangible personal property, admissions, transient rentals, commercial leases or licenses, and agricultural equipment.~~

Section 26. Effective July 1, 1988, paragraph (a) of subsection (2) and subsection (13) of section 212.12, Florida Statutes, as amended by section 88 of chapter 87-6 and section 56 of chapter 87-101, Laws of Florida, are reenacted 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.—

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due 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, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 25 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than \$5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50 percent of the tax bill and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, roominghouse, tourist or trailer camp, real property, or any interest therein, or any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records for a period of not less than 3 years, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for the first offense; and for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 27. Section 212.13, Florida Statutes, as amended by section 18 of chapter 87-6, Laws of Florida, is amended to read:

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

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the

department as aforesaid, it is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property ~~or services~~ received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property ~~or services~~ licensed within this state is required to permit the department to examine his books and records at all reasonable hours; and, upon his refusal, the department may require him to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state.

(4) For the further purpose of enforcement of this chapter, every wholesaler of tangible personal property ~~or services~~ licensed within this state is required to permit the department to examine his books and records at all reasonable hours. He must also maintain such books and records for a period of not less than 3 years in order to disclose the sales of all goods ~~or services~~ sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the department may reasonably require, and so as to permit the department to determine the volume of goods ~~or services~~ sold by wholesalers to dealers, as defined under this chapter, and the dates and amounts of sales made. The department may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section.

(5)(a) The department shall send written notification, at least 60 days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The department is not required to give 60 days' prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

(b) Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.

2. A reminder that all of the records, receipts, invoices, resale certificates, and related documentation of the taxpayer must be made available to the auditor.

3. Any other requests or suggestions the department may deem necessary.

(c) Only records, receipts, invoices, resale certificates, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit. A resale certificate containing a date prior to the date the audit commences shall be deemed acceptable documentation of the specific transaction or transactions which occurred in the past, for the purpose of conducting an audit.

(d) The provisions of this chapter concerning fraudulent or improper records, receipts, invoices, resale certificates, and related documentation shall apply when conducting any audit.

(e) The requirement in paragraph (a) of 60 days' written notification does not apply to the distress or jeopardy situations referred to in s. 212.14 or s. 212.15.

Section 28. Effective July 1, 1988, subsections (1) and (2) of section 212.13, Florida Statutes, as amended by section 89 of chapter 87-6 and section 57 of chapter 87-101, Laws of Florida, are amended to read:

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

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property ~~or services~~ received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 29. Section 212.14, Florida Statutes, as amended by section 19 of chapter 87-6, Laws of Florida, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.—

(1) Any person required to pay a tax imposed under this chapter, or to make a return, either or both, and who renders a return or makes a payment of a tax with intent to deceive or defraud the state, and to prevent the state from collecting the amount of taxes imposed by this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which any return is made, or any tax is paid, or any report is made to the department, may be required by the department to show cause at a time and place to be set by the department, after 10 days' notice in writing requiring such books, records, or papers as the department may require relating to the business of such person for such tax period, and the department may require such person, or persons, or their employee or employees to give testimony under oath and answer interrogatories by the department, or an assistant, respecting the sale, use, consumption, distribution, or storage rental or license for use of real or personal property ~~or services~~ within the state, or admissions collected therein, or the failure to make a true report thereof, as provided by this chapter, or failure to pay the true amount of the tax required to be paid under this chapter. At said hearing, in the event such person fails to produce such books, records, or papers, or to appear and answer questions within the scope of investigation relating to matters concerning taxes to be imposed under this chapter, or prevents or impedes his or her agents or employees from giving testimony, then the department is authorized under this chapter to estimate any unpaid deficiencies in taxes to be assessed against such person upon such information as may be available to it and to issue a distress warrant for the collection of such taxes, interest, or penalties estimated by him to be due and payable, and such assessment shall be deemed prima facie correct. In such cases said warrant shall be issued to any sheriff in the state where such person owns or possesses any property and such property as may be required to satisfy any such taxes, interest, or penalties shall be by such sheriff seized and sold under said distress warrant in the same manner as property is permitted to be seized and sold under distress warrants issued to secure the payments of delinquent taxes as hereinafter provided, and the department shall also

have the right to writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law. Respecting the place for the holding of a hearing by the department or its agents as provided in this section, the person whose tax return or report being investigated may by written request to the department require the hearing be set at a place within the judicial circuit of Florida wherein the person's business is located or within the judicial circuit of Florida wherein such person's books and records are kept.

(2) Wherever returns are required to be made to the department hereunder the full amount of the taxes required to be paid as shown by said return shall be paid and accompany said return, and the failure to remit said full amount of taxes at the time of making said return shall cause said taxes to become delinquent. All taxes and all interest and penalties imposed under this chapter shall be paid to the department at Tallahassee, or to such designated offices throughout the state as the department may from time to time designate and in the form of remittance required by it.

(3) The department may require all reports of taxes to be paid under this chapter to be accompanied with a written statement, of the person or by an officer of any firm or corporation required to pay such taxes setting forth such facts as the department may reasonably require in order to advise the department as to the amount of taxes that are due and payable upon said return. Filing of return not accompanied by payment is prima facie evidence of conversion of the money due. Any person or any duly authorized corporation officer or agent, members of any firm or incorporated society, or organization who refuses to make a return and pay the taxes due, as required by the department and in the manner and in the form that the department may require, or to state in writing that the return is correct to the best of his knowledge and belief, as so required by the department, shall be subject to a penalty of 6 percent per annum of the amount due and shall upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The signing of a written return shall have the same legal effect as if made under oath without the necessity of appending such oath thereto.

(4) In all cases where it is necessary to insure compliance with the provisions of this chapter, the department shall require a cash deposit, bond or other security as a condition to a person obtaining or retaining a dealer's certificate of registration under this chapter. Such bond shall be in the form and such amount as the department deems appropriate under the particular circumstances. Every person failing to produce such cash deposit, bond or other security as provided for herein shall not be entitled to obtain or retain a dealer's certificate of registration under this chapter, and the Department of Legal Affairs is hereby authorized to proceed by injunction, when so requested by the Department of Revenue, to prevent such person from doing business subject to the provisions of this chapter until such cash deposit, bond or other security is posted with the department, and any temporary injunction for this purpose may be granted by any judge or chancellor authorized by law to grant injunctions. Any security required to be deposited may be sold by the department at public sale if it becomes necessary so to do in order to recover any tax, interest or penalty due. Notice of such sale may be served personally or by mail upon the person who deposited such security. If by mail, notice sent to the last known address as the same appears on the records of the department shall be sufficient for the purpose of this requirement. Upon such sale, the surplus, if any, above the amount due under this chapter shall be returned to the person who deposited the security.

(5) Any person entering into a contract for the repair, alteration, construction or improvement of realty who is required to obtain a contractor's occupational license under the laws of this state shall, before entering into the performance of such contract, secure a dealer's certificate of registration, unless such person has held such contractor's occupational license for a period of at least 12 months immediately preceding the date of the contract. As a prerequisite for the issuance of such dealer's certificate of registration, the dealer shall execute and file with the department a good and valid bond endorsed by a surety company authorized to do business in this state, or with sufficient sureties to be approved by the department, conditioned that all taxes which may accrue to the state under this chapter will be paid when due; provided, however, that any taxpayer may pay the tax in advance on any contract in lieu of furnishing bond. Every person failing to procure the certificate of registration required by this law shall be denied the right to perform such contract

until he complies with such requirement, and the Department of Legal Affairs is hereby authorized to proceed by injunction, when so requested by the Department of Revenue, to prevent any activity in the performance of such contract until the certificate of registration is secured, and any temporary injunction enjoining the execution of such contract may be granted without notice by any judge or chancellor now authorized by law to grant injunctions. The bond shall remain in full force and effect during the terms of the contract or until such time as the department has issued a formal certificate of clearance stating that the tax due on the contract has been paid.

(6) The amount of any tax imposed under this chapter may be determined and assessed within 3 years after the first day of the month following the date on which the tax becomes due and payable. However, this limitation shall be tolled by a request for inspection and examination of a dealer's books and records by the department within that period, in which event the period for which tax due may be determined and assessed shall be the 3 years immediately preceding the first day of the month in which a request for inspection and examination of the books and records has been made by the department. The period of limitation for assessing any tax, penalty, or interest assessed under this chapter shall be tolled during the pendency of a timely filed protest pursuant to s. 213.21 or department rules.

(7) The department or any person authorized by it in writing is authorized to make and sign assessments, tax warrants, assignments of tax warrants and satisfaction of tax warrants.

Section 30. Effective July 1, 1988, section 212.14, Florida Statutes, as amended by sections 19, 58, and 90 of chapter 87-6 and section 58 of chapter 87-101, Laws of Florida, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.—

(1) Any person required to pay a tax imposed under this chapter, or to make a return, either or both, and who renders a return or makes a payment of a tax with intent to deceive or defraud the state, and to prevent the state from collecting the amount of taxes imposed by this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which any return is made, or any tax is paid, or any report is made to the department, may be required by the department to show cause at a time and place to be set by the department, after 10 days' notice in writing requiring such books, records, or papers as the department may require relating to the business of such person for such tax period, and the department may require such person, or persons, or their employee or employees to give testimony under oath and answer interrogatories by the department, or an assistant, respecting the sale, use, consumption, distribution, or storage rental or license for use of real or personal property or services within the state, or admissions collected therein, or the failure to make a true report thereof, as provided by this chapter, or failure to pay the true amount of the tax required to be paid under this chapter. At said hearing, in the event such person fails to produce such books, records, or papers, or to appear and answer questions within the scope of investigation relating to matters concerning taxes to be imposed under this chapter, or prevents or impedes his or her agents or employees from giving testimony, then the department is authorized under this chapter to estimate any unpaid deficiencies in taxes to be assessed against such person upon such information as may be available to it and to issue a distress warrant for the collection of such taxes, interest, or penalties estimated by him to be due and payable, and such assessment shall be deemed prima facie correct. In such cases said warrant shall be issued to any sheriff in the state where such person owns or possesses any property and such property as may be required to satisfy any such taxes, interest, or penalties shall be by such sheriff seized and sold under said distress warrant in the same manner as property is permitted to be seized and sold under distress warrants issued to secure the payments of delinquent taxes as hereinafter provided, and the department shall also have the right to writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law. Respecting the place for the holding of a hearing by the department or its agents as provided in this section, the person whose tax return or report being investigated may by written request to the department require the hearing be set at a place within the judicial circuit of Florida wherein the person's business is located or within the judicial circuit of Florida wherein such person's books and records are kept.

(2) Wherever returns are required to be made to the department hereunder the full amount of the taxes required to be paid as shown by said return shall be paid and accompany said return, and the failure to remit said full amount of taxes at the time of making said return shall cause said taxes to become delinquent. All taxes and all interest and penalties imposed under this chapter shall be paid to the department at Tallahassee, or to such designated offices throughout the state as the department may from time to time designate and in the form of remittance required by it.

(3) The department may require all reports of taxes to be paid under this chapter to be accompanied with a written statement, of the person or by an officer of any firm or corporation required to pay such taxes setting forth such facts as the department may reasonably require in order to advise the department as to the amount of taxes that are due and payable upon said return. Filing of return not accompanied by payment is prima facie evidence of conversion of the money due. Any person or any duly authorized corporation officer or agent, members of any firm or incorporated society, or organization who refuses to make a return and pay the taxes due, as required by the department and in the manner and in the form that the department may require, or to state in writing that the return is correct to the best of his knowledge and belief, as so required by the department, shall be subject to a penalty of 6 percent per annum of the amount due and shall upon conviction, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The signing of a written return shall have the same legal effect as if made under oath without the necessity of appending such oath thereto.

(4) In all cases where it is necessary to insure compliance with the provisions of this chapter, the department shall require a cash deposit, bond or other security as a condition to a person obtaining or retaining a dealer's certificate of registration under this chapter. Such bond shall be in the form and such amount as the department deems appropriate under the particular circumstances. Every person failing to produce such cash deposit, bond or other security as provided for herein shall not be entitled to obtain or retain a dealer's certificate of registration under this chapter, and the Department of Legal Affairs is hereby authorized to proceed by injunction, when so requested by the Department of Revenue, to prevent such person from doing business subject to the provisions of this chapter until such cash deposit, bond or other security is posted with the department, and any temporary injunction for this purpose may be granted by any judge or chancellor authorized by law to grant injunctions. Any security required to be deposited may be sold by the department at public sale if it becomes necessary so to do in order to recover any tax, interest or penalty due. Notice of such sale may be served personally or by mail upon the person who deposited such security. If by mail, notice sent to the last known address as the same appears on the records of the department shall be sufficient for the purpose of this requirement. Upon such sale, the surplus, if any, above the amount due under this chapter shall be returned to the person who deposited the security.

(5) Any person entering into a contract for the repair, alteration, construction or improvement of realty who is required to obtain a contractor's occupational license under the laws of this state shall, before entering into the performance of such contract, secure a dealer's certificate of registration, unless such person has held such contractor's occupational license for a period of at least 12 months immediately preceding the date of the contract. As a prerequisite for the issuance of such dealer's certificate of registration, the dealer shall execute and file with the department a good and valid bond endorsed by a surety company authorized to do business in this state, or with sufficient sureties to be approved by the department, conditioned that all taxes which may accrue to the state under this chapter will be paid when due; provided, however, that any taxpayer may pay the tax in advance on any contract in lieu of furnishing bond. Every person failing to procure the certificate of registration required by this law shall be denied the right to perform such contract until he complies with such requirement, and the Department of Legal Affairs is hereby authorized to proceed by injunction, when so requested by the Department of Revenue, to prevent any activity in the performance of such contract until the certificate of registration is secured, and any temporary injunction enjoining the execution of such contract may be granted without notice by any judge or chancellor now authorized by law to grant injunctions. The bond shall remain in full force and effect during the terms of the contract or until such time as the department has issued a formal certificate of clearance stating that the tax due on the contract has been paid.

(6)(7) The department or any person authorized by it in writing is authorized to make and sign assessments, tax warrants, assignments of tax warrants and satisfaction of tax warrants.

Section 31. Section 212.17, Florida Statutes, as amended by section 20 of chapter 87-6, Laws of Florida, is amended to read:

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

(1) In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this chapter has been collected or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax collected or charged by him, in the manner prescribed by the department; and in case the tax has not been remitted by the dealer to the department, the dealer may deduct the same in submitting his return upon receipt of a signed statement of the dealer as to the gross amount of such refunds during the period covered by said signed statement, which period shall not be longer than 90 days. The department shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected. Such memorandum shall be accepted by the department at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this chapter; provided, in cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the department that the tax was not due.

(2) A dealer who has paid the tax imposed by this chapter on tangible personal property sold under a retained title, conditional sale, or similar contract, or under a contract wherein the dealer retains a security interest in the property pursuant to chapter 679, may take credit or obtain a refund for the tax paid by him on the unpaid balance due him when he repossesses (with or without judicial process) the property within 12 months following the month in which the property was repossessed. When such repossessed property is resold, the sale is subject in all respects to the tax imposed by this chapter.

(3) A dealer who has paid the tax imposed by this chapter on tangible personal property ~~or services~~ may take a credit or obtain a refund for any tax paid by him on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are thereafter in whole or in part paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

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

(5) The department and its assistants are hereby authorized and empowered to administer the oath for the purpose of enforcing and administering the provisions of this chapter.

(6) The department shall have the power to make, prescribe and publish reasonable rules and regulations not inconsistent with this chapter, or the other laws, or the constitution of this state, or the United States, for the enforcement of the provisions of this chapter and the collection of revenue hereunder, and such rules and regulations shall when enforced be deemed to be reasonable and just.

(7) The department, where admissions, license fees, or rental payments ~~or payments for services~~ are made and thereafter returned to the payers after the taxes thereon have been paid, shall return or credit the taxpayer for taxes so paid on the moneys returned in the same manner as is provided for returns or credits of taxes where purchases or tangible personal property are returnable to a dealer.

Section 32. Section 212.18, Florida Statutes, as amended by section 21 of chapter 87-6 and section 10 of chapter 87-402, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.—

(1) The cost of preparing and distributing the reports, forms, and paraphernalia for the collection of said tax and the inspection and enforcement duties required herein shall be borne by the revenue produced by this chapter, provisions for which are hereinafter made.

(2) The department shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by this chapter. It is authorized to make and publish such rules and regulations not inconsistent with this chapter, as it may deem necessary in enforcing its provisions in order that there shall not be collected on the average more than the rate levied herein. The department is authorized to and it shall provide by rule and regulation a method for accomplishing this end. It shall prepare instructions to all persons required by this chapter to collect and remit the tax to guide such persons in the proper collection and remission of such tax and to instruct such persons in the practices that may be necessary for the purpose of enforcement of this chapter and the collection of the tax imposed hereby. The use of tokens in the collection of this tax is hereby expressly forbidden and prohibited.

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. However, no registration fee is required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

(4) The department is hereby given the authority to purchase such supplies and equipment as may be necessary and incur any other necessary expenses as are proper for the enforcement and administration of this chapter.

Section 33. Effective July 1, 1988, subsection (3) of section 212.18, Florida Statutes, as amended by section 92 of chapter 87-6 and section 60 of chapter 87-101, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.—

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other

data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. However, no registration fee is required to accompany an application to engage in or conduct business or make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

Section 34. Section 212.21, Florida Statutes, as amended by section 22 of chapter 87-6, Laws of Florida, is amended to read:

212.21 Declaration of legislative intent.—

(1) If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconstitutionality shall not be construed to affect the portions of this chapter not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being hereby declared to be the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable or void portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective or void portions of this chapter, the Legislature would have enacted the valid and constitutional portions thereof.

(2) It is hereby declared to be the specific legislative intent to tax each and every sale, admission, use, storage, consumption or rental levied and set forth in this chapter, except as to such sale, admission, use, storage, consumption, or rental, as shall be specifically exempted therefrom by this chapter, subject to the conditions appertaining to such exemption. It is further declared to be the specific legislative intent that should any exemption or attempted exemption from the tax or the operation or imposition of the tax or taxes be declared to be invalid, ineffective, inapplicable, unconstitutional or void for any reason, such declaration shall not affect the tax or taxes imposed herein, but such sale, admission, use, storage, consumption or rental or any of them exempted or attempted to be exempted from the tax or taxes or the operation or the imposition of the tax or taxes, shall be subject to the tax or taxes and the operation and imposition thereof to the same extent as if such exemption or attempted exemption had never been included herein.

(3) It is further declared to be the specific legislative intent to exempt from the tax or taxes or from the operation or the imposition thereof only such sales, admissions, uses, storages, consumption or rentals in relation to or in respect of the things set forth by this chapter as exempted from the tax to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States. It is further declared to be the specific legislative intent to tax each and every taxable privilege made subject to the tax or taxes, and each and every taxable service made subject to the tax or taxes, except such sales, admis-

sions, uses, storages, consumptions or rentals as are specifically exempted therefrom by this chapter to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States.

(4) It being further declared to be the specific legislative intent that in the event any exemption or attempted exemption of any sale, admissions, use, storage, consumption or rental from the tax or taxes imposed by this chapter is for any reason declared to be unconstitutional, ineffective, inapplicable or void, that then and in such event each and every such sale, admission, use, storage, consumption or rental shall be subject to the tax or taxes imposed by this chapter as fully and to the same extent as if such exemption or attempted exemption had never been included herein, it being declared to be the specific legislative intent that no unconstitutional, invalid, ineffective, inapplicable or void exemption or attempted exemption or exemptions or attempted exemptions induced the passage of this chapter, it being further declared to be the specific legislative intent that without the inclusion herein of any such unconstitutional, invalid, ineffective, inapplicable or void exemption or attempted exemption, exemptions or attempted exemptions, the valid portions of this chapter would have been enacted.

(5) It is the legislative intent that the repeal of any provision heretofore exempting in whole or part any item or transaction from the tax imposed by this chapter shall result in the full imposition of the applicable tax to any such item or transaction.

Section 35. Section 212.61, Florida Statutes, as amended by section 23 of chapter 87-6, Laws of Florida, is amended to read:

212.61 Definitions.—As used in this part, the term:

(1) "Dealer" means any person who holds a valid license as a dealer of special fuel, issued by the department pursuant to s. 206.89, and who:

(a) Imports and sells at wholesale, retail, or otherwise within this state any special fuel;

(b) Imports, or causes to be imported, and withdraws for use within this state by himself or others any special fuel from the tank car, truck, or other original container or package in which it was imported into this state;

(c) Exports special fuel from this state to another state or foreign country;

(d) Manufactures, refines, produces, or compounds any special fuel within this state and sells such fuel at wholesale, retail, or otherwise within this state;

(e) Imports into this state from any other state or foreign country, or receives by any means into this state and keeps in storage in this state for a period of 24 hours or more after the fuel loses interstate character as a shipment in interstate commerce, any special fuel which is intended to be used in this state;

(f) Is primarily liable under the special fuel tax laws of this state for the payment of special fuel taxes;

(g) Purchases or receives in this state special fuel in bulk quantities for resale to service stations, to a user or another dealer, or to the ultimate consumer for nontaxable consumption upon which the tax has not been paid; or

(h) Has both a taxable use and nontaxable consumption of the same special fuel in this state. However, this paragraph does not require that a person be a dealer when his only purchases of special fuel are delivered into reservoirs attached to motor vehicles to fuel internal combustion engines attached to such motor vehicles.

(2) "Refiner," "importer," or "wholesaler" means any person who holds a valid license as a refiner, importer, or wholesaler, as defined in s. 206.01, of motor fuel, issued by the department pursuant to ss. 206.02 and 206.03.

(3) "Retail dealer" means any person who is licensed pursuant to chapter 206 to sell motor fuel or special fuel at retail to the general public at posted retail prices.

The definitions contained in s. 212.02(2), (5), (8), (11), (13), (14), (15), (16), (17), (18), (19), (21), and (22) (3), (7), (12), (15), (17), (18), (19), (20), (21), (23), (25), (27), and (28) apply to the same terms as used in this part.

Section 36. Section 31 of chapter 87-6, Laws of Florida, as amended by section 18 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 37. Section 32 of chapter 87-6, Laws of Florida, as amended by section 19 of chapter 87-101, Laws of Florida, is amended to read:

Section 32. ~~Rule 12A-1.001(6) of the Department of Revenue is hereby repealed. However, The Department of Revenue is hereby authorized to provide by rule for self-accrual of the sales tax under one or more of the following circumstances:~~

~~(1) Where authorized by law for purchasers of services;~~

(1)(2) Where authorized by law for holders of direct pay permits;

(2)(3) Where tangible personal property is subject to tax on a prorated basis, and the proration factor is based upon characteristics of the purchaser;

(3)(4) Where the taxable status of types of tangible personal property will be known only upon use; ~~and~~

(4)(5) For commercial rentals where the purchaser rents from a number of independent property owners who, apart from rentals to the purchaser in question, would otherwise not be obligated to register as dealers.

(5)(6) Where the purchaser makes purchases in excess of \$10 million per year of tangible personal property in any county.

Section 38. Section 37 of chapter 87-6, Laws of Florida, as amended by section 22 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 39. Section 47 of chapter 87-6, Laws of Florida, as amended by section 26 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 40. Subsection (3) of section 57.071, Florida Statutes, as added by section 42 of chapter 87-6, Laws of Florida, is hereby repealed.

Section 41. Paragraph (d) of subsection (3) of section 57.111, Florida Statutes, as amended by section 43 of chapter 87-6, Laws of Florida, is amended to read:

57.111 Civil actions and administrative proceedings initiated by state agencies; attorneys' fees and costs.—

(3) As used in this section:

(d) The term "small business party" means:

1. A sole proprietor of an unincorporated business, including a professional practice, whose principal office is in this state, who is domiciled in this state, and whose business or professional practice has, at the time the action is initiated by a state agency, not more than 25 full-time employees or a net worth of not more than \$2 million, including both personal and business investments; or

2. A partnership or corporation, including a professional practice, which has its principal office in this state and has at the time the action is initiated by a state agency not more than 25 full-time employees or a net worth of not more than \$2 million.

~~3.—Either of the above, without regard to the number of its employees or its net worth, in any action under s. 72.011 or administrative proceeding under that section and s. 120.575(1)(b) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor.~~

Section 42. Paragraph (b) of subsection (1) of section 120.57, Florida Statutes, as amended by section 44 of chapter 87-6, section 1 of chapter 87-54, and section 5 of chapter 87-385, Laws of Florida, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

a. A statement of the time, place, and nature of the hearing.

b. A statement of the legal authority and jurisdiction under which the hearing is to be held.

c. A reference to the particular sections of the statutes and rules involved.

d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4) or, s. 120.56, or s. 120.575(1)(b), a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 15 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

6. The record in a case governed by this subsection shall consist only of:

a. All notices, pleadings, motions, and intermediate rulings;

b. Evidence received or considered;

c. A statement of matters officially recognized;

d. Questions and proffers of proof and objections and rulings thereon;

e. Proposed findings and exceptions;

f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;

g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;

h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and

i. The official transcript.

7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 13., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 12., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

13. In any application for a license or merger pursuant to title XXX-VIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

Section 43. Paragraph (b) of subsection (1) of section 120.575, Florida Statutes, as added by section 45 of chapter 87-6, Laws of Florida, and amended by section 24 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 44. Subsection (5) of section 120.65, Florida Statutes, as added by section 46 of chapter 87-6, Laws of Florida, and amended by section 25 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 45. Any person who, before the effective date of this act, was required by section 212.13, Florida Statutes, as amended by chapters 87-6 and 87-101, Laws of Florida, to keep records relating to the sale or use of services shall continue to keep such records for a period of 3 years, and such records shall be available for inspection in the same manner as records kept pursuant to section 212.13. The failure to keep such records or to allow their inspection as required by this section is subject to the same penalties provided in section 212.13.

Section 46. Subsection (2) of section 218.61, Florida Statutes, is amended to read:

218.61 Local government half-cent sales tax; designated proceeds; trust fund.—

(2) Notwithstanding the provisions of s. 212.20(1), ~~9.697~~ percent of the proceeds remitted pursuant to part I of chapter 212 by a sales tax dealer located within the county, *those proceeds raised by the first 5 percent of sales tax shall be credited to the General Revenue Fund and the proceeds raised by the next one-half percent of sales tax shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund and earmarked for distribution to the governing body of that county and of each municipality within that county.* Such moneys shall be known as the "local government half-cent sales tax." "Proceeds" means all funds collected and received by the Department of Revenue, including any interest or penalties.

Section 47. Section 201.05, Florida Statutes, as amended by section 7 of chapter 87-102, Laws of Florida, is amended to read:

201.05 Tax on stock certificates.—

(1) On each original issue, whether organization or reorganization, of certificates of stock or shares however designated issued in the state, or of certificates of profits, or of interest in property or accumulations, by any corporation or by any joint stock company or other association as set forth in *subsection (2) s. 201.04*, on each \$100 of face value, or fraction thereof, the tax shall be 20 1/5 cents; provided, that when a certificate is issued without face value, the tax shall be 20 1/5 cents on each \$100 of actual value or fraction thereof. The stamps representing the tax imposed by this section shall be attached to the stock books, and not to the certificates issued. The provisions of this section do not apply to any stock or share of an open-end mutual fund issued in this state and registered under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1-52, as amended.

(2) For the purposes of this section, the term "stock" includes corporate stock, shares however designated in a joint stock company, trust in the nature of a common-law trust or Massachusetts trust, association or other trust in which the trustees are associated together in substantially the same manner as directors in a corporation for the purpose of carrying on a business enterprise. Such shares are declared to be personal property, and not interests in land, notwithstanding the nature of the property of which the trust consists, unless provided otherwise in the trust instrument.

Section 48. Section 201.07, Florida Statutes, is amended to read:

201.07 Tax on bonds, debentures, and certificates of indebtedness.— On all bonds, debentures, or certificates of indebtedness issued in the state by any person, and all instruments and documents, however termed, issued by any corporation with interest coupons or in registered form, on each \$100 of the face value or fraction thereof, the tax shall be 20 1/5 cents; provided, however, that only that part of the value of the bonds, debentures, or certificates of indebtedness issued by any such person, the property of which is located within the state shall bear to the whole value of the property described in said instrument or obligation shall be taxed hereunder.

Section 49. Section 201.08, Florida Statutes, is amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(1) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation

made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, the tax shall be 20 1/5 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, the tax shall be 20 1/5 cents on each \$100 or fraction thereof of the indebtedness or obligation evidenced thereby. Mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid and the proper stamps affixed to the mortgage, trust deed, or security agreement. If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforesaid general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

(2) On promissory notes, nonnegotiable notes, written obligations to pay money, or other compensation, made, executed, delivered, sold, transferred, or assigned in the state, in connection with sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser, the tax shall be 20 1/5 cents on each \$100 or fraction thereof of the gross amount of the indebtedness evidenced by such instruments, payable quarterly on such forms and under such rules and regulations as may be promulgated by the Department of Revenue. No documentary stamps shall be required to be attached to instruments under the provisions of this subsection.

(3) No documentary stamps shall be required on promissory notes executed for students to receive financial aid from federal or state educational assistance programs, from loans guaranteed by the Federal Government or the state when federal regulations prohibit the assessment of such taxes against the borrower, or for any financial aid program administered by a state university or community college, and the holders of such promissory notes shall not lose any rights incident to the payment of such stamp costs.

(4) Notwithstanding subsection (1), a supplement or an amendment to a mortgage, deed of trust, indenture, or security agreement, which supplement or amendment is filed or recorded in this state in connection with a new issue of bonds, shall be subject to the tax imposed by subsection (1) only to the extent of the aggregate amount of the new issue of bonds or other evidence of indebtedness and not to the extent of the aggregate amount of bonds or other evidence of indebtedness previously issued under the instrument being supplemented or amended. In order to qualify for the tax treatment provided for in this subsection, the document which evidences the increase in indebtedness must show the official records book and page number in which, and the county in which, the original obligation and any prior increase in that obligation were recorded.

Section 50. Section 201.15, Florida Statutes, as amended by section 35 of chapter 87-6 and section 4 of chapter 87-96, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under the provisions of this chapter shall be distributed as follows:

(1) ~~Sixty-four and one-tenth Sixty and eight-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the General Revenue Fund of the state, to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) *Ten Eleven* and eight-tenths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) *Two and eight-tenths* ~~Three~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) *Eight and four-tenths* ~~Nine and two-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) *Five and five-tenths* ~~Six~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the State Infrastructure Trust Fund.

(6) *Eight and four-tenths* ~~Nine and two-tenths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

Section 51. Paragraph (b) of subsection (1) of section 206.87, Florida Statutes, as amended by section 39 of chapter 87-6, Laws of Florida, and subsection (3) of section 206.875, Florida Statutes, as amended by section 40 of chapter 87-6, Laws of Florida, are hereby repealed.

Section 52. Section 207.026, Florida Statutes, as amended by section 41 of chapter 87-6, Laws of Florida, and section 13 of chapter 87-198, Laws of Florida, is amended to read:

207.026 Allocation of tax.—All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund, from which the following transfers shall be made: After withholding \$50,000 from the proceeds therefrom, to be used as a revolving cash balance, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in ss. 206.41, 206.45, 206.60, 206.605, 206.875, and 212.69.

Section 53. Paragraph (d) of subsection (2) of section 215.32, Florida Statutes, as amended by section 31 of chapter 87-247 and section 8 of chapter 87-331, Laws of Florida, is amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(d) The State Infrastructure Fund shall consist of all moneys received from proceeds earmarked for this fund pursuant to ss. 201.15, ~~206.875~~, and 212.235. Such moneys shall only be expended pursuant to legislative appropriations for infrastructure facilities listed in s. 212.235(2).

Section 54. The repeal by this act of any statute or part of a statute does not affect the prosecution or continued prosecution of any cause of action that accrued prior to the effective date of this act.

Section 55. This act shall take effect October 1, 1987, or upon becoming a law, whichever occurs later.

Senator Myers moved the following amendments to Amendment 2 which were adopted:

Amendment 2A—On page 57, line 24, after the word “on” insert: *radio and television broadcasting, or*

Amendment 2B—On page 101, strike all of lines 18-22, and insert:

(u) *Radio and television services.*—*Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.*

(v) *Newspapers.*—*Likewise exempt are newspapers.*

(w) *Magazines.*—*There are likewise exempt from the tax imposed by this chapter subscriptions to magazines entered as second-class mail sold for an annual or longer period of time.*

The question recurred on Amendment 2 which failed.

Senator Barron presiding

The President presiding

Senator Peterson moved the following amendment:

Amendment 3—On page 63, lines 7-31, page 64, lines 1-31, and on page 65, lines 1-27, strike all of said lines and insert:

(3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period ~~not to exceed 30 of 15~~ years from the date of levy, a discretionary sales surtax of up to ~~one-sixth 20~~ percent of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305. Such governing authority may levy such surtax in an amount equal to ~~one twenty-fourth, one-twelfth, one-eighth, or one-sixth 5, 10, 15 or 20~~ percent of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority, ~~and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.~~

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

..... FOR the cent sales tax

..... AGAINST the cent sales tax

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal county population; or

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

(c)(d) The provisions of s. 212.054(2)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.

(d)(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(e)(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.

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

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

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

(h)(i) No ordinance referendum proposing the levying of such surtax shall be enacted held after November 30, 1992.

(i) Notwithstanding the provisions of s. 212.054(5), the surtax shall take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a). However, the surtax may not take effect until at least 60 days following the adoption of the ordinance.

Senator Langley moved the following substitute amendment which was adopted:

Amendment 4—On page 63, lines 7-31, on page 64, lines 1-31, and on page 65, lines 1-27, strike all of said lines and insert:

(3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of up to one-sixth ~~20 percent~~ of any tax paid to the state pursuant to this part, except this section, s. 212.054 and s. 212.0305. Such governing authority may levy such surtax in an amount equal to *one twenty-fourth, one-twelfth, one-eighth, or one-sixth* ~~5, 10, 15 or 20 percent~~ of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.

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

- FOR the -cent sales tax
- AGAINST the -cent sales tax

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal ~~county~~ population; or
2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

(d) The provisions of s. 212.054(2)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.

(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.

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

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

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

(i) No referendum proposing the levying of such surtax shall be held after November 30, 1992.

(j) Notwithstanding the provisions of s. 212.054(5), the surtax shall take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a). However, the surtax may not take effect until at least 60 days following the date of the referendum at which the levy of the surtax is approved.

The vote was:

Yeas—20

Barron	Frank	Hollingsworth	McPherson
Childers, D.	Gordon	Jennings	Myers
Crawford	Grant	Kiser	Plummer
Deratany	Grizzle	Langley	Ros-Lehtinen
Dudley	Hill	Lehtinen	Weinstock

Nays—19

Mr. President	Girardeau	Malchon	Thomas
Beard	Hair	Margolis	Thurman
Brown	Jenne	Meek	Weinstein
Childers, W. D.	Johnson	Peterson	Woodson
Crenshaw	Kirkpatrick	Stuart	

Senator Jennings moved the following amendment which was adopted:

Amendment 5—On page 192, lines 21-31, and on page 193, lines 1-16, strike all of said lines and insert:

Section 57. In the case of any written contract signed prior to May 1, 1987, or any offer submitted prior to such date which was binding on the offeror and was accepted, or any contract funded by government bonds sold before May 1, 1987, or contracted prior to such date to be sold, for constructing improvements to real property, the contractor responsible for performing the contract shall pay the sales or use tax on materials necessary to complete the contract at the rate provided in this act. Such contractor, within 3 years after the effective date of this act, may apply for a refund of the additional sales or use tax paid on materials necessary to complete the contract. Application for such refund shall be pursuant to Department of Revenue rule. The application shall contain a sworn statement, signed by the applicant or its representative, attesting to the validity of the application. The Department of Revenue shall, within 30 days after approval of a complete application, certify to the Comptroller information necessary for issuance of a refund to the applicant of said additional sales or use taxes. Alternatively, for up to a 3-year period after the effective date of this act, pursuant to Department of Revenue rule, a contractor may apply quarterly for a refund of taxes paid pursuant to the contract during the previous quarter. Any person who fraudulently obtains or attempts to obtain a refund pursuant to this section, in addi-

tion to being liable for repayment of any refund fraudulently obtained plus a penalty of 100 percent of the refund, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Senator Plummer moved the following amendments which failed:

Amendment 6—On page 198, strike all of lines 19-21, and insert:

Section 62. This act shall take effect upon an affirmative vote of a majority of the electors voting in the Presidential Preference Primary held on March 8, 1988.

Amendment 7—On page 90, between lines 24 and 25, insert:

Section 34. Tax on soft drinks sold in bottles or cans.—

(1) Any person who engages in the business of selling soft drink beverages packaged in bottles or cans and sold or offered for sale at retail in this state is exercising a taxable privilege. The tax is imposed at the rate of 5 cents for each bottle or can of such soft drink beverage, as specified in s. 212.08(1)(a)3., Florida Statutes.

(2) The tax imposed by this section is in addition to any other tax on soft drink beverages imposed by law and may be collected as any other excise tax imposed by the state.

(3) All rights and remedies available in the collection of any excise tax imposed by the state are made available for the collection of taxes imposed under this section. Any and all taxes due the state on soft drink beverages specified in this section may be collected as provided in s. 210.14, Florida Statutes.

(Renumber subsequent section.)

Amendment 8—On page 198, between lines 18 and 19, insert:

Section 62. Effective November 1, 1987, any person who sells alcoholic beverages for consumption on the premises is exercising a taxable privilege, for which a tax shall be levied at the rate of 6 percent of the retail price of such alcoholic beverages.

(Renumber subsequent section.)

Amendment 9—On page 198, between lines 18 and 19, insert:

Section 62. In addition to any other tax imposed, each retailer shall collect and pay to the Division of Alcoholic Beverages and Tobacco a tax of five cents upon each cigar, package of cigarettes, package of rolling papers, or package of other tobacco products, as defined in s. 210.25(11), Florida Statutes, sold by him.

(Renumber subsequent section.)

Senator Frank moved the following amendment which was adopted:

Amendment 10—On page 119, between lines 13 and 14, insert:

(aa) *Clothing.*—There is exempt from the tax imposed by this chapter the sale of any article of wearing apparel, including footwear, intended to be worn on or about the human body, the cost of which to the purchaser is less than or equal to \$25. For purposes of this paragraph, the term "clothing" does not include watches, jewelry, or similar items of adornment.

Senator Frank moved the following amendment which failed:

Amendment 11—On page 195, line 14, through page 196, line 3, strike all of said lines and insert:

Section 60. (1)(a) There is created the State Tax Study Committee to consist of 17 members, to be selected in the following manner:

1. One member shall represent the Florida League of Cities and shall be appointed by that organization.

2. One member shall represent TaxWatch, Inc., and shall be appointed by that organization.

3. One member shall represent the NAACP and shall be appointed by that organization.

4. One member shall represent the Florida Commission on Hispanic Affairs and shall be appointed by that organization.

5. One member shall be an administrator or professor from an institution in the State University System who has expertise in public financing and shall be appointed by the Chancellor of the State University System.

6. One member shall represent the Florida Chamber of Commerce and shall be appointed by that organization.

7. One member shall represent Associated Industries of Florida and shall be appointed by that organization.

8. One member shall represent the State Governmental Affairs Council and shall be appointed by that organization.

9. One member shall represent the County Commissioners Association and shall be appointed by that organization.

10. One member shall represent an education union. The Commissioner of Education shall select an education union from which the member shall be selected, and that union shall appoint the member.

11. One member shall represent the League of Women Voters of Florida and shall be appointed by that organization.

12. One member shall represent and be appointed by an organization selected by the Silver Haired Legislature.

13. One member shall be a professional person engaged in the sale of services that are subject to the sales tax on services and who represents a profession that is not represented by any of the organizations listed in subparagraphs 1.-12. and who shall be appointed by the Governor.

14. Two members shall be members of the House of Representatives and shall be appointed by the Speaker of the House of Representatives.

15. Two members shall be members of the Senate and shall be appointed by the President of the Senate.

Appointments shall be made as soon after December 1, 1987, as possible and the committee shall continue to exist until July 31, 1989.

(b) The chairman of the committee shall be selected by majority vote of the members of the committee from among the legislator committee members.

(c) Each member shall be entitled to receive per diem and expenses for travel, as provided in s. 112.061, Florida Statutes, while carrying out official business of the committee.

(d) The committee shall be staffed by an executive director and other personnel who shall be appointed by the committee and who shall be exempt from the provisions of part II of chapter 110, Florida Statutes, relating to the Career Service Commission.

(e) The committee shall be assigned, for

On motion by Senator Langley, the Senate reconsidered the vote by which Amendment 10 was adopted. The vote was:

Yeas—25

Mr. President	Grant	Langley	Thomas
Barron	Hair	Lehtinen	Thurman
Beard	Hill	Margolis	Weinstein
Crawford	Hollingsworth	Myers	Woodson
Crenshaw	Jennings	Peterson	
Deratany	Johnson	Ros-Lehtinen	
Dudley	Kiser	Scott	

Nays—15

Brown	Girardeau	Kirkpatrick	Plummer
Childers, D.	Gordon	Malchon	Stuart
Childers, W. D.	Grizzle	McPherson	Weinstock
Frank	Jenne	Meek	

Vote after roll call:

Yea to Nay—Thomas

Nay to Yea—Kirkpatrick

The question recurred on Amendment 10 which failed.

Senators Gordon and Stuart offered the following amendment which was moved by Senator Gordon and adopted:

Amendment 12—On page 193, line 21, through line 13, page 195, strike all of said lines.

The vote was:

Yeas—22

Mr. President	Girardeau	McPherson	Thomas
Beard	Gordon	Meek	Thurman
Brown	Hill	Peterson	Weinstein
Childers, D.	Jenne	Plummer	Weinstock
Childers, W. D.	Kirkpatrick	Ros-Lehtinen	
Frank	Malchon	Stuart	

Nays—17

Barron	Grant	Johnson	Scott
Crawford	Grizzle	Kiser	Woodson
Crenshaw	Hair	Langley	
Deratany	Hollingsworth	Lehtinen	
Dudley	Jennings	Myers	

Senator Gordon moved the following amendment which failed:

Amendment 13—On page 12, line 31, strike the word "Sales" and on page 13, strike all of lines 1-3, and insert: ~~Sales price—also includes the consideration for a transaction which requires labor or material to alter, remodel, maintain, adjust, or repair tangible personal property.~~

Senator W. D. Childers moved the following amendments which were adopted:

Amendment 14—On page 190, lines 24 and 31, hyphen through the word "Trust"

Amendment 15—On page 191, strike all of line 12, and insert: *need, the State Infrastructure Fund shall be allocated*

Motion

Senator Hill moved that the Senate reconsider the vote by which substitute Amendment 4 was adopted.

Further consideration of CS for CS for SB 5-B was deferred.

RECESS

On motion by Senator Barron, the Senate recessed at 12:54 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:15 p.m. A quorum present—38:

Mr. President	Frank	Kiser	Ros-Lehtinen
Barron	Gordon	Langley	Scott
Beard	Grant	Lehtinen	Stuart
Brown	Grizzle	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crawford	Jenne	Meek	Weinstock
Crenshaw	Jennings	Myers	Woodson
Deratany	Johnson	Peterson	
Dudley	Kirkpatrick	Plummer	

The Senate resumed consideration of—

CS for CS for SB 5-B—A bill to be entitled An act relating to taxation; amending ss. 212.02, 212.03, 212.031, 212.04, 212.05, 212.054, 212.055, 212.0598, 212.06, 212.07, 212.08, 212.095, 212.11, 212.12, 212.13, 212.14, 212.17, 212.18, 212.21, 212.61, F.S.; repealing ss. 212.059, 212.0591, 212.0592, 212.0593, 212.0594, 212.0595, F.S.; amending s. 32, ch. 87-86, Laws of Florida, as amended; repealing ss. 31, 37, 47, ch. 87-6, Laws of Florida, as amended; repealing the sales tax on services and conforming various statutes to that repeal; providing exemptions from the tax on sales, use, and other transactions; increasing the tax on transient rentals, the lease or rental of or license in real property, admissions, and sales, storage, and use; providing for retention of records relating to the sales tax on services for a certain period; amending s. 240.533, F.S.; requiring an amount equal to lost sales tax revenue to be used by certain educational institutions for women's athletics; amending s. 288.385, F.S.; providing tax exemptions for certain currency and barter exchanges; amending ss. 201.02, 201.15, 215.32, F.S.; repealing the increase in the

documentary stamp tax and providing for redistribution of tax proceeds; repealing ss. 206.87(1)(b), 206.875(3), F.S.; repealing the increase in diesel fuel taxes; amending s. 207.026, F.S.; providing for redistribution of taxes; amending s. 212.235, F.S.; revising certain limitations on the State Infrastructure Fund funding; providing for certain allocations from the fund for certain purposes; providing for application of the additional sales or use tax to certain utility services; providing transition rules for the repeal of the services tax; providing for refund of additional taxes paid by certain contractors; providing penalties; saving certain actions from abatement; amending s. 218.61, F.S.; revising the local government half-cent sales tax distribution formula; creating in the Advisory Committee on Intergovernmental Relations commissions to study issues of budget reform; providing for membership, meetings, and duties of the commissions; requiring reports; providing for travel and per diem expenses; providing an appropriation; creating in the Executive Office of the Governor a State Tax Study Committee to study state and local government taxing structures and funding sources; providing for membership, meetings, duties, and staff of the committee; requiring reports; providing for per diem and travel expenses; providing an appropriation; providing an effective date.

The Senate resumed consideration of the motion by Senator Hill to reconsider the vote by which substitute Amendment 4 was adopted. The motion was adopted. The vote was:

Yeas—20

Mr. President	Crenshaw	Kirkpatrick	Peterson
Barron	Gordon	Malchon	Stuart
Beard	Grizzle	Margolis	Thomas
Brown	Hill	McPherson	Thurman
Childers, W. D.	Jenne	Meek	Weinstock

Nays—17

Childers, D.	Hollingsworth	Lehtinen	Weinstein
Crawford	Jennings	Myers	Woodson
Deratany	Johnson	Plummer	
Dudley	Kiser	Ros-Lehtinen	
Frank	Langley	Scott	

Vote after roll call:

Nay—Grant, Hair

The question recurred on substitute Amendment 4 which failed. The vote was:

Yeas—18

Childers, D.	Frank	Kiser	Ros-Lehtinen
Crawford	Grant	Langley	Scott
Crenshaw	Hollingsworth	Lehtinen	Woodson
Deratany	Jennings	Myers	
Dudley	Johnson	Plummer	

Nays—20

Mr. President	Gordon	Malchon	Stuart
Barron	Grizzle	Margolis	Thomas
Beard	Hill	McPherson	Thurman
Brown	Jenne	Meek	Weinstein
Childers, W. D.	Kirkpatrick	Peterson	Weinstock

Vote after roll call:

Yea—Hair

The question recurred on Amendment 3 which was adopted.

Senator Deratany moved the following amendment which was adopted:

Amendment 16—On page 198, between lines 18 and 19, insert:

Section 62. Of the appropriations provided in chapter 87-98, Laws of Florida, to the Department of Revenue for the purpose of implementing chapter 87-6, Laws of Florida, the Executive Office of the Governor shall place in reserve all currently vacant positions and related funding. In addition, all remaining positions and related funding provided for the implementation of chapter 87-6, Laws of Florida, shall be placed in reserve as soon as they can be vacated without implementing layoff procedures.

(Renumber subsequent sections.)

Senator Brown moved the following amendment:

Amendment 17—Strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of section 212.059, Florida Statutes, as created by section 1 of chapter 87-6, Laws of Florida, and amended by section 1 of chapter 87-72 and section 1 of chapter 87-101, Laws of Florida, are amended and subsection (7) is added to said section to read:

212.059 Sales and use tax on services.—It is hereby declared to be the legislative intent to levy an excise tax on the sale of services in this state as hereinafter provided. It is further declared to be the legislative intent to levy a complementary excise tax on the use of services in this state as hereinafter provided.

(1)(a) A tax is hereby imposed on the sale at retail of any service, as defined in s. 212.02(22), in this state at the rate of 5 percent of the sales price of the service. The tax shall be computed on each taxable sale of a service for the purpose of remitting the amount of tax due the state, and shall include each and every retail sale of the a service.

(2) A tax is hereby imposed on the use of any service, as defined in s. 212.02(22), in this state when the sale of the service is at retail outside this state, at the rate of 5 percent of the cost price of the service. The use of the a service is in this state for purposes of this part if the benefit of the service is enjoyed in this state. For purposes of determining where the benefit of the services is enjoyed, s. 212.0591(9) shall apply.

(3)

(b)1. If the sale of a service is outside this state, any applicable use tax shall be remitted by the purchaser or user of the service, if the purchaser or user of the service has nexus for tax purposes with this state. However, this paragraph shall not apply to interstate or international transportation services. Neither does this paragraph apply if the seller has tax nexus in this state and the service sold

2. Notwithstanding other provisions to the contrary, a seller having tax nexus with this state shall collect and remit use tax on the sale of a service outside this state if the service either directly relates to real property in this state, directly relates to tangible personal property in this state other than vehicles or vessels in interstate or foreign commerce, or is represented by tangible personal property forwarded to a person in this state.

(7) Any service that would be taxed pursuant to this part irrespective of this section shall be taxed at the rate of 5.5 percent.

Section 2. Paragraph (d) of subsection (9) of section 212.0591, Florida Statutes, as created by section 2 of chapter 87-6, Laws of Florida, and amended by section 2 of chapter 87-72 and section 2 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 3. Section 212.0592, Florida Statutes, as created by section 3 of chapter 87-6, Laws of Florida, and amended by section 3 of chapter 87-101, Laws of Florida, is amended to read:

212.0592 Exemptions from sales or use tax on services.—There shall be exempt from the tax on the sale or use of services imposed by ss. 212.059(1) or (2) or, 212.0594, and 212.0595 the following:

(1)(a) Services sold in this state for use outside of this state.

(b) A service shall be deemed to be purchased for use where the benefit of the service is enjoyed. For purposes of determining where the benefit of the service is enjoyed, s. 212.0591(9) shall apply.

(c) In order to qualify for this exemption, the provisions of s. 212.0593 shall be met.

(2) Services by an employee to an employer measured by the compensation or remuneration paid to an employee and including retirement plans, insurance and annuity plans. This subsection shall not be construed to limit in any respect the scope of s. 212.06(1)(b).

(3) The occasional or isolated sale of services by a person who does not hold himself out as engaged in business or the use of services purchased in a transaction that is an isolated sale.

(4) Services that partners who are natural persons render to their partnerships, unless the partner renders his services to the partnership in the capacity of an independent contractor, and services that partners who are professional corporations render exclusively to the partnership.

(5) Services between members of an affiliated group of corporations, as defined in s. 212.02. However, this exemption shall apply only to the sale or use of any service between any such members who are included in the affiliated group for purposes of this part. If the exemption provided in this subsection is not applicable, the sales price or cost price of the service between each unincorporated member and any other member shall be based upon the fair market value of the service. The sale or use of services between divisions that may be separate taxpayers within the same corporation shall be exempt. Nothing herein shall be construed to require the filing of a consolidated return under chapter 220 in order to qualify for the exemption granted by this subsection.

~~(6) Agricultural services enumerated in SIC Major Group 07. However, this exemption shall not apply to landscape and horticultural services (Group Number 078), or to animal specialty services (Industry Number 0752), unless the services relate to agricultural products as defined in s. 618.01(1).~~

~~(7)(a) Transportation and warehousing services enumerated in SIC Major Groups 44, 45, and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.30(9), potash as described in SIC Industry Number 1474, sulfur as described in SIC Industry Number 1477, nitrogenous fertilizers as enumerated in SIC Industry Number 2873, and phosphatic fertilizers as enumerated in SIC Industry Number 2874. For purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.~~

~~(b) Food or other agricultural broker services for agricultural commodities or agricultural products as defined in s. 618.01. For purposes of this paragraph, a food or other agricultural broker is a person who solicits, negotiates, or arranges for the transfer, transportation, purchase, or sale of agricultural commodities, including agricultural commodities in their processed state.~~

~~(8) Forestry services enumerated in SIC Group Number 085, and timber cutting, harvesting, estimating and transportation services related to those activities enumerated in SIC Group Numbers 241 and 242.~~

~~(9) Educational services enumerated in SIC Group Number 82. However, this exemption shall not apply to educational services enumerated in SIC Industry Number 8200, except those services provided by bible schools. Also included in this exemption shall be the sale of educational services by any nonprofit religious organization described in SIC Industry Number 866.~~

~~(10) Fees or other charges for services imposed by governmental entities enumerated in SIC Major Groups 43, 91, 92, 93, 94, 95, 96, and 97, and fees or other charges by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. However, this exemption shall not apply to charges for utility or sanitary services.~~

~~(11)(a) Services of a financial nature, of a type customarily performed by a financial institution.~~

~~(b) However, unless the service is provided to a nonresident entity or nonresident person as defined in Rule 3C 15.002, Florida Administrative Code, this exemption shall not apply to: charges for use of safety deposit boxes; charges for use of night deposit services; charges for issuing cashier's checks; charges for issuing traveler's checks; charges for issuing money orders; charges for preparation of tax returns; charges for copies of documents; stop payment charges; return check charges, unless due to insufficient funds; charges for service as personal representative of estates of decedents; credit information and reporting services; overdraft charges; fees for the collection of coupons, drafts, checks, foreign exchange items, and similar over the counter collection items; hold mail fees; guardianship fees; credit and charge card membership fees; cash vault fees; charges for financial planning; charges for public accounting services of a type not customarily performed in connection with a customer account; or data processing services not otherwise exempt, except check processing and check clearing services.~~

~~(c) The tax imposed under s. 212.059 shall not apply to the following services by a financial institution:~~

1. Any service for which the charge is waived or imputed; or
2. Investment advisory services.

~~(d) For purposes of this subsection, the term "financial institution" means a financial institution as defined in s. 655.006; any subsidiary thereof; any holding company, other than a diversified savings and loan holding company as defined in s. 408 of the National Housing Act, which controls a financial institution; any subsidiary of such holding company; any Federal Reserve Bank; and any Federal Home Loan Bank.~~

~~(12) Health services enumerated in SIC Major Group 80 and health services provided by pharmacists licensed pursuant to chapter 465, acupuncturists certified pursuant to chapter 457, respiratory therapists and respiratory therapy technicians registered or certified pursuant to chapter 468, audiologists and speech language pathologists certified pursuant to chapter 468, physical therapists and physical therapist assistants licensed pursuant to chapter 486, opticians licensed pursuant to chapter 484, hearing aid specialists licensed pursuant to chapter 484, and home health agencies and hospices licensed pursuant to chapter 400.~~

~~(6)(13) Title insurance services enumerated in SIC Group Number 636. Insurance services of agents and brokers as enumerated in SIC Major Group 64, insurance service companies, and consideration paid for insurance, including annuities, as defined under the Florida Insurance Code and chapter 440. However, consideration paid for title insurance that is in excess of 110 percent of the risk premium rate promulgated pursuant to s. 627.782 shall not be exempt as consideration paid for insurance.~~

~~(7)(14) Interest and "points" that constitute prepayment of interest, paid as consideration for loans, including credit card interest, and discount charges for the purchase of accounts receivable.~~

~~(15) Coin-operated laundries and coin-operated dry cleaning establishments enumerated in SIC Number 7215.~~

~~(8)(16) Maintenance assessments or fees paid by an association member to a homeowners association, condominium owners association, property owners association, mobile homeowners association, or cooperative association.~~

~~(17) Membership dues or membership fees paid to membership organizations enumerated in SIC Major Group 86, and to arts, historical, and science organizations, provided such organizations are not for-profit corporations under chapter 617 or a comparable law of another state or are exempt organizations under the Internal Revenue Code, and membership dues or other fees paid to regulatory athletic associations.~~

~~(9)(18) Qualified production services performed by any person for a person principally engaged in the business of producing qualified motion pictures or for a person who owns or leases property used primarily for the production of qualified motion pictures. For purposes of this subsection:~~

~~(a) "Qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:~~

~~1. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation and management), hair and make-up (design, production, and application), performing (such as acting, dancing and playing), designing and executing stunts, coaching, consulting, writing, scoring, and composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;~~

~~2. The design, planning, engineering, construction, alteration, repair and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in subparagraph 1.; and~~

~~3. Property management services directly related to property used in connection with the services described in subparagraphs 1. and 2.~~

~~(b) "Qualified motion picture" means all or any part of a series of related images, either on film, tape or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture,~~

which is produced, adapted or altered for exploitation in, on or through any medium or device and at any location, primarily for entertainment, industrial or educational purposes.

~~(10)(19) Local and long distance trucking and warehousing services enumerated in SIC Major Group 42, except those trucking services related to sanitary services, and except those warehousing services already taxable pursuant to s. 212.031 or s. 212.05.~~

~~(20) Local and suburban passenger transportation services enumerated in SIC Industry Number 4111, ambulance services and hearse rental services enumerated in SIC Industry Number 4110, and intercity and rural highway passenger transportation services enumerated in SIC Group Number 413.~~

~~(21) Water and air transportation services described herein. Water transportation services described in SIC Group Numbers 441 and 442, towing or tugboat services described in SIC Industry Number 4454, marine cargo handling services described in SIC Industry Number 4463, piloting services, ship cleaning, steamship leasing, marine surveyors, and ship repair and maintenance services for vessels used in interstate or international commerce; storage of cargo at port facilities; transportation services enumerated in SIC Industry Numbers 4712 and 4723 regardless of the mode of transportation employed, lighterage services, described in SIC Industry Number 4453, and services related to processing and accessorizing of motor vehicles as defined in s. 320.01 that are imported through Florida ports and international air transportation services described in SIC Major Group Number 45. International air transportation shall have the same meaning as used in the Federal Aviation Act. The exemption provided by this subsection also applies to services provided in connection with cargo in international trade by any licensed customhouse broker, any customs bonded warehouse, container freight and examination station, or cartman; or freight consolidator or deconsolidator.~~

~~(11)(22) Sanitary services enumerated in SIC Group Number 495, garbage, refuse and debris transportation services enumerated in SIC Industry Number 4212, and septic tank cleaning services enumerated in SIC Industry Number 7699, if such services are sold to residential households or owners of residential models, regardless of whether such sales of services are separately billed direct to the residents or are billed to the landlord water supply services enumerated in SIC Group Number 404 and irrigation systems services enumerated in SIC Group Number 407. If any part of the services is used for a nonexempt purpose, the entire sale is taxable. However, "tipping fees" and other charges for the right to dispose of garbage, refuse and debris shall not be exempt pursuant to this subsection.~~

~~(23) Security and commodity brokerage services enumerated in SIC Major Group 62. However, this exemption shall not be construed to exempt any financial service taxable under subsection (11) or any accounting or investment advisory services provided by an investment advisor as defined in s. 517.021(12)(a).~~

~~(24) Social services enumerated in SIC Major Group 83 and other social services rendered pursuant to any contract between a social service provider and a governmental entity.~~

~~(25) Remuneration paid to athletes for services related to their participation in athletic or sports events, and remuneration paid to owners of greyhounds or racehorses for participation in pari-mutuel events, and consideration paid for the right to broadcast athletic or sports events at which admission is charged.~~

~~(12)(26) Real estate commissions when the property seller affirmatively demonstrates to the realtor responsible for collecting the tax that at the time of signing the initial listing contract on the real estate offered for sale the property was assessed as homestead property pursuant to s. 196.031.~~

~~(13)(27)(a) Legal services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services. However, this exemption shall only be applicable if the criminal charges brought in the case are dismissed or the client is ultimately adjudicated not guilty by a court of competent jurisdiction. This exemption shall only be granted pursuant to a refund of taxes previously paid on such services. The provisions of s. 212.095 shall not apply to the refund authorized in this paragraph.~~

(b) Legal services, provided to a natural person, which relate to child support, enforcement of civil rights, *social security claims*, or bankruptcy proceedings.

~~(28) Services provided by a banking organization as defined in s. 100.023(9) in the conduct of an international banking transaction as defined in s. 100.023(11).~~

~~(29) Services provided by travel agents related to arrangement of transportation and accommodations.~~

(14)(30) Research and development services. For purposes of this subsection, "research and development services" shall mean those activities described in s. 212.052(1)(a).

(15)(31) Religious services provided by religious organizations, religious institutions, or religious leaders. Also included in this exemption shall be the sale of services by any nonprofit religious organization described in SIC Industry Number 866, when provided in carrying out its customary nonprofit religious activity.

(16)(32) Any service performed by or through interstate telecommunications by a holder of direct pay permit issued pursuant to s. 212.05(1)(e).

~~(33) Taxicab services described in SIC Industry Number 4121.~~

(34) Payment by a franchisee, or receipt by a franchisor, of royalties for use of intangible property, or contributions to a marketing fund or account administered by such franchisor, pursuant to a franchise agreement, which contributions are used solely for the purchase of advertising benefiting franchisees or for the administration of such fund.

(17)(35) Data processing services performed for a financial institution by a service corporation of that financial institution, provided:

(a) The service corporation is organized pursuant to s. 545.74, Rules of the Federal Home Loan Bank Board;

(b) All capital stock of the service corporation may be purchased by only savings and loan associations and savings banks having operations in this state;

(c) No savings and loan association or savings bank owns, or may own, more than 10 percent of such service corporation's outstanding capital stock;

(d) Every eligible savings and loan association or savings bank shall own an equal amount of capital stock or shall, on such uniform basis as the service corporation shall determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, or an amount of such stock equal to its pro-rata share of accounts serviced.

(e) As used in this subsection, "financial institution" means any savings and loan association or savings bank organized under the laws of this state, or of another state, or of the United States.

~~(36) Personal laundry services sold to residents of nursing home facilities, adult congregate living facilities, and hospices licensed under chapter 400.~~

(18)(37) Services used directly and exclusively for maintenance, retrofitting, repair, or replacement of industrial machinery and equipment at fixed locations, which machinery and equipment is used to manufacture, process, compound, produce, fabricate, or prepare for shipment items of tangible personal property for sale. However, this exemption shall only apply to the tax on such services in excess of \$100,000 of tax per year. The restrictions contained in s. 212.08(5)(b)5. shall apply to this subsection. "Industrial machinery and equipment" shall have the same meaning as in s. 212.08(5)(b)6.a. This subsection shall not be construed to exempt the purchase of services for the maintenance, retrofitting, repair, or replacement related to such industrial machinery and equipment when such services are included as a part of the purchase of tangible personal property or were subject to tax prior to July 1, 1987. The exemptions for maintenance, retrofitting, repair, or replacement services used directly and exclusively for industrial machinery and equipment under this subsection shall not be construed to expand the exemptions provided in s. 212.08(5)(b)1. or 2. beyond their meaning prior to July 1, 1987.

~~(38) Oil and gas field services enumerated in SIC Group Number 138, and pipeline transportation services enumerated in SIC Group Numbers 461 and 492.~~

~~(39) Rail transportation services enumerated in SIC Major Group 40.~~

~~(40) Beauty and barber shop services enumerated in SIC Groups 723 and 724.~~

(19)(41) Employee leasing services and temporary-help services enumerated in SIC Industry Numbers 7362 and Number 7369, to the extent that the charge for such services consists of payroll and related employment benefits paid or provided to the leased employees.

(20)(42) News services enumerated in SIC Group Number 735.

~~(43) Amusement and recreation services enumerated in SIC Group Numbers 792, 793, 794 and 799, and museums, art galleries, botanical and zoological garden services enumerated in SIC Major Group 84. However, this exemption shall not be construed to exempt admissions charges or membership fees or dues taxable pursuant to other provisions of this part, or to coin-operated amusement devices described in SIC Industry Number 7993.~~

(21)(44) Services provided and paid for pursuant to court order in a bankruptcy proceeding.

~~(45) Household utility services sold to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, or by liquefied petroleum gas companies, regardless of whether such sales of services are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the services is used for a nonexempt purpose, the entire sale is taxable.~~

(22)(46) Convention and conference registration fees.

~~(47) Transportation services by satellite or launch vehicles.~~

(23)(48) Impact fees and charges related to idle plant capacity for access to sewage utilities and utilities subject to the gross receipts tax imposed pursuant to chapter 203.

(24)(49) Emergency road services, only when the total consideration for the services is \$10.00 or less.

~~(50) Construction support services purchased by a provider of construction support services in furtherance of a contract for such services. For purposes of this subsection, "construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design, and interior design services, when such services directly relate to the construction, alteration, improvement, or repair of real property. This exemption shall apply only if:~~

~~(a) The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;~~

~~(b) The purchaser of the service identifies the seller of the service purchased in his charge for the service on its subsequent sale; and~~

~~(c) The service will be taxed under this part in a subsequent sale, unless exempt under other provisions of this part.~~

(25)(51) Newspaper delivery services provided to the publisher or printer of a newspaper.

Section 4. Section 212.0593, Florida Statutes, as created by section 4 of chapter 87-6, Laws of Florida, and amended by section 4 of chapter 87-101, Laws of Florida, is amended to read:

212.0593 Administration of s. 212.0592(1).—

(1) Each multistate business having tax nexus in this state under this part shall obtain from the department an exempt purchase permit prior to claiming an exemption under s. 212.0592(1). Such permit shall be used when purchasing any service sold in this state except advertising, regardless of whether the service is used in this state. Upon purchasing a service from a dealer registered under this part, presentation by said multistate business of a valid exempt purchase permit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. The purchaser shall self-accrue any taxes which may be due on the service and remit them to the department in the manner

and under the requirements applicable to dealers under this part, subject to such additional reporting requirements as the department may prescribe.

(2) Any business or group of businesses without tax nexus in this state under this part, and any individual resident in another state claiming an exemption under s. 212.0592(1), shall obtain an exempt purchase permit under subsection (1) and consent to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services, or shall execute and present to the selling dealer an exempt purchase affidavit on a form prescribed by the department. The affidavit shall include the federal employer identification number of the business or social security number of the individual, the purchaser's location and mailing address, a statement that the business does not have tax nexus in this state under this part or that the individual is not a resident of this state, the name and registration number of the selling dealer, and a statement of consent by the purchaser to be subject to the jurisdiction of this state solely for the purpose of enforcement of the sales tax on services. The affidavit shall also contain such other information as the department may prescribe. Acceptance of a valid exempt purchase permit or affidavit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service.

(3) *Notwithstanding the provisions of subsection (2), if a purchaser refuses to execute an exempt purchase affidavit the seller may execute an affidavit which states his belief that the purchaser is without tax nexus in this state under this part and which provides the information about the purchaser required under subsection (2) and such other information as the department may prescribe. Submittal of a valid affidavit shall absolve the selling dealer from the responsibility of collecting any sales tax which may be due on the service. However, if such purchase is subsequently determined to have been taxable, the selling dealer shall be liable for any penalties and interest due because of late payment.*

(4)(3) Each dealer shall maintain a monthly log showing each transaction for which sales tax was not collected because of the presentation of an exempt purchase permit or exempt purchase affidavit under this section. The log shall identify the purchaser, the exempt purchase permit number if applicable, the service sold, the price of the service and such other information as the department may prescribe. The logs and all affidavits accepted by the dealer shall be retained by the dealer for 5 years and made available to the department upon request. Failure to maintain these records or to make them available to the department shall subject the dealer to a \$100 mandatory penalty.

(5)(4) If a purchaser fails to obtain an exempt purchase permit or execute an exempt purchase affidavit, but otherwise qualifies for an exemption pursuant to s. 212.0592(1), the purchaser may apply to the department for a refund of taxes paid on the exempt amount of the purchase. The application for refund shall be accompanied by an exempt purchase affidavit and shall be submitted within 1 year of the purchaser's payment of the tax. A refund recommended by the department pursuant to this subsection shall be reduced by the amount of any applicable dealer collection allowance previously allowed on the transaction. The provisions of s. 212.095 shall not apply to refunds granted pursuant to this subsection.

Section 5. Section 212.0594, Florida Statutes, as created by section 6 of chapter 87-101, Laws of Florida, is amended to read:

212.0594 Construction services; special provisions.—

(1) For purposes of this section:

(a) "Prime contractor" means:

1. A person who enters into a contract to construct, improve, alter, or repair realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, *unless the contract specifies that the person for whose benefit the realty is being modified is assuming the responsibilities of a prime contractor pursuant to subparagraph 3., and that person is the final consumer of the realty;*

2. A person who enters into a contract to undertake the primary responsibility for supervising the construction, improvement, alteration or repair of realty with the person for whose benefit the realty is being constructed, improved, altered, or repaired, in which case, all other persons involved in the construction who would otherwise qualify as prime contractors under subparagraph 1. shall be deemed subcontractors;

3. A person who undertakes, on a speculative basis or for his own use, the construction, improvement or alteration of realty; or

4. A person who manufactures factory-built buildings.

(b) "Subcontractor" means a person who enters into a contract to provide construction services to a prime contractor or to another subcontractor.

(c) "Construction services" means any activity directly involving the construction, alteration, improvement or repair of realty.

~~(d) "Construction support services" means architectural, engineering, drafting, surveying, land planning, landscape design and interior design services when such services directly relate to the construction, alteration, improvement or repair of realty.~~

(d)(e) "New Construction" means factory-built buildings and any construction, alteration, improvement or repair of realty ~~for which the contract price or cost price, including building materials used, exceeds \$5,000.~~

(e)(f) "Building materials" means tangible personal property physically incorporated into the affected realty.

(f)(g) "Contract price" means the total consideration paid pursuant to a contract for the construction, alteration, improvement or repair of realty, or in the case of new construction undertaken on a speculative basis, the total consideration paid pursuant to a contract to purchase the improved realty. However, the contract price shall not include the following:

1. *The fair market value of land and any improvements to the land existing prior to the contract for the construction, alteration, improvement or repair of the realty; or the value of construction support services provided by other than employees of the prime contractor.*

2. *The fair market value of any improvements to the land to the extent that the construction of the improvements has previously been taxed pursuant to this section;*

3. *Payments for services, other than construction services, that provide a direct and identifiable benefit to a single construction project and that have previously been taxed pursuant to s. 212.059; and*

4. *Payments for government fees and taxes specific to the construction project.*

(g)(h) "Fair market value" means 120 percent of the property's assessed value for ad valorem tax purposes, as reflected by the most recent assessment roll for the county prior to the new construction, unless the prime contractor can demonstrate to the satisfaction of the department by proof of comparable sales, actual purchase price, or appraisal, that such assessment understates the value of the property.

~~(h)(i) "Cost price" means the direct and indirect costs of construction, including but not limited to, the cost of materials used, labor and service costs, interest charged, and overhead expenses; however, cost price shall not include any item excluded from the definition of "contract price."; without any deduction whatsoever.~~

(2) The tax imposed by s. 212.059 shall be applied to the sale of construction services in the following manner:

(a) For new construction undertaken pursuant to a contract, or undertaken on a speculative basis ~~but sold within 6 months of completion of the new construction~~, the tax shall be imposed upon 50 percent of the contract price.

(b) For new construction undertaken for the prime contractor's own use, ~~or undertaken on a speculative basis and not sold within 6 months of completion~~, the tax shall be based upon 50 percent of the cost price.

(c) For new construction consisting of factory-built buildings, the tax shall be imposed upon the cost price, ~~less the amount paid for building materials incorporated into such buildings.~~

~~(d) For new construction undertaken for the prime contractor's own use or undertaken on a speculative basis, and directly related to real property registered or exempt pursuant to chapter 498, or regulated under chapter 721, the tax shall be imposed upon 50 percent of the cost price.~~

~~(e) For construction other than new construction, the tax shall be imposed upon the total contract price, less the amount paid by the prime contractor for building materials incorporated into the realty. However, the deduction for building materials shall only apply if the prime contractor has previously paid the sales tax on such materials, and the written contract or invoice provided by the prime contractor to the person for whom the construction was done specifically itemizes the building materials and the price paid by the prime contractor for such materials.~~

~~(d)(f) If new construction is undertaken pursuant to a contract that is not an arm's-length transaction, or if new construction is undertaken on a speculative basis and the realty is then sold within 6 months pursuant to a contract that is not an arm's-length transaction, the tax shall be imposed upon 50 percent of the cost price of the new construction, and not upon the contract price.~~

~~(g) For the construction or repair of roads pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6), the tax shall not apply.~~

~~(h) For the construction or repair of property used primarily for public worship, the tax shall not apply.~~

~~(i) The tax on construction support services shall be imposed upon the total sales price for such services and shall be due and payable in accordance with the provisions of s. 212.059(4).~~

~~(e)(j)1. Except as provided in subparagraph 2., prime contractors for new construction shall be considered the final consumer of construction services consumed in improving realty.~~

2. The owner of the affected real property shall be considered the final consumer of construction services involving the repair, alteration, or improvement of existing structures or appurtenances to existing structures other than those related to new construction. The prime contractor or subcontractor who purchases or uses building materials shall be considered the final consumer of the building materials.

~~(f) Construction services performed pursuant to or in furtherance of a contract with a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o) are exempt.~~

~~(g)(k)1. Notwithstanding other provisions of this subsection, no tax shall be imposed upon construction services or construction support services performed by one's own employees if the services are performed for an employer who is incidentally engaged in improving real property, such improvements are made in the furtherance of the employer's primary business, and the employer is not in the business of providing construction services.~~

2. No tax shall be due on construction services performed by a person who is engaged in constructing, improving, altering, or repairing his primary residence. Such person is the final consumer of the construction services. Notwithstanding paragraph (3)(c), any subcontractor who contracts with such person shall collect and remit any taxes due under this part on the subcontractor's services.

~~(h)(l) As an alternative method for computing the tax imposed in this subsection, a the prime contractor considered the final consumer of the construction services pursuant to subparagraph (e)1. may compute and pay the tax on construction services on new construction, as follows:~~

1. The tax on construction services purchased by prime contractors shall be due and payable by the prime contractor at the time consideration is paid for such services.

2. The tax on purchases of construction services by prime contractors shall be based on the total consideration paid to the subcontractor. However, if the written proposal, contract, or interim or final invoice of the subcontractor specifically describes, itemizes and states the price paid by the subcontractor for the building materials purchased by the subcontractor and incorporated into the improvement in fulfillment of his responsibilities under the subcontract, the tax shall be based on the total consideration less the price of said building materials.

3. The tax on the construction services any prime contractor provides with respect to new construction for himself or others shall be based upon the cost price to the prime contractor of the services he provides. However, the cost of building materials purchased by the prime contractor and incorporated into the new construction, and amounts paid to subcontractors upon which a sales tax has been paid, shall not be included in the

cost price. The tax shall be due and payable as otherwise provided in this part at the time the contract for new construction is fulfilled or within 30 days after the certificate of occupancy is issued, whichever is sooner. The retail sale of new construction for which the prime contractor has paid tax pursuant to this paragraph shall be exempt from the tax imposed by this section.

4. This alternative method for computing the tax shall apply to construction services purchased or provided by a prime contractor for construction projects begun on or after October 1, 1987 July 1, 1988.

5. A prime contractor shall make the election to compute the tax pursuant to this paragraph on a form prescribed by the department. Any such election shall apply to all construction services purchased or provided by the prime contractor during the term of the election. The department shall promulgate rules regarding the application of the election to construction projects in progress at the time the election is made and construction projects which are in progress at the time the election is terminated. A prime contractor may not change the method for the payment of the tax more than once during any 12-month period.

(3) The tax imposed by s. 212.059 on construction services shall be due and payable in the following manner:

(a) Prime contractors and subcontractors licensed or registered pursuant to chapter 489 shall be entitled to obtain resale permits from the department to be utilized when purchasing building materials. However, when building materials are purchased tax exempt by a person other than a governmental entity described in s. 212.08(6) or an exempt entity described in s. 212.08(7)(o), and are used in construction done pursuant to or in furtherance of a contract with such an entity, the person purchasing the materials shall be deemed the ultimate consumer of the materials and shall be responsible for payment of a use tax on the sales price of the materials. The use tax shall be due when the materials are first used.

(b)(a) The prime contractor shall be responsible for remitting the tax on construction services performed by himself and by his subcontractors.

(c)(b) Subcontractors shall not be required to collect the tax on construction services they perform, except as provided in subparagraph (2)(g)2.

(d)(e) For new construction undertaken pursuant to a contract, the tax shall be due when the prime contractor receives payments under the contract. If the contract price is paid in draws or installments, the amount of tax to be paid with respect to each such draw or installment, before application of the dealer credit, shall be that proportion of the tax due on the total contract price which the amount of the draw or installment bears to the total contract price.

(e)(d) For new construction undertaken on a speculative basis, or for the prime contractor's own use, partial payment of the tax shall be due at such time payment is made by the prime contractor to the subcontractor based on 50 percent of the amount of such payment. Any tax amounts remaining shall be due 30 days after a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.

~~(e) For new construction undertaken for the prime contractor's own use, the tax shall be due when a certificate of occupancy is issued, or if no certificate of occupancy is required, when the new construction is first put to its intended use.~~

~~(f) For construction other than new construction, the tax shall be due when the prime contractor receives payment for the construction services rendered.~~

~~(f)(g) Taxes due and payable pursuant to this section shall be remitted in accordance with s. 212.11.~~

~~(g)(h) No unit of local government shall issue a certificate of occupancy for new construction until the prime contractor certifies, on a form promulgated by the department and submitted to the local government, that the new construction is substantially complete. Such forms shall be provided to local governments by the department, and completed forms shall be returned monthly to the department by the local governments.~~

~~(4) Notwithstanding the provisions of s. 212.235, the total taxes imposed under s. 212.059 on construction services and collected under the provisions of this section shall be paid into the State Infrastructure Fund.~~

(5)(4) The following provisions of this part shall not apply with regard to the tax on construction services:

(a) Section 212.02(5), the definition of "cost price."

~~(b) Section 212.02(21), the definition of "sales price."~~

(b)(e) Section 212.059(3), regarding the collection and remittance of the tax.

(c)(d) Section 212.059(4), regarding the time the tax is due.

(d)(e) Section 212.0591(4), regarding taxation of transactions previously taxed.

(e)(f) Section 212.0591(6), regarding separate statement of services and real property.

(f)(g) Section 212.0591(7), regarding separate statement of taxable and exempt services.

(g)(h) Section 212.0592(3), regarding occasional or isolated sales.

(h)(i) Section 212.0592(4), regarding services sold to partnerships.

(i)(j) Section 212.0592(5), regarding services sold between members of an affiliated group.

Section 6. Section 212.0595, Florida Statutes, as created by chapter 87-6, Laws of Florida, and amended by chapters 87-72 and 87-101, Laws of Florida, is hereby repealed.

Section 7. Section 212.0598, Florida Statutes, as created by section 8 of chapter 87-101, Laws of Florida, is amended to read:

212.0598 Special provisions; air carriers.—

(1) Notwithstanding other provisions of this part to the contrary, any air carrier utilizing mileage apportionment for corporate income tax purposes in this state required by the United States Department of Transportation to keep records according to said department's standard classification of accounting may elect, upon the conditions prescribed in subsection (3), to attribute to this state pursuant to s. 212.0591(9)(b)4. use or consumption of all services and tangible personal property it purchases or uses. (4), to be subject to the tax imposed by this part on services and tangible personal property according to the provisions of this section.

~~(2) The basis of the tax shall be the ratio of Florida mileage to total mileage as determined pursuant to part IV of chapter 214. The ratio shall be determined at the close of the carrier's preceding fiscal year. The ratio shall be applied each month to the carrier's total systemwide gross purchases of tangible personal property and services otherwise taxable in Florida.~~

(2)(2) It is the legislative intent that air carriers are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part, if the provisions of this section are met.

~~(3)(4) The election provided for in this section shall not be allowed unless the purchaser makes a written request, in a manner prescribed by the Department of Revenue, to be taxed under the provisions of subsection (1) (2), and such person registers with the Department of Revenue as a dealer and extends to his vendor at the time of purchase, if required to do so, a certificate stating that the item or items to be partially exempted are for the exclusive use designated herein. Otherwise, all purchases of taxable property and services purchased in this state shall be subject to taxation.~~

(4)(5) Notwithstanding other provisions of this part to the contrary, any air carrier eligible for the election provided in subsection (1) which does not so elect shall be subject to the tax imposed by this part on the purchase or use of services and tangible personal property purchased or used in this state, as well as other taxes imposed herein.

Section 8. Subsections (1) and (5), paragraph (g) of subsection (14), paragraph (a) of subsection (19), and subsections (21) and (22) of section 212.02, Florida Statutes, as amended by section 7 of chapter 87-6, section 12 of chapter 87-87, section 9 of chapter 87-101, and section 6 of chapter 87-402, Laws of Florida, are amended to read:

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

(1) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting, and boating facilities. *The term "admissions" does not mean or include any charge made for entering or staying upon any boat or vessel for the privilege of fishing. The term "admissions" does not mean or include charges for admission by any organization described in s. 170(c) of the Internal Revenue Code of 1954, as amended, to live performances of ballet, dance, or choral performances, concerts (instrumental and vocal), plays (with and without music), operas, and readings, ocean science centers, museums of science, historical museums, botanical and zoological gardens, and exhibitions of paintings, sculpture, photography, and graphic and craft arts.*

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

(14) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "lease," "let," "rental" or "service" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements. *However, where two taxpayers, in connection with the interchange of facilities, rent or lease property, each to the other, for use in providing or furnishing any of the services mentioned in s. 166.231, the term "lease or rental" means only the net amount of rental involved.*

(19)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. "Retail sale" does not include fee-sharing for services described in s. 475.01(1)(c) 475-011 by persons licensed under chapter 475. A sale of a service shall be considered a sale for resale only if:

1. ~~The purchaser of the service provides a direct and identifiable benefit to a single client or customer of the purchaser does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;~~

2. The purchaser of the service buys the service pursuant to a written contract with the seller or other written documentation which and such contract identifies the client or customer for whom the purchaser is buying the service; and

3. ~~The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;~~

4. ~~The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0592(1); and~~

3.5. The service is purchased pursuant to a service resale permit by a dealer who is primarily engaged in the business of selling services. *However, the department may authorize the issuance of a service resale permit to a dealer who is not primarily engaged in the sale of services if such dealer is otherwise regularly engaged in brokering services for clients or customers. The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.*

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

(21) "Sales price" means the total amount paid for tangible personal property or services, including any services that are a part of the sale and any tangible personal property that is part of the service, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires labor or material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. "Sales price" does not include travel and entertainment expenses, or taxes or other governmental fees, including postage charges, advanced on behalf of a client, if such expenses or charges are directly reimbursed at cost by the client.

(22) The term "service" or "services" as used in this part means those activities usually provided for consideration by the following establishments listed in the SIC Manual:

- ~~(a) Agricultural Services (Major Group Number 07).~~
- ~~(b) Forestry Services (Major Group Number 085).~~
- ~~(c) Metal Mining Services (Group Number 108).~~
- ~~(d) Oil and Gas Field Services (Group Number 138).~~
- ~~(e) Nonmetallic (Nonfuel) Mineral Services (Group Number 148).~~
- (a)(f) Building Construction-General Contractors and Operative Builders (Major Group Number 15).
- (b)(g) Construction other than Building Construction-General Contractors (Major Group Number 16).
- (c)(h) Construction-Special Trade Contractors (Major Group Number 17).
- (d)(i) Printing, Publishing, and Allied Services (Major Group Number 27).
- (e)(j) Coating, Engraving, and Allied Services (Group Number 347).
- ~~(k) Railroad Transportation (Major Group Number 40).~~
- ~~(l) Local and Suburban Transit and Interurban Highway Passenger Transportation (Major Group Number 41).~~
- (f)(m) Motor Freight Transportation and Warehousing (Major Group Number 42).
- ~~(n) U.S. Postal Service (Major Group Number 43).~~
- ~~(o) Water Transportation (Major Group Number 44).~~
- (g)(p) Transportation by Air (Major Group Number 45).
- ~~(q) Pipelines, except Natural Gas (Major Group Number 46).~~
- ~~(r) Transportation Services (Major Group Number 47).~~
- ~~(s) Communications (Major Group Number 48).~~
- ~~(h)(t) Electric, Gas, and Sanitary Services (Major Group Number 495 49).~~
- ~~(u) Food Brokers (Industry Number 5141).~~
- ~~(v) Banking (Major Group Number 60).~~
- ~~(w) Credit Agencies other than Banks (Major Group Number 61).~~
- ~~(x) Security and Commodity Brokers, Dealers, Exchanges, and Services (Major Group Number 62).~~
- (i)(y) Title Insurance (Major Group Number 636 63).
- ~~(z) Insurance Agents, Brokers, and Service (Major Group Number 64).~~
- (j)(aa) Real Estate (Major Group Number 65).

~~(bb) Combinations of Real Estate, Insurance, Loans, Law Offices (Major Group Number 66).~~

~~(cc) Holding and other Investment Offices (Major Group Number 67).~~

~~(dd) Personal Services (Major Group Number 72).~~

(k) Consumer Credit Reporting Agencies, Mercantile Reporting Agencies, and Adjustment and Collection Agencies (Group Number 732).

(l) Mailing, Reproduction, Commercial Art and Photography, and Stenographic Services (Group Number 733).

(m) Personnel Supply Services (Group Number 736).

(n) Computer and Data Processing Services (Group Number 737).

~~(o)(ee) Miscellaneous Business Services (Major Group Number 739 73).~~

(p)(ff) Automotive Repair, Services, and Garages (Major Group Number 75).

(q)(gg) Miscellaneous Repair Services (Major Group Number 76).

~~(hh) Motion Pictures (Major Group Number 78).~~

~~(ii) Amusement and Recreation Services, except Motion Pictures (Major Group Number 79).~~

~~(jj) Health Services (Major Group Number 80).~~

(r)(kk) Legal Services (Major Group Number 81).

(s) Engineering, Architectural, and Surveying Services (Group Number 891).

(t) Accounting, Auditing, and Bookkeeping Services (Group Number 893).

~~(ll) Educational Services (Major Group Number 82).~~

~~(mm) Social Services (Major Group Number 83).~~

~~(nn) Museums, Art Galleries, Botanical and Zoological Gardens (Major Group Number 84).~~

~~(oo) Membership Organizations (Major Group Number 86).~~

~~(pp) Miscellaneous Services (Major Group Number 89).~~

~~(qq) Legislative, Judicial, Administrative and Regulatory Activities of Federal, State, Local and International Governments (Major Group Numbers 91, 92, 93, 94, 95, 96, and 97).~~

~~In addition, the terms shall include the services of any independent broker of tangible personal property.~~

Section 9. Effective November 1, 1987, subsections (1), (3), and (6) of section 212.03, Florida Statutes, as amended by section 7 of chapter 87-6, section 12 of chapter 87-87, section 9 of chapter 87-101, and section 9 of chapter 87-402, Laws of Florida, are amended to read:

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

(1) It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, or letting any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp. For the exercise of such privilege, a tax is hereby levied in an amount equal to 5.5 5 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, or tourist or trailer camps whether or not there is in connection with any of the same any dining rooms, cafes, or other places where meals or lunches are sold or served to guests.

(3) When rentals are received by way of property, goods, wares, merchandise, services, or other things of value, the tax shall be at the rate of 5.5 5 percent of the value of the property, goods, wares, merchandise, services, or other things of value.

(6) It is the legislative intent that every person is engaging in a taxable privilege who leases or rents parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage spaces for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports. For the exercise of this privilege, a tax is hereby levied at the rate of 5.5 5 percent on the total rental charged.

Section 10. Section 212.031, Florida Statutes, as amended by sections 8 and 25 of chapter 87-6 and section 10 of chapter 87-101, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

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

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.
5. A public or private street or right-of-way occupied or used by a utility for utility purposes.
6. A public street or road which is used for transportation purposes.
7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.
8. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.
9. Property used as an integral part of the performance of qualified production services as defined in s. 212.0592(18)(a).
10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., or 3. of paragraph (a), the department shall determine, from the lease or license and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

(2)(a) The tenant or person actually occupying, using, or entitled to the use of any property from which the rental or license fee is subject to taxation under this section shall pay the tax to his immediate landlord or other person granting the right to such tenant or person to occupy or use such real property.

(b) It is the further intent of this Legislature that only one tax be collected on the rental or license fee payable for the occupancy or use of any such property, that the tax so collected shall not be pyramided by a progression of transactions, and that the amount of the tax due the state shall not be decreased by any such progression of transactions.

(3) The tax imposed by this section shall be in addition to the total amount of the rental or license fee, shall be charged by the lessor or person receiving the rent or payment in and by a rental or license fee arrangement with the lessee or person paying the rental or license fee, and shall be due and payable at the time of the receipt of such rental or license fee payment by the lessor or other person who receives the rental or payment. The owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage any leases or operate real property, hotels, apartment houses, roominghouses, or tourist and trailer camps and all persons who collect or receive rents or license fees taxable under this chapter on behalf of owners or lessors.

(4) The tax imposed by this section shall constitute a lien on the property of the lessee or licensee of any real estate in the same manner as, and shall be collectible as are, liens authorized and imposed by ss. 713.68 and 713.69.

(5) *No money paid to a merchants' association by a lessee or licensee shall be considered rent for the purposes of this section, whether or not the payment of the money to the association is a condition of the lease or license. As used in this subsection, "merchants' association" means a corporation not for profit organized and existing for the sole and exclusive purpose of promoting the businesses of a group of merchants.*

(6) When space is subleased to a convention or industry trade show in a convention hall, exhibition hall, or auditorium, whether publicly or privately owned, the sponsor who holds the prime lease is subject to tax on the prime lease and the sublease is exempt.

(7) The lease or rental of land or a hall or other facilities by a fair association subject to the provisions of chapter 616 to a show promoter or prime operator of a carnival or midway attraction is exempt from the tax imposed by this section; however, the sublease of land or a hall or other facilities by the show promoter or prime operator is not exempt from the provisions of this section.

Section 11. Effective November 1, 1987, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, as amended by sections 8 and 25 of chapter 87-6 and section 10 of chapter 87-101, Laws of Florida, are amended to read:

212.031 Lease or rental of or license in real property.—

(1)

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5.5 5 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5.5 5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

Section 12. Effective November 1, 1987, paragraph (b) of subsection (1) of section 212.04, Florida Statutes, as amended by sections 9 and 25 of chapter 87-6 and section 11 of chapter 87-101, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(b) For the exercise of such privilege, a tax is levied at the rate of 5.5 percent of sales price, or the actual value received from such admissions, which 5.5 percent shall be added to and collected with all such admissions from the purchaser thereof; and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket shall show on its face the actual sales price of admission, and the tax shall be computed and collected on the basis of each such admission price. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes, if any, imposed upon such admission; and the rate of tax on each admission shall be according to the brackets established by s. 212.12(10).

Section 13. Paragraph (i) of subsection (1) of section 212.05, Florida Statutes, as added by section 12 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 14. Effective November 1, 1987, section 212.05, Florida Statutes, as amended by section 10 of chapter 87-6, sections 2 and 9 of chapter 87-99, section 12 of chapter 87-101, and section 7 of chapter 87-402, Laws of Florida, is amended to read:

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

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

(a)1.a. At the rate of 5.5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

- a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;
- b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and
- c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or

alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

(b) At the rate of 5.5 percent of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in this state.

(c) At the rate of 5.5 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, except the lease or rental of a commercial motor vehicle as defined in s. 316.003(67)(a) to one lessee or rentee for a period of not less than 12 months when tax was paid on the acquisition of such vehicle by the lessor, when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

(d) At the rate of 5.5 percent of the lease or rental price paid by a lessee or rentee, or contracted or agreed to be paid by a lessee or rentee, to the owner of the tangible personal property.

(e)1. At the rate of 5.5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, wired television, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

- a. One hundred percent of the charge imposed at each channel termination point within this state;
- b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and
- c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department.

Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(f) At the rate of 5.5 percent on the sale, rental, use, consumption, or storage for use in this state of machines and equipment and parts and accessories therefor used in manufacturing, processing, compounding, producing, mining, or quarrying personal property for sale or to be used in furnishing communications, transportation, or public utility services.

(g) At the rate of 5 percent of the price, as determined pursuant to part II, of each gallon of motor fuel or special fuel taxable pursuant to that part, except that motor fuel and special fuel expressly taxable under this part shall be taxed as provided in paragraphs (a) and (b).

(h) Any person who purchases, installs, rents, or leases a telephone system or telecommunication system for his own use to provide himself with telephone service or telecommunication service which is a substitute for any telephone company switched service or a substitute for any dedicated facility by which a telephone company provides a communication path is exercising a taxable privilege and shall register with the Department of Revenue and pay into the State Treasury a yearly amount equal to 5.5 percent of the actual cost of operating such system, notwithstanding the provisions of s. 212.081(3)(b). "Actual cost" includes, but is not limited to, depreciation, interest, maintenance, repair, and other expenses directly attributable to the operation of such system. For purposes of this paragraph, the depreciation expense to be included in actual cost shall be the depreciation expense claimed for federal income tax purposes. The total amount of any payment required by a lease or rental contract or agreement shall be included within the actual cost. The provisions of this paragraph do not apply to the use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire. If a system described in this paragraph is located in more than one state, the actual cost of such system for purposes of this paragraph shall be the actual cost of the system's equipment located in Florida.

~~(i) At the rate of 5 percent on the retail price of newspapers and magazines sold or used in Florida.~~

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

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

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

Section 15. Effective July 1, 1988, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, as amended by section 83 of chapter 87-6 and section 52 of chapter 87-101, Laws of Florida, is amended to read:

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

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

(a)1.a. At the rate of 5.5 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Gov-

ernment shall be subject to tax at the rate provided in this paragraph. The department shall, by rule, adopt the NADA Official Used Car Guide as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (f), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed, plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph. ~~For purposes of this sub-subparagraph, an occasional or isolated sale is one in which the seller is not a motor vehicle dealer as defined in s. 320.27(1)(c).~~

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase. This exemption shall not be allowed unless the seller:

a. Obtains from the purchaser within 90 days from the date of sale written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

b. Requires the purchaser to sign an affidavit that he has read the provisions of this section; and

c. Makes the affidavit a part of his permanent record.

In the event the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

Section 16. Effective November 1, 1987, subsections (1) and (3) of section 212.055, Florida Statutes, as amended by section 8 of chapter 87-99, section 1 of chapter 87-100, and section 2 of chapter 87-239, Laws of Florida, is amended to read:

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

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

(a) Each charter county which adopted a charter prior to June 1, 1976, may levy a discretionary sales surtax, subject to approval by a majority vote of the electorate of the county.

(b)1. The rate shall be ~~two-elevenths one-fifth (20 percent)~~ of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

2. Notwithstanding subparagraph 1., for any county the government of which is consolidated with that of one or more municipalities, upon the retirement of any bonds which were issued for the construction of roads and bridges and which were outstanding on the effective date of this act,

the rate shall be ~~one-eleventh one-tenth (10 percent)~~ of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

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

(d) Proceeds from the surtax shall be:

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

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, the operation and maintenance of a bus system, or 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.

(3) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of up to ~~two-elevenths 20 percent~~ of any tax paid to the state pursuant to this part, except this section, s. 212.054, s. 212.059, and s. 212.0305. Such governing authority may levy such surtax in an amount equal to ~~one-eleventh or two-elevenths 5, 10, 15 or 20 percent~~ of said state tax. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority ~~and approved by a majority of the electors of the county voting in a referendum on the surtax~~. If the governing bodies of the municipalities representing a majority of the county's *municipal* population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.

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

. . . . FOR the -cent sales tax

. . . . AGAINST the -cent sales tax

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

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county population; or

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

(d) The provisions of s. 212.054(2)(b)1. relating to the sales amount above \$1,000 on any item of tangible personal property shall not apply to the surtax authorized by this subsection. The sales amount above \$5,000 on any item of tangible personal property shall not be subject to the surtax imposed by this subsection.

(e) The department shall promulgate by rule the brackets applicable to transactions which are subject to the surtax.

(f)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended within the county and municipalities within the county, or, in the case of a negotiated joint

county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure.

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

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

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

(i) No ordinance or referendum proposing the levying of such surtax shall be enacted or held after November 30, 1992.

Section 17. Paragraph (b) of subsection (1) and paragraph (a) of subsection (5) of section 212.06, Florida Statutes, as amended by section 12 of chapter 87-6, section 3 of chapter 87-99, section 1 of chapter 87-370, and section 4 of chapter 87-402, Laws of Florida, are amended, and paragraph (l) is added to subsection (2) of said section, to read:

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

(1)

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a qualified motion picture as defined in s. 212.0592(9)(18)(b) prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes.

(2)

(1) *When the tax imposed in this part relates to real estate commissions or fees paid to a real estate agent in connection with the transfer or sale of any interest in real property, "dealer" means the closing agent who is responsible for recording the documents relating to the transfer of the real property in the transfer of the real property in the official records of a county and remitting any documentary stamp tax. The real estate agent is responsible for preparing and submitting a statement to the closing agent at closing which discloses the real estate agent's full compensation and which declares the amount of the compensation upon which the tax is due at closing.*

(5)(a)1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangi-

ble personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on *radio and television broadcasting*, or any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

2.a. Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d. However, a Florida dealer will be relieved from the requirements of collecting taxes pursuant to this subparagraph if the Florida dealer obtains from the purchaser an affidavit setting forth the purchaser's name, address, state taxpayer identification number, and a statement that the purchaser is aware of his state's use tax laws, is a registered dealer in Florida or another state, or is purchasing the tangible personal property for resale or is otherwise not required to pay the tax on the transaction. The department may, by rule, provide a form to be used for the purposes set forth herein.

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

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

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

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

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

(V) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

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

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

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

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

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

Section 18. Effective November 1, 1987, paragraph (a) of subsection (1) of section 212.06, Florida Statutes, as amended by section 12 of chapter 87-6, section 3 of chapter 87-99, section 1 of chapter 87-370, and section 4 of chapter 87-402, Laws of Florida, is amended to read:

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

(1)(a) The aforesaid tax at the rate of 5.5 5 percent of the retail sales price as of the moment of sale, 5.5 5 percent of the cost price as of the moment of purchase, or 5.5 5 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of tangible personal property or services taxable under this part. The full amount of the tax on a credit sale, installment sale, or sale made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as on a cash sale.

Section 19. Subsection (10) is added to section 212.07, Florida Statutes, as amended by section 13 of chapter 87-6, Laws of Florida, to read:

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

(10) *Notwithstanding any other provision of this section, if a purchaser of a service subject to the tax imposed under s. 212.059 refuses to pay the tax and the seller of the service has made a good faith effort to collect the tax, the seller shall, after submitting such information as the department may require concerning the payment, be absolved from remitting such tax. The purchaser shall be liable for paying the tax and for any penalty and interest assessed upon such tax under this chapter. This subsection applies to only one payment between a seller and a purchaser and does not apply to any payment occurring after July 1, 1988.*

Section 20. Subsections (1), (2), (7), and (13) of section 212.08, Florida Statutes, as amended by sections 14 and 25 of chapter 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99, section 13 of chapter 87-101, and section 2 of chapter 87-370, Laws of Florida, are amended to read:

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

(1) EXEMPTIONS; GENERAL GROCERIES.—

(a) There are exempt from the tax imposed by this chapter food and drinks for human consumption and ~~except~~ candy, but only when the price at which such candy is sold is 25 cents or less. Unless the exemption provided by paragraph (7)(q)(~~b~~) for school lunches, paragraph (7)(i)(~~e~~) for meals to certain patients or inmates, or paragraph (7)(k)(~~b~~) for meals provided by certain nonprofit organizations pertains, none of such items of food or drinks means:

1. Food or drinks served, prepared, or sold in or by restaurants; drug-stores; lunch counters; cafeterias; hotels; amusement parks; racetracks; taverns; concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of business; or by any business or place required by law to be licensed by the Division of Hotels and Restaurants of the Department of Business Regulation, except bakery products sold in or by pastry shops, doughnut shops, or like establishments for consumption off the premises;

2. Foods and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle;

3. Soft drinks, which include, but are not limited to, any nonalcoholic beverage; any preparation or beverage commonly referred to as a "soft drink"; or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" does not include: natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; coffee or coffee substitutes; tea except when sold in containers as provided herein; cocoa; products intended to be mixed with milk; or natural fluid milk;

4. Foods or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises, excluding bakery products for off-premises consumption unless such foods are taxed under subparagraph 1. or subparagraph 2.; or

5. Sandwiches sold ready for immediate consumption.

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

(b)1. Food or drinks not exempt under paragraph (a) shall be exempt, notwithstanding that paragraph, when purchased with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

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

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

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; *feminine hygiene products, including, but not limited to, sanitary panties, sanitary belts, sanitary napkins, and tampons*; and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

1. "Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs or according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.

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

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

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

(c)(d) This subsection shall be strictly construed and enforced.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Artificial commemorative flowers.—Exempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

(b) Boiler fuels.—When purchased for use as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residues or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter; however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the use of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation.

(c) Crustacea bait.—Also exempt from the tax imposed by this chapter is the purchase by commercial fishermen of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

(d) Feeds.—Feeds for poultry and livestock, including racehorses and dairy cows, are exempt.

(e) Film rentals.—Film rentals are exempt when an admission is charged for viewing such film, and license fees and direct charges for films, videotapes, and transcriptions used by television or radio stations or networks are exempt. ~~However, this exemption shall not be construed to exempt the sale or use of advertising.~~

(f) Flags.—Also exempt are sales of the flag of the United States and the official state flag of Florida.

(g) Florida Retired Educators Association and its local chapters.—Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

(h) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as "seeing-eye dogs," and the sale of food or other items for such guide dogs.

1. The department shall issue a consumer's certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer's certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer's certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention.

(j) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households or owners of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households or owners of residential models, including oil, kerosene, liquefied petroleum gas, coal, wood, and other fuel products used in the household or residential model for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose, the entire sale is taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption.

(k) Meals provided by certain nonprofit organizations.—There is exempt from the tax imposed by this chapter the sale of prepared meals by a nonprofit volunteer organization to handicapped, elderly, or indigent persons when such meals are delivered as a charitable function by the organization to such persons at their places of residence.

(l) Military museums.—Also exempt are sales to nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and whose primary purpose is to raise money for military museums.

(m) Nonprofit corporation; home for the aged, nursing home, or hospice.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2) or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

(n) Organizations providing special educational, cultural, recreational, and social benefits to minors.—There shall be exempt from the tax imposed by this part nonprofit organizations which are incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors. This exemption is extended only to that level of the organization that has a salaried executive officer or an elected nonsalaried executive officer.

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property or services by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue

Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(p) Resource recovery equipment.—Also exempt is resource recovery equipment which is owned and operated by or on behalf of any county or municipality, certified by the Department of Environmental Regulation under the provisions of s. 403.715.

(q) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches served to students, in public, parochial, or nonprofit schools operated for and attended by pupils of grades 1 through 12. School books and food sold or served at community colleges and other institutions of higher learning are taxable.

(r) State Theater Program facilities.—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as State Theater Program facilities as provided in s. 265.287 are exempt from the tax imposed by this chapter.

(s) Volunteer fire departments.—Also exempt are firefighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit.

(t) Vinous and alcoholic beverages provided by distributors or vendors for the purpose of "wine tasting" and "spirituous beverage tasting" as contemplated under the provisions of section 564.06 and 565.12 respectively, are exempt from the tax imposed by this part. This exemption shall be effective retroactively to July 1, 1981.

(u)(w) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, Florida Statutes, pertaining to the registration of vessels, a boat upon which sales tax has not been paid, which has not been licensed, titled, or registered in another taxing jurisdiction within the United States, or which is being used in the waters of this state under a permit issued by an agency of the United States government is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 10 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 10-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility. The 10-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 10-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must furnish to the department, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must furnish the department, within 72 hours after the date of release, with a copy of the release form which shows the date of release and any other information the department requires. When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the 10-day period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this part; however, the sales tax levied under this part applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

(I) Is located on a navigable body of water;

(II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;

(III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or

c. A shoreside facility that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work.

(v) Radio and television services.—Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.

(w) Newspapers.—Likewise exempt are newspapers.

(x) Magazines.—There are likewise exempt from the tax imposed by this chapter subscriptions to magazines entered as second-class mail sold for an annual or longer period of time.

(y) Solar energy systems and components.—Also exempt from payment of the tax imposed by this chapter is the sale at retail, rental, use, consumption, distribution, or storage to be used or consumed in this state of a solar energy system or any component thereof. The Florida Solar Energy Center shall from time to time certify to the department a list of equipment and requisite hardware considered to be a solar energy system or component thereof. This paragraph is repealed effective June 30, 1989.

(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. Except for s. 423.02, all laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. ~~125.019~~, 153.76, ~~154.2331~~, 159.15, 159.31, ~~159.50~~, ~~159.703~~, 163.385, 163.395, 215.76, 243.33, 258.14, 315.11, 348.65, 348.762, 349.13, 374.132, 403.1834, 616.07, 623.09, 637.131, and 637.291 and the following Laws of Florida, acts of the year indicated: s. 31, ch. 30843, 1955; s. 19, ch. 30845, 1955; s. 12, ch. 30927, 1955; s. 8, ch. 31179, 1955; s. 15, ch. 31263, 1955; s. 13, ch. 31343, 1955; s. 16, ch. 59-1653; s. 13, ch. 59-1356; s. 12, ch. 61-2261; s. 19, ch. 61-2754; s. 10, ch. 61-2686; s. 11, ch. 63-1643; s. 11, ch. 65-1274; s. 16, ch. 67-1446; and s. 10, ch. 67-1681.

Section 21. Effective November 1, 1987, subsection (3) and paragraph (c) of subsection (11) of section 212.08, Florida Statutes, as amended by sections 14 and 25 of chapter 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99, section 13 of chapter 87-101, and section 2 of chapter 87-370, Laws of Florida, are amended to read:

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

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.—There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or shared by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5.5 percent.

(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

(c) The maximum tax collectible under this subsection may not exceed 5.5 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.

Section 22. Paragraph (d) of subsection (1) of section 212.11, Florida Statutes, as amended by section 16 of chapter 87-6, section 15 of chapter 87-101, and section 3 of chapter 87-239, Laws of Florida, is amended to read:

212.11 Tax returns and regulations.—

(1)

(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers registered as service providers and remitting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than \$1,000 \$500 in each month for the previous 3 months. Quarterly payments pursuant to this paragraph shall be due and payable in March, June, September, and December of each year.

Section 23. Effective November 1, 1987, subsections (9) and (10) of section 212.12, Florida Statutes, as amended by section 17 of chapter 87-6, section 6 of chapter 87-99, section 16 of chapter 87-101, and section 8 of chapter 87-402, Laws of Florida, 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.—

(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; and 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 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. 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 5.5 5 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 18 20 cents, both inclusive, 1 cent shall be added for taxes.

(c) On sales in amounts from 19 21 cents to 36 40 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 37 41 cents to 54 60 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 55 61 cents to 72 80 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 73 81 cents to 90 cents \$1, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts from 91 cents to \$1.09, both inclusive, 6 cents shall be added for taxes.

(h) On sales in amounts from \$1.10 to \$1.27, both inclusive, 7 cents shall be added for taxes.

(i) On sales in amounts from \$1.28 to \$1.45, both inclusive, 8 cents shall be added for taxes.

(j) On sales in amounts from \$1.46 to \$1.63, both inclusive, 9 cents shall be added for taxes.

(k) On sales in amounts from \$1.64 to \$1.81, both inclusive, 10 cents shall be added for taxes.

(l) On sales in amounts from \$1.82 to \$2, both inclusive, 11 cents shall be added for taxes.

(m)(g) On sales in amounts of more than \$2 \$1, 5.5 5 percent shall be charged upon each \$2 dollar of price, plus the appropriate bracket charge upon any fractional part of \$2 a-dollar.

(10) In charter counties which have adopted the discretionary 1-percent tax, the following brackets shall be applicable to all taxable transactions which would otherwise have been transactions taxable at the rate of 5.5 5 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 15 16 cents, both inclusive, 1 cent shall be added for taxes.

(c) On sales in amounts from 16 17 cents to 30 33 cents, both inclusive, 2 cents shall be added for taxes.

(d) On sales in amounts from 31 34 cents to 46 50 cents, both inclusive, 3 cents shall be added for taxes.

(e) On sales in amounts from 47 51 cents to 61 66 cents, both inclusive, 4 cents shall be added for taxes.

(f) On sales in amounts from 62 67 cents to 76 83 cents, both inclusive, 5 cents shall be added for taxes.

(g) On sales in amounts from 77 84 cents to 92 cents \$1, both inclusive, 6 cents shall be added for taxes.

(h) On sales in amounts from 93 cents to \$1.07, both inclusive, 7 cents shall be added for taxes.

(i) On sales in amounts from \$1.08 to \$1.23, both inclusive, 8 cents shall be added for taxes.

(j) On sales in amounts from \$1.24 to \$1.38, both inclusive, 9 cents shall be added for taxes.

(k) On sales in amounts from \$1.39 to \$1.53, both inclusive, 10 cents shall be added for taxes.

(l) On sales in amounts from \$1.54 to \$1.69, both inclusive, 11 cents shall be added for taxes.

(m) On sales in amounts from \$1.70 to \$1.84, both inclusive, 12 cents shall be added for taxes.

(n) On sales in amounts from \$1.85 to \$2, both inclusive, 13 cents shall be added for taxes.

(o)(h) On sales in amounts from \$2 \$1 up to, and including, the first \$1,000 in price, 6.5 6 percent shall be charged upon each \$2 dollar of price, plus the appropriate bracket charge upon any fractional part of \$2 a-dollar.

(p)(i) On sales in amounts of more than \$1,000 in price, 6.5 6 percent shall be added upon the first \$1,000 in price, and 5.5 5 percent shall be added upon each \$2 dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of \$2 a-dollar as provided for in subsection (9).

Section 24. Subsections (3), (4), and (5) of section 31 of chapter 87-6, Laws of Florida, as amended by section 18 of chapter 87-101, Laws of Florida, are hereby repealed.

Section 25. Section 33 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, is amended to read:

Section 33. (1) The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. All rules heretofore or hereafter adopted pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act or chapter 87-6 or chapter 87-101, Laws of Florida, shall remain effective through June 30, 1988, unless earlier invalidated judicially or pursuant to s. 120.56, Florida Statutes, on grounds that they, or any of them, constitute an invalid exercise of delegated legislative authority; however, no such rule shall be deemed invalid in any form for any claimed lack of an emergency. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption.

(2) Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of chapter 87-6 or chapter 87-101, Laws of Florida, and this act shall not be subject to a s. 120.54(4), Florida Statutes, rule challenge or a s. 120.54(17), Florida Statutes, draw-

out proceeding, but, once adopted, shall be subject to a s. 120.56, Florida Statutes, invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes.

Section 26. Section 36 of chapter 87-6, Laws of Florida, as amended by chapter 87-101, Laws of Florida, is amended to read:

Section 36. Any penalties provided for pursuant to s. 212.12(2), Florida Statutes, shall be waived by the executive director of the Department of Revenue for returns due for the tax on services newly imposed by this act. If the executive director determines that the interest owed pursuant to s. 212.12(3), Florida Statutes, will cause an undue hardship on the taxpayer, he may also waive the interest payment. The waiver for penalties and interest shall apply with respect to returns for taxes due and payable for the period between July 1, 1987, and *December 31, 1987* ~~September 30, 1987~~.

Section 27. Section 163.3203, Florida Statutes, is created to read:

163.3203 Impact fees.—

(1) Any county or municipality may assess, impose, levy, and collect impact fees within its jurisdictional limits for any construction or expansion of a building or structure, any change in the use of a building or structure, or any land use change that affects a local government's need for public facilities. Any county or municipality which has enacted any impact fee prior to the effective date of this section must modify such impact fee to meet the requirements of this section.

(2) An impact fee must meet the following three tests:

1. New public facilities or the expansion of existing public facilities, for which an impact fee may be charged, must be reasonably related to the needs created by development;

2. The impact fees imposed upon the development must not exceed a proportionate share of the costs incurred or to be incurred by the local government in accommodating the development; and

3. The collecting and expending of impact fees must be reasonably related to the benefits accruing to the development for which the fee was assessed.

(3) For impact fees for purposes other than transportation, water, and wastewater, counties are authorized to collect in the unincorporated area and municipalities are authorized to collect within their incorporated limits impact fees which in the aggregate may not exceed 1 percent of the value of the new or expanded development.

(4) Prior to imposing a new impact fee or raising the level of an existing impact fee for other than transportation, water, and wastewater needs, the county must levy the local option sales surtax authorized pursuant to s. 212.055(3). If the county does not impose the surtax by ordinance, it may not impose impact fees for other than transportation, water, and wastewater purposes. A municipality located in a county which has not levied the local option sales surtax authorized by s. 212.055(3) may not impose a new impact fee or raise an existing impact fee other than for transportation, water, and wastewater purposes, unless the municipalities representing a majority of the county's municipal population have adopted a uniform resolution calling for a referendum on the local option sales surtax authorized pursuant to s. 212.055(3). If such municipalities do not adopt such resolutions, they may not impose impact fees for other than transportation, water, and wastewater purposes.

Section 28. Section 28 of chapter 87-101, Laws of Florida, is amended to read:

Section 28. There is hereby appropriated from the General Revenue Fund the sum of \$364,757 to the Division of Administrative Hearings of the Department of Administration, *and six positions are hereby authorized*, for purposes of implementing the provisions of chapter 87-6, Laws of Florida, and this act.

Section 29. The increased sales or use tax provided in this act shall not apply to any transaction occurring before November 1, 1987, except that with respect to utility services regularly billed on a monthly cycle basis, the increased sales or use tax provided in this act shall apply to any such cycle ending on or after November 1, 1987.

Section 30. Any service which was taxable on July 1, 1987 and which was performed before October 1, 1987 shall be taxed notwithstanding that compensation for the service is paid or payable on or after October 1, 1987. Any service that was taxable before October 1, 1987, but that is no longer taxable beginning October 1, 1987, and that is performed over a period of time beginning prior to that date and ending on or after that date, shall be taxed only upon that portion of the service provided before October 1, 1987.

Section 31. Section 212.235, Florida Statutes, as created by section 24 of chapter 87-6, Laws of Florida, and amended by section 17 of chapter 87-101, Laws of Florida, is amended to read:

212.235 State Infrastructure Trust Fund; deposits.—

(1) Notwithstanding the provisions of ss. 212.20(1) and 218.61, in fiscal year 1987-1988 an amount equal to 2 percent, and in each fiscal year thereafter an amount equal to 5 percent, of the proceeds remitted pursuant to this part by a dealer, or the sums sufficient to provide the maximum receipts specified herein, shall be transferred into the State Infrastructure Trust Fund, which is created in the State Treasury. "Proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties. However, any receipts of the trust fund, including those received pursuant to ss. 201.15(5), and 206.875(3), and 212.0594 and interest earned, in excess of \$200 million in fiscal year 1987-1988, and \$500 million thereafter, shall revert to the General Revenue Fund.

(2) Subject to an appropriation each year by the Legislature, moneys in the fund shall only be used for the purposes of:

(a) Acquiring the right-of-way for and constructing state highways and bridges;

(b) Constructing public education capital facilities;

(c) Financing state projects for beach restoration or renourishment or lake, river, or other water body restoration, including the restoration of bays and estuaries;

(d) Constructing state correctional facilities;

(e) Constructing other infrastructure projects; or

(f) Issuing revenue bonds to finance state capital outlay projects authorized by this section. Such bonds shall be payable solely from legislative appropriations from the State Infrastructure Trust Fund and shall not be a debt of the state, and the state shall not be liable thereon. Neither the taxing power, the credit, nor the revenues of the state shall be pledged to pay any obligation issued pursuant to this subsection.

Section 32. Section 218.61, Florida Statutes, is amended to read:

218.61 Local government half-cent sales tax; designated proceeds; trust fund.—

(1) Each participating county or municipal government shall receive a portion of the local government half-cent sales tax, as provided in this part.

(2) Notwithstanding the provisions of s. 212.20(1), 9.22 ~~9.697~~ percent of the proceeds remitted pursuant to part I of chapter 212 by a sales tax dealer located within the county shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund and earmarked for distribution to the governing body of that county and of each municipality within that county; *however, in fiscal year 1987-1988 the distribution into the trust fund shall be such that for the fiscal year as a whole the total transfer shall equal 9.256 percent of the proceeds remitted*. Such moneys shall be known as the "local government half-cent sales tax." "Proceeds" means all funds collected and received by the Department of Revenue, including any interest or penalties.

(3) There is created in the State Treasury the Local Government Half-cent Sales Tax Clearing Trust Fund. Moneys in the fund are hereby appropriated to the Department of Revenue and shall be distributed monthly to participating units of local government.

Section 33. Any person who, before the effective date of this section, was required by section 212.13, Florida Statutes, as amended by chapters 87-6 and 87-101, Laws of Florida, to keep records relating to the sale or use of services shall continue to keep such records for a period of 3 years, and such records shall be available for inspection in the same manner as

records kept pursuant to section 212.13, Florida Statutes. The failure to keep such records or to allow their inspection as required by this section is subject to the same penalties provided in section 212.13, Florida Statutes.

Section 34. Except as expressly otherwise provided in this act, this act shall take effect October 1, 1987, or upon becoming a law, whichever occurs later.

Senator D. Childers moved the following amendment to Amendment 17 which failed:

Amendment 17A—On pages 19-28, strike all of Section 5 and insert:

Section 5. Section 212.0594, Florida Statutes, as created by section 6 of chapter 87-101, Laws of Florida, is hereby repealed.

Senator Grant moved the following amendment to Amendment 17 which failed:

Amendment 17B—On page 11, line 25, strike everything through line 7, on page 12 and insert:

(13)(27)(a) Legal services rendered by an attorney to a client to the extent that the right to counsel guaranteed pursuant to either the Sixth Amendment to the United States Constitution or Article I, Section 16 of the Florida Constitution is applicable to such legal services. However, this exemption shall only be applicable if the criminal charges brought in the case are dismissed or the client is ultimately adjudicated not guilty by a court of competent jurisdiction. This exemption shall only be granted pursuant to a refund of taxes previously paid on such services. The provisions of s. 212.005 shall not apply to the refund authorized in this paragraph.

(b) Legal services, provided to a natural person, which relate to child support, enforcement of civil rights or bankruptcy proceedings.

The question recurred on Amendment 17 which failed.

Senator Crawford moved the following amendment which was adopted:

Amendment 18—On page 55, strike lines 8-31, and on page 56, strike lines 1-14 and insert:

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

(a) The dealer is located in the county and the sale includes tangible personal property or services, except as otherwise provided herein, provided the sale of any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state, in any other state, or by the United States Government, shall be deemed to have occurred only in the county identified as the resident address of the purchaser on the title, license, or registration document for such property;

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

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

(d) The purchaser user of any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is a resident of the taxing county as determined by the address appearing on or to be reflected on the title, license, or registration document for such property imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county; however, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county. The provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county;

(e) Any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is imported from another state into the taxing county by a user residing therein for the purpose of use, consumption, distribution, or storage in the taxing county; however, it shall be presumed that such items used outside the taxing county for 6 months or longer before being imported into the county were not purchased for use in the county.

(f)(e) The real property which is leased or rented is located in the county;

(g)(f) The transient rental transaction occurs in the county; or

(g) The delivery of any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county; however, the provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county; or

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

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

Senators Dudley and Kiser offered the following amendment which was moved by Senator Dudley:

Amendment 19—On page 198, between lines 18 and 19, insert:

Section 62. Paragraph (mm) is added to subsection (1) of section 216.011, Florida Statutes, as amended by section 3 of chapter 87-137, Laws of Florida, to read:

216.011 Definitions.—

(1) For the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets, each of the following terms has the meaning indicated:

(mm) "Proviso" means language that qualifies or restricts a specific appropriation and which can be logically and directly related to the specific appropriation.

Section 63. Subsection (7) of section 216.031, Florida Statutes, as amended by section 5 of chapter 87-137, Laws of Florida, is hereby repealed.

Section 64. Section 216.046, Florida Statutes, is amended to read:

216.046 Governor's supplemental recommendations.—The Governor may make supplemental revenue and appropriation recommendations to the Legislature at least 45 days prior to the annual session in any even-numbered year. The supplemental recommendations shall include the information required in ss. 216.162-216.168 and shall use as a base the most recent legislative appropriations act or approved operating budget.

Section 65. Section 216.081, Florida Statutes, is amended to read:

216.081 Data on legislative expenses.—

(1) On or before November 1 in each even-numbered year, in sufficient time to be included in the Governor's recommended budget report to the Legislature, estimates of the financial needs of the legislative branch during the ensuing biennium shall be furnished to the Governor pursuant to chapter 11.

(2) All of the data relative to the legislative branch shall be for information and guidance in estimating the total financial needs of the state for the ensuing biennium; but none of these estimates shall be subject to revision or review by the Governor, and they must be included in his recommended budget report to the Legislature.

Section 66. Section 216.167, Florida Statutes, is amended to read:

216.167 Governor's recommendations.—The Governor's recommendations shall include a financial schedule which shall provide:

(1) His estimate of the recommended recurring revenues available in the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund.

(2) His estimate of the recommended nonrecurring revenues available in the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund.

(3) His recommended recurring and nonrecurring appropriations from the Working Capital Fund, the State Infrastructure Fund, and the General Revenue Fund, and the Federal Revenue Sharing Fund.

(4) His estimates of any interfund loans or temporary obligations of the Working Capital Fund or trust funds, which loans or obligations are needed to implement his recommended budget.

(5) His estimates of the debt service and reserve requirements for any recommended new bond issues or reissues and his recommended debt service appropriations for all outstanding fixed capital outlay bond issues.

Section 67. Subsection (1) of section 216.181, Florida Statutes, as amended by section 58 of chapter 87-224, Laws of Florida, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(1) On or before the fifth day before the end of the period allowed by law for veto consideration in July of any year in which an appropriation is made, the chairmen of the legislative appropriations committees shall jointly transmit a statement of intent, including performance and workload measures as appropriate and the official list of General Revenue Fund appropriations determined in consultation with the Executive Office of the Governor to be nonrecurring, to the Executive Office of the Governor, the Comptroller, the Auditor General, and each state agency. The statement of intent may not allocate or appropriate any funds, or amend or correct any provision, in the General Appropriations Act, but may provide additional direction and explanation to the Executive Office of the Governor, the Administration Commission, and each affected state agency relative to the purpose, objectives, spending philosophy, and restrictions associated with any specific appropriation category. The statement of intent shall compare the request of the agency or the recommendation of the Governor to the funds appropriated for the purpose of establishing intent in the development of the approved operating budget. A request for additional explanation and direction regarding the legislative intent of the general appropriations act during the fiscal year may be made only by and through the Executive Office of the Governor as is deemed necessary. However, the Comptroller may also request further clarification of legislative intent pursuant to his responsibilities related to his preaudit function of expenditures.

Section 68. Subsection (5) of section 216.292, Florida Statutes, is amended to read:

216.292 Appropriations nontransferable; exceptions.—

(5) The Executive Office of the Governor may approve any transfer from the Working Capital Fund to the General Revenue Fund provided such transfer was identified or contemplated by the Legislature in the original approved operating budget.

Section 69. Paragraph (c) of subsection (1) of section 216.301, Florida Statutes, is amended to read:

216.301 Appropriations; undisbursed balances.—

(1)

(c) Each department shall maintain the integrity of the general revenue fund. Appropriations from the general revenue fund for any state agency contained in the original approved operating budget may, with the approval of the Executive Office of the Governor, be transferred to the proper trust fund for disbursement. However, all transferred general revenue funds which are unexpended on June 30 are subject to the general revenue reversion provision of this chapter.

Section 70. Subsections (2) and (3) of section 235.41, Florida Statutes, as amended by section 47 of chapter 87-329, Laws of Florida, are amended to read:

235.41 Legislative capital outlay budget request.—

(2) The commissioner shall submit to the Governor and to the Legislature an integrated, comprehensive budget request for educational facilities construction and fixed capital outlay needs for all boards, including the Board of Regents, pursuant to the provisions of s. 235.435 and applicable provisions of chapter 216. Each board, including the Board of Regents, shall submit to the commissioner a 3-year plan and data required in the development of the annual capital outlay budget. No further disbursements shall be made from the Public Education Capital Outlay and Debt Service Trust Fund to a board that fails to timely submit the required data until such board submits the data.

(3) The commissioner shall submit an integrated, comprehensive budget request to the Executive Office of the Governor and to the Legislature no later than 60 days prior to the legislative session each fiscal year. Notwithstanding the provisions of s. 216.043, the integrated, comprehensive budget request shall include:

(a) For the Public Education Capital Outlay and Debt Service Trust Fund and all sinking and investment accounts which are in receipt of any portion of the revenue sources listed in s. 235.42(2)(a):

1. A schedule for each fund showing the actual beginning cash balance for each of the 2 prior fiscal years and showing for the current fiscal year the estimated beginning cash balance and a listing of all disbursements and receipts.

2. For the budget fiscal year for each fund, the projected beginning cash balance, a monthly projection of all receipts, and a monthly projection of all disbursements.

3. For the budget fiscal year, necessary forecasting data to enable the commissioner to prepare and submit a monthly gross receipts tax forecast, a monthly bond proceeds estimate, the interest rate assumption used in the bond proceeds estimate, a monthly interest earnings forecast, the interest rate assumption used in the calculation of interest to be received on the idle balances invested, and any other reports as deemed necessary by the Legislature.

(b)(d) Recommendations for the priority of expenditure of funds in the state system of public education, with reasons for the recommended priorities, and other recommendations which relate to the effectiveness of the educational facilities construction program.

All items in s. 235.435 shall be part of the legislative budget request submitted by the commissioner.

Section 71. If any provision of sections 62 through 71 of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent sections.)

Point of Order

Senator Gordon raised a point of order on the amendment stating that: "It's not germane. This is a bill relating to taxation, not to budget procedure. There is nothing in the bill now that has anything to do with budget procedure."

The amendment being offered by Senator Dudley has to do with budget procedures. In my opinion, it is out of order. The title says it is a bill relating to taxation. This amendment does not relate to taxation. Since we've already passed it as a bill, it seems to be extraneous as well as not germane."

The President asked the Rules Chairman for an opinion on the point.

Senator Barron responded as follows:

The proposed amendment relates to the *budgetary process* of the state; part of that amendment relates to the State Infrastructure Trust Fund. The main bill, CS for CS for SB 5-B has numerous items included in it; one area of the bill relates to the State Infrastructure Trust Fund and the bill allocates certain revenues that must be budgeted in certain ways to the Fund.

The proposed amendment has one *common thread* with the small portion of CS for CS for SB 5-B that relates to the State Infrastructure Trust Fund. That common thread is the hook that relates the amendment to one of the areas of the bill. Sections 50, 51, and 54 of the main bill allocate moneys to the Trust Fund and mandate certain distributions from that fund. The proposed amendment requires the Governor to estimate the revenues available in that fund.

Applying the customary Mason's Manual criteria:

Point 1: requires that members have the right to vote separately on each question. They have that right here by voting on the amendment.

Point 2: requires the amendment be in a natural and logical sequence to the bill. The budgetary process is a natural extension of the subject contained in sections 50, 51, and 54 of the bill.

- Point 3:** requires the amendment to relate to the *same subject* as the bill. Again, this amendment relates to the subject addressed in sections 50, 51, and 54 of the main bill.
- Point 4:** requires the amendment to be germane to the *main purpose* of the bill. The amendment is not germane to the *main purpose* of the bill which is sales taxation.
- Point 5:** asks whether it is an independent new question? The Senate's customary test has generally been: is it a separate bill? This proposed amendment is an independent bill; i.e.: CS for SB 26-B.

Therefore, because three points weigh in favor of germanity and two points weigh against it, the preponderance of the weight would be that the proposed amendment is germane to one of the provisions contained in the bill, and therefore to the bill.

Ruling on Point of Order

The President in ruling on the point of order stated that: "Since there is a commonality between the two bills; even though the subject of the amendment is not the main subject of the bill; I think the better part of judgement is served by ruling that it is germane, rather than shutting off the opportunity of putting them together. That ruling has been made in the Senate in the past, but I understand it has not always been ruled that way. I rule the point of order is not well taken and the amendment is germane."

The question recurred on Amendment 19 which was adopted. The vote was:

Yeas—22

Barron	Dudley	Kiser	Scott
Beard	Grant	Langley	Thomas
Childers, W. D.	Grizzle	Lehtinen	Thurman
Crawford	Hollingsworth	Margolis	Woodson
Crenshaw	Jennings	Myers	
Deratany	Johnson	Ros-Lehtinen	

Nays—17

Mr. President	Gordon	Malchon	Weinstein
Brown	Hair	McPherson	Weinstock
Childers, D.	Hill	Meek	
Frank	Jenne	Peterson	
Girardeau	Kirkpatrick	Stuart	

Vote after roll call:

Nay to Yea—Hair

Senators Hair, Crenshaw and Girardeau offered the following amendment which was moved by Senator Hair and adopted:

Amendment 20—On page 60, strike lines 7, through 22 and insert:

(1) CHARTER COUNTY TRANSIT SYSTEM SURTAX.—

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

(b)1. The rate shall be up to one-sixth ~~one-fifth (20 percent)~~ of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.

2. ~~Notwithstanding subparagraph 1., for any county the government of which is consolidated with that of one or more municipalities, upon the retirement of any bonds which were issued for the construction of roads and bridges and which were outstanding on the effective date of this act, the rate shall be one-tenth (10 percent) of any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.054.~~

Senator Dudley moved the following amendment which failed:

Amendment 21—On page 2, line 30, strike everything after the enacting clause and insert:

Section 1. Section 212.02, Florida Statutes, as amended by section 7 of chapter 87-6, section 12 of chapter 87-87, section 9 of chapter 87-101, and section 6 of chapter 87-402, Laws of Florida, is amended to read:

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

(1) The term "admissions" means and includes the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any place of amusement, sport, or recreation or for the privilege of entering or staying in any place of amusement, sport, or recreation, including, but not limited to, theaters, outdoor theaters, shows, exhibitions, games, races, or any place where charge is made by way of sale of tickets, gate charges, seat charges, box charges, season pass charges, cover charges, greens fees, participation fees, entrance fees, or other fees or receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation, and all dues paid to private clubs providing recreational facilities, including but not limited to golf, tennis, swimming, yachting, and boating facilities.

~~(2) "Affiliated group" means:—an affiliated group of corporations, as defined in s. 1504(a) of the Internal Revenue Code, whose members are includable under s. 1504(b), (c), or (d) of the Internal Revenue Code, and are eligible to file a consolidated tax return for Federal corporate income tax purposes, or mutual insurance companies which are members of one insurance holding company system subject to s. 638.801; however, s. 1504(b)(2) shall not apply to this definition. However, the taxpayer may elect, pursuant to rules of the department governing the procedure for making and amending such election, to define its affiliated group in a manner which excludes any member who has no tax nexus in this state and any member whose business activities are unrelated to the business activities of other members of the group. However, in no event shall a parent corporation of an included member be excluded from the affiliated group.~~

(2)(2) "Business" means any activity engaged in by any person, or caused to be engaged in by him, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who does not hold himself out as engaged in business, but includes other charges for the sale or rental of tangible personal property, sales of services taxable under this part, sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

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

(4)(5) "Cost price" means the actual cost of articles of tangible personal property or services without any deductions whatsoever.

~~(6) "Costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the type of trade or business in which the service provider engages.~~

(5)(7) The term "department" means the Department of Revenue.

~~(9) "Employee" means any person who is not an independent contractor and whose wages or remuneration are subject to tax under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or whose wages or remuneration are subject to withholding for federal income tax purposes.~~

(9) "Employer" means any person who must pay taxes on wages under the Federal Insurance Contributions Act or under the Federal Unemployment Tax Act, or who must withhold taxes from wages for federal income tax purposes.

(6)(10) "Enterprise zone" means an area of the state authorized to be an enterprise zone pursuant to s. 290.0055 and approved by the secretary of the Department of Community Affairs pursuant to s. 290.0065. This subsection shall expire and be void on December 31, 1994.

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

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

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

(10)(14) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

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

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

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

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

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

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

(g) "Lease," "let," or "rental" also means the leasing or rental of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property, except as expressly provided to the contrary herein. The term "lease," "let," or "rental" or "service" does not mean hourly, daily, or mileage charges, to the extent that such charges are subject to the jurisdiction of the United States Interstate Commerce Commission, when such charges are paid by reason of the presence of railroad cars owned by another on the tracks of the taxpayer, or charges made pursuant to car service agreements.

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

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

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

(12)(16) "Nurseryman" or "grower" means any person engaged in the production of nursery stock or horticultural plants.

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

(14)(18) "Retailer" means and includes every person engaged in the business of making sales at retail, or for distribution, or use, or consumption, or storage to be used or consumed in this state.

(15)(19)(a) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services, and includes all such transactions that may be made in lieu of retail sales or sales at retail. "Retail sale" does not include fee sharing for services described in s. 475.011 by persons licensed under chapter 475. A sale of a service shall be considered a sale for resale only if:

1. The purchaser of the service does not use or consume the service but acts as a broker or intermediary in procuring a service for his client or customer;

2. The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;

3. The purchaser of the service separately states the value of the service purchased at the purchase price in his charge for the service on its subsequent sale;

4. The service, with its value separately stated, will be taxed under this part in a subsequent sale, unless otherwise exempt pursuant to s. 212.0592(1); and

5. The service is purchased pursuant to a service resale permit by a dealer who is primarily engaged in the business of selling services. The department shall provide by rule for the issuance and periodic renewal every 5 years of such resale permits.

However, a sale, to other than an end user, of telecommunication services consisting of a right of access for which an access charge, as defined in s. 203.012(1), is imposed, is a sale for resale.

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

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

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

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

(16)(20) "Sale" means and includes:

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

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

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

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

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

~~(f) Any transfer, provision, or rendering of services for a consideration.~~

(17)(21) "Sales price" means the total amount paid for tangible personal property or services, including any services that are a part of the sale and any tangible personal property that is part of the service, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires labor or material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection.

~~(22) The term "service" or "services" as used in this part means those activities usually provided for consideration by the following establishments listed in the SIC Manual:~~

- ~~(a) Agricultural Services (Major Group Number 07).~~
- ~~(b) Forestry Services (Major Group Number 085).~~
- ~~(c) Metal Mining Services (Group Number 108).~~
- ~~(d) Oil and Gas Field Services (Group Number 138).~~
- ~~(e) Nonmetallic (Nonfuel) Mineral Services (Group Number 148).~~
- ~~(f) Building Construction General Contractors and Operative Builders (Major Group Number 15).~~
- ~~(g) Construction other than Building Construction General Contractors (Major Group Number 16).~~
- ~~(h) Construction Special Trade Contractors (Major Group Number 17).~~
- ~~(i) Printing, Publishing, and Allied Services (Major Group Number 27).~~
- ~~(j) Coating, Engraving, and Allied Services (Group Number 347).~~
- ~~(k) Railroad Transportation (Major Group Number 40).~~
- ~~(l) Local and Suburban Transit and Interurban Highway Passenger Transportation (Major Group Number 41).~~
- ~~(m) Motor Freight Transportation and Warehousing (Major Group Number 42).~~
- ~~(n) U.S. Postal Service (Major Group Number 43).~~
- ~~(o) Water Transportation (Major Group Number 44).~~
- ~~(p) Transportation by Air (Major Group Number 45).~~
- ~~(q) Pipelines, except Natural Gas (Major Group Number 46).~~

- ~~(r) Transportation Services (Major Group Number 47).~~
- ~~(s) Communications (Major Group Number 48).~~
- ~~(t) Electric, Gas, and Sanitary Services (Major Group Number 49).~~
- ~~(u) Food Brokers (Industry Number 5141).~~
- ~~(v) Banking (Major Group Number 60).~~
- ~~(w) Credit Agencies other than Banks (Major Group Number 61).~~
- ~~(x) Security and Commodity Brokers, Dealers, Exchanges, and Services (Major Group Number 62).~~
- ~~(y) Insurance (Major Group Number 63).~~
- ~~(z) Insurance Agents, Brokers, and Service (Major Group Number 64).~~
- ~~(aa) Real Estate (Major Group Number 65).~~
- ~~(bb) Combinations of Real Estate, Insurance, Loans, Law Offices (Major Group Number 66).~~
- ~~(cc) Holding and other Investment Offices (Major Group Number 67).~~
- ~~(dd) Personal Services (Major Group Number 72).~~
- ~~(ee) Business Services (Major Group Number 73).~~
- ~~(ff) Automotive Repair, Services, and Garages (Major Group Number 75).~~
- ~~(gg) Miscellaneous Repair Services (Major Group Number 76).~~
- ~~(hh) Motion Pictures (Major Group Number 78).~~
- ~~(ii) Amusement and Recreation Services, except Motion Pictures (Major Group Number 79).~~
- ~~(jj) Health Services (Major Group Number 80).~~
- ~~(kk) Legal Services (Major Group Number 81).~~
- ~~(ll) Educational Services (Major Group Number 82).~~
- ~~(mm) Social Services (Major Group Number 83).~~
- ~~(nn) Museums, Art Galleries, Botanical and Zoological Gardens (Major Group Number 84).~~
- ~~(oo) Membership Organizations (Major Group Number 86).~~
- ~~(pp) Miscellaneous Services (Major Group Number 89).~~
- ~~(qq) Legislative, Judicial, Administrative and Regulatory Activities of Federal, State, Local and International Governments (Major Group Numbers 91, 92, 93, 94, 95, 96, and 97).~~

~~In addition, the terms shall include the services of any independent broker of tangible personal property.~~

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

~~(24) "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1972, as published by the Office of Management and Budget, Executive Office of the President, and as amended in the 1977 Supplement.~~

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

(20)(26) "Tangible personal property" means and includes personal property which may be seen, weighed, measured, or touched or is in any manner perceptible to the senses, including electric power or energy, boats, motor vehicles and mobile homes as defined in s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all other types of vehicles. The term

"tangible personal property" does not include stocks, bonds, notes, insurance, or other obligations or securities; intangibles as defined by the intangible tax law of the state; pari-mutuel tickets sold or issued under the racing laws of the state; ~~or factory-built buildings during construction or thereafter.~~

(21)(27) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, or interest therein, except that it does not include the sale at retail of that property in the regular course of business. ~~"Use" also means the consumption or enjoyment of the benefit of services.~~

(22)(28) The term "use tax" referred to in this chapter includes the use, the consumption, the distribution, and the storage as herein defined of tangible personal property ~~or services.~~

Section 2. Section 212.031, Florida Statutes, as amended by sections 8 and 25 of chapter 87-6 and section 10 of chapter 87-101, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

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

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.
5. A public or private street or right-of-way occupied or used by a utility for utility purposes.
6. A public street or road which is used for transportation purposes.
7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.
8. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.

9. Property used as an integral part of the performance of qualified production services ~~as defined in s. 212.0592(18)(a).~~ *As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:*

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and make-up (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

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

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

10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

(b) When a lease involves multiple use of real property wherein a part of the real property is subject to the tax herein, and a part of the property would be excluded from the tax under subparagraphs 1., 2., or 3. of paragraph (a), the department shall determine, from the lease or license and such other information as may be available, that portion of the total rental charge which is exempt from the tax imposed by this section.

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5 percent of the value of the property, goods, wares, merchandise, services, or other thing of value.

(2)(a) The tenant or person actually occupying, using, or entitled to the use of any property from which the rental or license fee is subject to taxation under this section shall pay the tax to his immediate landlord or other person granting the right to such tenant or person to occupy or use such real property.

(b) It is the further intent of this Legislature that only one tax be collected on the rental or license fee payable for the occupancy or use of any such property, that the tax so collected shall not be pyramided by a progression of transactions, and that the amount of the tax due the state shall not be decreased by any such progression of transactions.

(3) The tax imposed by this section shall be in addition to the total amount of the rental or license fee, shall be charged by the lessor or person receiving the rent or payment in and by a rental or license fee arrangement with the lessee or person paying the rental or license fee, and shall be due and payable at the time of the receipt of such rental or license fee payment by the lessor or other person who receives the rental or payment. The owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage any leases or operate real property, hotels, apartment houses, roominghouses, or tourist and trailer camps and all persons who collect or receive rents or license fees taxable under this chapter on behalf of owners or lessors.

(4) The tax imposed by this section shall constitute a lien on the property of the lessee or licensee of any real estate in the same manner as, and shall be collectible as are, liens authorized and imposed by ss. 713.68 and 713.69.

(5)(6) When space is subleased to a convention or industry trade show in a convention hall, exhibition hall, or auditorium, whether publicly or privately owned, the sponsor who holds the prime lease is subject to tax on the prime lease and the sublease is exempt.

(6)(7) The lease or rental of land or a hall or other facilities by a fair association subject to the provisions of chapter 616, to a show promoter or prime operator of a carnival or midway attraction is exempt from the tax imposed by this section; however, the sublease of land or a hall or other facilities by the show promoter or prime operator is not exempt from the provisions of this section.

Section 3. Section 212.054, Florida Statutes, as amended by sections 11 and 84 of chapter 87-6, Laws of Florida, is amended to read:

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

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

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which are subject to the state tax imposed on sales, use, rentals, admissions, and other transactions by this part. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times any amount of tax imposed by and paid to the state pursuant to this part, except this section and s. 212.055, and shall be rounded to the nearest penny.

(b) However:

1. The tax on any sales amount above \$1,000 on any item of tangible personal property and on long distance telephone service shall not be subject to the surtax.

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

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

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

(a) The dealer is located in the county and the sale includes tangible personal property or services, except as otherwise provided herein;

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

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

(d) The user of any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government imported into the county for use, consumption, distribution, or storage to be used or consumed in the county is located in the county; however, it shall be presumed that such items used outside the county for 6 months or longer before being imported into the county were not purchased for use in the county. The provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county;

(e) The real property which is leased or rented is located in the county;

(f) The transient rental transaction occurs in the county;

(g) The delivery of any aircraft, boat, motor vehicle, or mobile home of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government is to a location in the county; however, the provisions of this paragraph shall not apply to the use or consumption of such items upon which a like tax of equal or greater amount has been lawfully imposed and paid outside the county; or

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

(4) The department shall administer, collect, and enforce the tax authorized under s. 212.055 pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under the provisions of this chapter, except as provided in this section. The provisions of this chapter regarding interest and penalties on delinquent taxes shall apply to the surtax. Discretionary sales surtaxes shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a). Notwithstanding any other provision of law, a dealer need not separately state the amount of the surtax on the charge ticket, sales slip, invoice, or other tangible evidence of sale. For the purposes of this section and s. 212.055, the "proceeds" of any surtax shall be construed to mean all funds collected and received by the department pursuant to a specific authorization and levy under s. 212.055, including any interest and penalties on delinquent surtaxes. Notwithstanding the provisions of s. 212.20, the proceeds of each discretionary sales surtax imposed by each county, less the costs of administration, shall be transferred to a discretionary sales surtax trust fund. A separate trust fund shall be established in the State Treasury for each county imposing a discretionary surtax. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenue generated for all counties levying a surtax authorized in s. 212.055. The amount deducted for the costs of administration shall be used only for those costs which are solely and directly attributable to the surtax. The total cost of administration shall be prorated among those counties levying the surtax on the basis of the amount collected for a particular county to the total amount collected for all counties. No later than March 1 of each year, the department shall submit a written report which details the expenses and amounts deducted for the costs of administration to the President of the Senate, the Speaker of the House of Representatives, and the governing authority of each county levying a surtax. Proceeds shall be distributed monthly to the appropriate counties, unless otherwise provided in s. 212.055.

(5) No discretionary sales surtax shall take effect on a date other than January 1. No discretionary sales surtax shall terminate on a day other than the last day of a calendar quarter.

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

Section 4. Section 212.059, Florida Statutes, as created by section 1 of chapter 87-6, Laws of Florida, and amended by section 1 of chapter 87-72 and section 1 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 5. Section 212.0591, Florida Statutes, as created by section 2 of chapter 87-6, Laws of Florida, and amended by section 2 of chapter 87-72 and section 2 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 6. Section 212.0592, Florida Statutes, as created by section 3 of chapter 87-6, Laws of Florida, and amended by section 3 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 7. Section 212.0593, Florida Statutes, as created by section 4 of chapter 87-6, Laws of Florida, and amended by section 4 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 8. Section 212.0594, Florida Statutes, as created by section 6 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 9. Section 212.0595, Florida Statutes, as created by section 6 of chapter 87-6, Laws of Florida, and amended by section 3 of chapter 87-72 and section 7 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 10. Section 212.0598, Florida Statutes, as created by section 8 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 11. Section 212.06, Florida Statutes, as amended by section 12 of chapter 87-6, section 3 of chapter 87-99, section 1 of chapter 87-370, and section 4 of chapter 87-402, Laws of Florida, is amended to read:

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

(1)(a) The aforesaid tax at the rate of 5 percent of the retail sales price as of the moment of sale, 5 percent of the cost price as of the moment of purchase, or 5 percent of the cost price as of the moment of commingling with the general mass of property in this state, as the case may be, shall be collectible from all dealers as herein defined on the sale at retail, the use, the consumption, the distribution, and the storage for use or consumption in this state of tangible personal property ~~or services taxable under this part~~. The full amount of the tax on a credit sale, installment sale, or sale made on any kind of deferred payment plan shall be due at the moment of the transaction in the same manner as on a cash sale.

(b) Except as otherwise provided, any person who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for his own use shall pay a tax upon the cost of the product manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, notwithstanding the provisions of s. 212.02 defining "cost price." However, the tax levied under this paragraph shall not be imposed upon any person who manufactures or produces electrical power or energy, steam energy, or other energy, when such power or energy is used directly and exclusively in the operation of machinery or equipment that is used to manufacture, process, compound, produce, fabricate, or prepare for shipment tangible personal property for sale or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations. The manufacturing or production of electrical power or energy that is used for space heating, lighting, office equipment, or air conditioning or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonfabricating, or nonshipping activity is taxable. Electrical power or energy consumed or dissipated in the transmission or distribution of electrical power or energy for resale is also not taxable. Fabrication labor shall not be taxable when a person is using his own equipment and his own personnel, for his own account, as a producer, subproducer, or coproducer of a qualified motion picture ~~as defined in s. 212.0592(19)(b)~~ prepared for showing on screens or through television, for either theatrical, commercial, advertising, or educational purposes. *For purposes of this paragraph, the term "qualified motion picture" means all or any part of a series of related images, either on film, tape, or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted, or altered for exploitation in, on, or through any medium or device and at any location, primarily for entertainment, industrial, or educational purposes. Persons who manufacture factory-built buildings for their own use in the performance of contracts for the construction or improvement of real property shall pay a tax only upon the persons' cost price of items used in the manufacture of such buildings.*

(2)(a) The term "dealer" as used in this chapter includes every person who manufactures or produces tangible personal property for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

(b) The term "dealer" is further defined to mean every person, as used in this chapter, who imports, or causes to be imported, tangible personal property from any state or foreign country for sale at retail; for use, consumption, or distribution; or for storage to be used or consumed in this state.

(c) The term "dealer" is further defined to mean every person, as used in this chapter, who sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distri-

bution, or for storage to be used or consumed in this state tangible personal property as defined herein, including a retailer who transacts a mail order sale.

(d) The term "dealer" is further defined to mean any person who has sold at retail, or used, or consumed, or distributed, or stored for use or consumption in this state tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of such tangible personal property.

(e) The term "dealer" is further defined to mean any person, as used in this chapter, who leases or rents tangible personal property, as defined in this chapter, for a consideration, permitting the use or possession of such property without transferring title thereto, except as expressly provided for to the contrary herein.

(f) The term "dealer" is further defined to mean any person as used in this chapter, who maintains or has within this state, directly or by a subsidiary, an office, distributing house, salesroom, or house, warehouse, or other place of business.

(g) "Dealer" also means and includes every person who solicits business either by direct representatives, indirect representatives, or manufacturers' agents or by distribution of catalogs or other advertising matter or by any other means whatsoever and by reason thereof receives orders for tangible personal property ~~or services~~ from consumers for use, consumption, distribution, and storage for use or consumption in the state; and such dealer shall collect the tax imposed by this chapter from the purchaser, and no action either in law or in equity on a sale or transaction as provided by the terms of this chapter may be had in this state by any such dealer unless it is affirmatively shown that the provisions of this chapter have been fully complied with.

(h) "Dealer" also means and includes every person who, as a representative, agent, or solicitor of an out-of-state principal or principals, solicits, receives, and accepts orders from consumers in the state for future delivery and whose principal refuses to register as a dealer.

(i) "Dealer" also means and includes the state, county, municipality, any political subdivision, agency, bureau or department or other state or local governmental instrumentality.

(j) The term "dealer" is further defined to mean any person who leases, or grants a license to use, occupy, or enter upon, living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles, docking or storage space or spaces for boats in boat docks or marinas, or tie down or storage space or spaces for aircraft at airports. The term "dealer" also means any person who has leased, occupied, or used or was entitled to use any living quarters, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space or spaces for boats in boat docks or marinas, or who has purchased communication services or electric power or energy, and who cannot prove that the tax levied by this chapter has been paid to the vendor or lessor on any such transactions.

~~(k) "Dealer" also means any person who sells, provides, or performs a service taxable under this part. "Dealer" also means any person who purchases, uses, or consumes a service taxable under this part who cannot prove that the tax levied by this part has been paid to the seller of the taxable service.~~

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

(4) On all tangible personal property imported or caused to be imported from other states, territories, the District of Columbia, or any foreign country, and used by him, ~~and on all services purchased in other states, territories, the District of Columbia, or any foreign country, and used by him;~~ the dealer as herein defined, shall pay the tax imposed by this chapter on all articles of tangible personal property so imported and used, ~~and on all services so purchased and used;~~ the same as if such articles ~~or services~~ had been sold at retail for use or consumption in this state. For the purposes of this chapter, the use, or consumption, or distribution, or storage to be used or consumed in this state of tangible per-

sonal property shall each be equivalent to a sale at retail; and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(5)(a)1. Except as provided in subparagraph 2., it is not the intention of this chapter to levy a tax upon tangible personal property imported, produced, or manufactured in this state for export, provided that tangible personal property may not be considered as being imported, produced, or manufactured for export unless the importer, producer, or manufacturer delivers the same to a licensed exporter for exporting or to a common carrier for shipment outside the state or mails the same by United States mail to a destination outside the state; or, in the case of aircraft being exported under their own power to a destination outside the continental limits of the United States, by submission to the department of a duly signed and validated United States customs declaration, showing the departure of the aircraft from the continental United States; and further with respect to aircraft, the canceled United States registry of said aircraft; or in the case of parts and equipment installed on aircraft of foreign registry, by submission to the department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States; nor is it the intention of this chapter to levy a tax on any sale which the state is prohibited from taxing under the Constitution or laws of the United States. Every retail sale made to a person physically present at the time of sale shall be presumed to have been delivered in this state.

2.a. Notwithstanding subparagraph 1., a tax is levied on each sale of tangible personal property to be transported to a cooperating state as defined in sub-subparagraph c., at the rate specified in sub-subparagraph d. However, a Florida dealer will be relieved from the requirements of collecting taxes pursuant to this subparagraph if the Florida dealer obtains from the purchaser an affidavit setting forth the purchaser's name, address, state taxpayer identification number, and a statement that the purchaser is aware of his state's use tax laws, is a registered dealer in Florida or another state, or is purchasing the tangible personal property for resale or is otherwise not required to pay the tax on the transaction. The department may, by rule, provide a form to be used for the purposes set forth herein.

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

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

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

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

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

(V) Such state agrees to provide to the department records obtained by it from retailers or dealers in such state showing delivery of tangible personal property into this state upon which no sales or use tax has been paid in a manner similar to that provided in sub-subparagraph g.

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

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

e. The tax levied by sub-subparagraph a., when collected, shall be held in the State Treasury in trust for the benefit of the cooperating state, and shall be paid to it at a time agreed upon between the depart-

ment, acting for this state, and the cooperating state or the department or agency designated by it to act for it; however, such payment shall, in no event, be made later than 30 days from the last day of the calendar quarter after the tax was collected. Funds held in trust for the benefit of a cooperating state shall not be subject to the service charge imposed by s. 215.20.

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

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

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

2. The burden of proof of subparagraph 1. rests with the seller, who must retain the proper documentation to support the exempt sale. The exempt transaction is subject to verification by the department.

(c) It is not the intention of this chapter to levy a tax upon the sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any telecommunications satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This intention is not affected by:

1. The destruction in whole or in part of the satellite or launch vehicle.

2. The failure of a launch to occur or be successful.

3. The absence of any transfer of title to, or possession of, the satellite or launch vehicle after launch.

4. Anything in this chapter to the contrary.

(6) It is however, the intention of this chapter to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in this state of tangible personal property after it has come to rest in this state and has become a part of the mass property of this state.

(7) The provisions of this chapter do not apply in respect to the use or consumption of tangible personal property or services, or distribution or storage of tangible personal property or services for use or consumption in this state, upon which a like tax equal to or greater than the amount imposed by this chapter has been lawfully imposed and paid in another state, territory of the United States, or the District of Columbia. The proof of payment of such tax shall be made according to rules and regulations of the department. If the amount of tax paid in another state, territory of the United States, or the District of Columbia is not equal to or greater than the amount of tax imposed by this chapter, then the dealer shall pay to the department an amount sufficient to make the tax paid in the other state, territory of the United States, or the District of Columbia and in this state equal to the amount imposed by this chapter.

(8) Use tax will apply and be due on tangible personal property imported or caused to be imported into this state for use, consumption, distribution, or storage to be used or consumed in this state; provided, however, that it shall be presumed that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state. The rental or lease of tangible personal property which is used or stored in this state shall be taxable without regard to its prior use or tax paid on purchase outside this state.

(9) The taxes imposed by this chapter do not apply to the use, sale, or distribution of religious publications, bibles, hymn books, prayer books, vestments, altar paraphernalia, sacramental chalices, and like church service and ceremonial raiments and equipment.

(10) No title certificate may be issued on any boat, mobile home, motor vehicle, or other vehicle, or, if no title is required by law, no license or registration may be issued for any boat, mobile home, motor vehicle, or other vehicle, unless there is filed with such application for title certificate or license or registration certificate a receipt issued by an authorized dealer or a designated agent of the Department of Revenue, evidencing the payment of the tax imposed by this chapter where the same is payable. For the purpose of enforcing this provision, all county tax collectors and all persons or firms authorized to sell or issue boat, mobile home, and motor vehicle licenses are hereby designated agents of the department and are required to perform such duty in the same manner and under the same conditions prescribed for their other duties by the constitution or any statute of this state. All transfers of title to boats, mobile homes, motor vehicles, and other vehicles are taxable transactions, unless expressly exempt under this chapter.

Section 12. Section 212.07, Florida Statutes, as amended by sections 13 and 85 of chapter 87-6 and section 53 of chapter 87-101, Laws of Florida, is amended to read:

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

(1)(a) ~~The privilege tax herein levied measured by retail sales shall be collected by the dealers from the purchaser or consumer. Except as otherwise specifically provided, the sales and use tax on services herein levied measured by retail sales shall likewise be collected by the dealers from the purchaser or consumer.~~

(b) A resale must be in strict compliance with the rules and regulations, and any dealer who makes a sale for resale which is not in strict compliance with the rules and regulations shall himself be liable for and pay the tax. A dealer may, through the informal protest provided for in s. 213.21 and the rules of the Department of Revenue, provide the department with evidence of the exempt status of a sale. The Department of Revenue shall adopt rules which provide that valid resale certificates and consumer certificates of exemption executed by those dealers or exempt entities which were registered with the department at the time of sale shall be accepted by the department when submitted during the protest period but may not be accepted in any proceeding under chapter 120 or any circuit court action instituted under chapter 72.

(2) A dealer shall, as far as practicable, add the amount of the tax imposed under this chapter to the sale price, and the amount of the tax shall be separately stated as Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale. Such tax shall constitute a part of such price, charge, or proof of sale which shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Where it is impracticable, due to the nature of the business practices within an industry, to separately state Florida tax on any charge ticket, sales slip, invoice, or other tangible evidence of sale, the department may establish an effective tax rate for such industry. The department may also amend this effective tax rate as the industry's pricing or practices change. Except as otherwise specifically provided, any dealer who neglects, fails, or refuses to collect the tax herein provided upon any, every, and all retail sales made by him or his agents or employees of tangible personal property ~~that is or services which are~~ subject to the tax imposed by this chapter shall be liable for and pay the tax himself.

(3) Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, is, in addition to the penalty of being liable for and paying the tax himself, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) ~~A dealer engaged in any business or in selling any services taxable under this chapter may not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any part of the tax, or that the tax will not be added to the selling price of the property or services sold or released or, when added, that it or any part thereof will be refunded either directly or indirectly by any method whatsoever. A person who violates this provision with respect to advertising or refund is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(5) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this chapter, provided such sales are made directly by the producers. The producers shall be entitled to such exemptions although the livestock so sold in this state may have been registered with a breeders' or registry association prior to the sale and although the sale takes place at a livestock show or race meeting, so long as the sale is made by the original producer and within this state. When sales of livestock, poultry, or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by this chapter. The foregoing exemption does not apply to ornamental nursery stock offered for retail sale by the producer.

(6) It is specifically provided that the use tax as defined herein does not apply to livestock and livestock products, to poultry and poultry products, or to farm and agricultural products, when produced by the farmer and used by him and members of his family and his employees on the farm.

(7) Provided, however, that each and every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade shall be and is exempted from any and all provisions of this chapter, including payment of the tax applicable to the sale, storage, use, or transfer, or any other utilization or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer; and in no case shall more than one tax be exacted.

(8) The term "agricultural commodity," for the purposes hereof, means horticultural, poultry and farm products, and livestock and livestock products.

(9) Any person who has purchased at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property, admissions, communication ~~or other services taxable under this part~~, or leased tangible personal property, or who has leased, occupied, or used or was entitled to use any real property, space or spaces in parking lots or garages for motor vehicles or docking or storage space, or spaces for boats in boat docks or marinas and cannot prove that the tax levied by this chapter has been paid to his vendor, lessor, or other person is directly liable to the state for any tax, interest, or penalty due on any such taxable transactions.

Section 13. Section 212.08, Florida Statutes, as amended by sections 14, 25, and 59 of chapter 87-6, section 4 of chapter 87-72, section 4 of chapter 87-99, sections 13 and 34 of chapter 87-101, and section 2 of chapter 87-370, Laws of Florida, 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 part I of this chapter.

(1) EXEMPTIONS; GENERAL GROCERIES.—

(a) There are exempt from the tax imposed by this chapter food and drinks for human consumption except candy. Unless the exemption provided by paragraph (7)(g)(b) for school lunches, paragraph (7)(i)(e) for meals to certain patients or inmates, or paragraph (7)(k)(b) for meals provided by certain nonprofit organizations pertains, none of such items of food or drinks means:

1. Food or drinks served, prepared, or sold in or by restaurants; drug-stores; lunch counters; cafeterias; hotels; amusement parks; racetracks; taverns; concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of business; or by any business or place required by law to be licensed by the Division of Hotels and Restaurants of the Department of Business Regulation, except bakery products sold in or by pastry shops, doughnut shops, or like establishments for consumption off the premises;

2. Foods and drinks sold ready for immediate consumption from vending machines, pushcarts, motor vehicles, or any other form of vehicle;

3. Soft drinks, which include, but are not limited to, any nonalcoholic beverage; any preparation or beverage commonly referred to as a "soft drink"; or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" does not include: natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned; coffee or coffee substitutes; tea except when sold in containers as provided herein; cocoa; products intended to be mixed with milk; or natural fluid milk;

4. Foods or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises, excluding bakery products for off-premises consumption unless such foods are taxed under subparagraph 1. or subparagraph 2.; or

5. Sandwiches sold ready for immediate consumption.

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

(b)1. Food or drinks not exempt under paragraph (a) shall be exempt, notwithstanding that paragraph, when purchased with food coupons or Special Supplemental Food Program for Women, Infants, and Children vouchers issued under authority of federal law.

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

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

(2) EXEMPTIONS; MEDICAL.—

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; orthopedic shoes; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; and funerals. Funeral directors shall pay tax on all tangible personal property used by them in their business.

(b) For the purposes of this subsection:

1. "Prosthetic and orthopedic appliances" means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body, to alleviate the malfunction of any part of the

body, or to assist any disabled person in leading a normal life by facilitating such person's mobility. Such apparatus, instrument, device, or equipment shall be exempted according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs or according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue.

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

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

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

(d) This subsection shall be strictly construed and enforced.

(3) EXEMPTIONS, PARTIAL; CERTAIN FARM EQUIPMENT.— There shall be taxable at the rate of 3 percent the sale, use, consumption, or storage for use in this state of self-propelled or power-drawn farm equipment used exclusively by a farmer on a farm owned, leased, or sharecropped by him in plowing, planting, cultivating, or harvesting crops. The rental of self-propelled or power-drawn farm equipment shall be taxed at the rate of 5 percent.

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

(a) Also exempt are:

1. Water (not exempting mineral water or carbonated water).

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 special fuel is taxable as provided in this part, with the exception of fuel expressly exempt herein. However, diesel fuel and kerosene used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm are taxable as provided in part II. Motor fuels and special fuels are taxable as provided in part II, with the exception of those motor fuels and special fuels used by railroad locomotives or vessels to transport persons or property in interstate or foreign commerce which are taxable under this part 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 which were used in interstate or foreign commerce and which 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. This ratio shall be applied each month to the total Florida purchases made in this state of gasoline and other fuels to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Fuels used exclusively in intrastate commerce do not qualify for the proration of tax.

(b) Alcoholic beverages and malt beverages are not exempt. The terms "alcoholic beverages" and "malt beverages" as used in this paragraph have the same meanings ascribed to them in ss. 561.01(4) and 563.01, respectively. It is determined by the Legislature that the classification of alcoholic beverages made in this paragraph for the purpose of extending the tax imposed by this chapter is reasonable and just; and it is intended that such tax be separate from, and in addition to, any other tax imposed on alcoholic beverages.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(a) Items in agricultural use and certain nets.—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; fertilizers, insecticides, herbicides, and fungicides used for application on crops or groves; portable containers used for processing farm products; field and garden seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock;

cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein.

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations ~~and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state ~~and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are exempt from any amount of tax imposed by this chapter in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery ~~and, equipment, or services~~ pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery ~~and, equipment, or services~~ purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery ~~or, equipment, or services~~ purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; but in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

(c) Machinery ~~and, equipment, or services~~ used in production of electrical or steam energy.—The purchase of machinery and equipment for use at a fixed location, which equipment and machinery are necessary in the production of electrical or steam energy resulting from the burning of boiler fuels other than residual oil, ~~is and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are exempt from the tax imposed by this chapter. Such electrical or steam energy must be primarily for use in manufacturing, processing, compounding, or producing for sale items of tangible personal property in this state. However, the exemption provided for in this paragraph shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed under chapter 212 shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law.

(d) Machinery ~~and, equipment, or services~~ used under federal procurement contract.—

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state ~~and services directly related to the installation of such machinery and equipment, excluding construction services,~~ are partially exempt from the tax imposed in this chapter on that portion of the tax which is in excess of \$100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the implicit productive output of the expanded business by not less than 10 percent. The percentage of increase is measured as deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. In no case may the commencement of production begin later than 2 years following completion of installation of the machinery or equipment.

2. The amount of the exemption allowed shall equal the taxes otherwise imposed by this chapter in excess of \$100,000 per calendar year on qualifying industrial machinery ~~or, equipment, or services~~ reduced by the percentage of gross receipts from cost-reimbursement type contracts attributable to the plant or operation to total gross receipts so attributable, accrued for the year of completion or commencement.

3. The exemption provided by this paragraph shall inure to the taxpayer only through refund of previously paid taxes. Such refund shall be made within 30 days of formal approval by the department of the taxpayer's application, which application may be made on an annual basis following installation of the machinery or equipment.

4. For the purposes of this paragraph, the term:

a. "Cost-reimbursement type contracts" has the same meaning as in 32 C.F.R. s. 3-405.

b. "Deflated implicit productive output" means the product of implicit productive output times the quotient of the national defense implicit price deflator for the preceding calendar year divided by the deflator for the year of completion or commencement.

c. "Eligible costs" means the total direct and indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding general and administrative costs, selling expenses, and profit, defined by the uniform cost-accounting standards adopted by the Cost-Accounting Standards Board created pursuant to 50 U.S.C. s. 2168.

d. "Implicit productive output" means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used.

e. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided such industrial machinery and equipment qualified as an eligible cost under federal procurement regulations and are used as an integral part of the tangible personal property production process. Such term includes parts and accessories only to the extent that the exemption of such parts and accessories is consistent with the provisions of this paragraph.

f. "National defense implicit price deflator" means the national defense implicit price deflator for the gross national product as determined by the Bureau of Economic Analysis of the United States Department of Commerce.

5. The exclusions provided in subparagraph (b)5. apply to this exemption. This exemption applies only to machinery or equipment purchased pursuant to production contracts with the United States Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons. In no event shall the provisions of this paragraph apply to any expanding business the increase in productive output of which could be measured under the provisions of subparagraph (b)6.b. as physically comparable between the two periods.

(e) Gas used for certain agricultural purposes.—Butane gas, propane gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use. This exemption shall inure to the taxpayer only through refund of previously paid taxes. Refunds under this paragraph shall be authorized and administered as provided in s. 212.67.

(f) Motion picture or video equipment used in motion picture or television production activities and sound recording equipment used in the production of master tapes and master records.—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities. The exemption provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of production activities or on a quarterly basis. Notwithstanding the provisions of chapter 213, the department shall provide the Department of Commerce with a copy of each refund application and the amount of such refund, if any.

2. For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "Section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records,

film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.

b. "Production activities" means activities directed toward the preparation of a:

(I) Master tape or master record embodying sound; or

(II) Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

3. This paragraph shall expire and be void July 1, 1988.

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath which includes:

a. The name and address of the person claiming the refund.

b. The refund permit number assigned pursuant to s. 212.095 to such person.

c. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

d. A description of the improvements made to accomplish the rehabilitation of the real property.

e. A copy of the building permit issued for the rehabilitation of the real property.

f. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

g. Either the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the rehabilitated real property is located in an enterprise zone.

h. A certification by the property appraiser that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed and that the assessed value for ad valorem tax purposes is, or on the next ad valorem tax roll will be, 30 percent or more greater than the assessed value for ad valorem tax purposes of the real property on the prior year's assessment roll.

2. This exemption inures to a city, county, or other governmental agency through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, or other governmental agency must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, or other governmental agency seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant or similar grant or loan program.

3. The provisions of s. 212.095(4) do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds \$500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of 5 percent of the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.f. or \$5,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

4. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

5. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

6. For the purposes of the exemption provided in this paragraph, the term:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property such that when substantially completed the assessed value for ad valorem tax purposes is 30 percent or more greater than the assessed value for ad valorem tax purposes of the real property on the prior year's assessment roll.

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

7. The provisions of this paragraph shall expire and be void on December 31, 1994.

(h) Business property used in an enterprise zone.—

1. Business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary employees. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath, after the employment requirements of subparagraph 8. have been satisfied, an application which includes:

a. The name and address of the business claiming the refund.

b. The refund permit number assigned pursuant to s. 212.095 to such business.

c. Either the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located, or such alternative

proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.

d. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

e. The location of the property.

f. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

g. The name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.

3. The provisions of s. 212.095(4) do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be 97 percent of the sales tax paid on such business property. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period.

4. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

5. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter.

6. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

7. For the purposes of this exemption, the term "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in subparagraph (b)6.a.; and

c. Building materials as defined in subparagraph (g)6.a.

8. The employment requirements established by this paragraph shall be met during the time period beginning 90 days prior to the date of the initial purchase for which a refund is sought and ending 90 days after the date of the last purchase for which a refund is sought under this paragraph. However, if the business did not exist or was not operating in the enterprise zone 90 days prior to the date of the initial purchase, the employment requirements established by this paragraph shall be met for not less than 90 days after the date of the last purchase for which a refund is sought.

9. The provisions of this paragraph shall expire and be void on December 31, 1994.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the

governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion.

(7) MISCELLANEOUS EXEMPTIONS.—

(a) Artificial commemorative flowers.—Exempt from the tax imposed by this chapter is the sale of artificial commemorative flowers by bona fide nationally chartered veterans' organizations.

(b) Boiler fuels.—When purchased for use as a combustible fuel, purchases of natural gas, residual oil, recycled oil, waste oil, solid waste material, coal, sulfur, wood, wood residues or wood bark used in an industrial manufacturing, processing, compounding, or production process at a fixed location in this state are exempt from the taxes imposed by this chapter; however, such exemption shall not be allowed unless the purchaser signs a certificate stating that the fuel to be exempted is for the exclusive use designated herein. This exemption does not apply to the use of boiler fuels that are not used in manufacturing, processing, compounding, or producing items of tangible personal property for sale, or to the use of boiler fuels used by any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business Regulation.

(c) Crustacea bait.—Also exempt from the tax imposed by this chapter is the purchase by commercial fishermen of bait intended solely for use in the entrapment of *Callinectes sapidus* and *Menippe mercenaria*.

(d) Feeds.—Feeds for poultry and livestock, including racehorses and dairy cows, are exempt.

(e) Film rentals.—Film rentals are exempt when an admission is charged for viewing such film, and license fees and direct charges for films, videotapes, and transcriptions used by television or radio stations or networks are exempt. However, this exemption shall not be construed to exempt the sale or use of advertising.

(f) Flags.—Also exempt are sales of the flag of the United States and the official state flag of Florida.

(g) Florida Retired Educators Association and its local chapters.—Also exempt from payment of the tax imposed by this chapter are purchases of office supplies, equipment, and publications made by the Florida Retired Educators Association and its local chapters.

(h) Guide dogs for the blind.—Also exempt are the sale or rental of guide dogs for the blind, commonly referred to as "seeing-eye dogs," and the sale of food or other items for such guide dogs.

1. The department shall issue a consumer's certificate of exemption to any blind person who holds an identification card as provided for in s. 413.091 and who either owns or rents, or contemplates the ownership or rental of, a guide dog for the blind. The consumer's certificate of exemption shall be issued without charge and shall be of such size as to be capable of being carried in a wallet or billfold.

2. The department shall make such rules concerning items exempt from tax under the provisions of this paragraph as may be necessary to provide that any person authorized to have a consumer's certificate of exemption need only present such a certificate at the time of paying for exempt goods and shall not be required to pay any tax thereon.

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention.

(j) Household fuels.—Also exempt from payment of the tax imposed by this chapter are sales of utilities to residential households or owners

of residential models in this state by utility companies who pay the gross receipts tax imposed under s. 203.01, and sales of fuel to residential households or owners of residential models, including oil, kerosene, liquefied petroleum gas, coal, wood, and other fuel products used in the household or residential model for the purposes of heating, cooking, lighting, and refrigeration, regardless of whether such sales of utilities and fuels are separately metered and billed direct to the residents or are metered and billed to the landlord. If any part of the utility or fuel is used for a nonexempt purpose, the entire sale is taxable. The landlord shall provide a separate meter for nonexempt utility or fuel consumption.

(k) Meals provided by certain nonprofit organizations.—There is exempt from the tax imposed by this chapter the sale of prepared meals by a nonprofit volunteer organization to handicapped, elderly, or indigent persons when such meals are delivered as a charitable function by the organization to such persons at their places of residence.

(l) Military museums.—Also exempt are sales to nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and whose primary purpose is to raise money for military museums.

(m) Nonprofit corporation; home for the aged, nursing home, or hospice.—Nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to s. 501(c)(3), U.S. Internal Revenue Code, 1954, as amended, and which either qualify as homes for the aged pursuant to s. 196.1975(2) or are licensed as a nursing home or hospice under the provisions of chapter 400, are exempt from the tax imposed by this chapter.

(n) Organizations providing special educational, cultural, recreational, and social benefits to minors.—There shall be exempt from the tax imposed by this part nonprofit organizations which are incorporated pursuant to chapter 617 or which hold a current exemption from federal corporate income tax pursuant to s. 501(c)(3) of the Internal Revenue Code the primary purpose of which is providing activities that contribute to the development of good character or good sportsmanship, or to the educational or cultural development, of minors. This exemption is extended only to that level of the organization that has a salaried executive officer or an elected nonsalaried executive officer.

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by part I of this chapter transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property or services by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which

provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

- (I) Medical aid for the relief of disease, injury, or disability;
- (II) Regular provision of physical necessities such as food, clothing, or shelter;
- (III) Services for the prevention of, or rehabilitation of persons from, alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;
- (IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;
- (V) Medical research for the relief of disease, injury, or disability;
- (VI) Legal services; or
- (VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions hereunder.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association or the American Dental Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., and Jewish War Veterans of the U.S.A. and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(p) Resource recovery equipment.—Also exempt is resource recovery equipment which is owned and operated by or on behalf of any county or municipality, certified by the Department of Environmental Regulation under the provisions of s. 403.715.

(q) School books and school lunches.—This exemption applies to school books used in regularly prescribed courses of study, and to school lunches served to students, in public, parochial, or nonprofit schools operated for and attended by pupils of grades 1 through 12. School books and food sold or served at community colleges and other institutions of higher learning are taxable.

(r) State Theater Program facilities.—Nonprofit organizations incorporated in accordance with chapter 617 which have qualified under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, and which have been designated as State Theater Program facilities as provided in s. 265.287 are exempt from the tax imposed by this chapter.

(s) Volunteer fire departments.—Also exempt are firefighting and rescue service equipment and supplies purchased by volunteer fire departments, duly chartered under the Florida Statutes as corporations not for profit.

(t) Vinous and alcoholic beverages provided by distributors or vendors for the purpose of "wine tasting" and "spirituous beverage tasting" as contemplated under the provisions of section 564.06 and 565.12 respectively, are exempt from the tax imposed by this part. This exemption shall be effective retroactively to July 1, 1981.

(u)(w) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, Florida Statutes, pertaining to the registration of vessels, a boat upon which sales tax has not been paid, which has not been licensed, titled, or registered in another taxing jurisdiction within the United States, or which is being used in the waters of this state under a permit issued by an agency of the United States government is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of 10 days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the 10-day period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility. The 10-day time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the 10-day period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must furnish to the department, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must furnish the department, within 72 hours after the date of release, with a copy of the release form which shows the date of release and any other information the department requires. When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the 10-day period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this part; however, the sales tax levied under this part applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

(I) Is located on a navigable body of water;

(II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;

(III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or

c. A shoreside facility that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work.

(v) *Professional services.*—

1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.

2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term "information services" includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

(w) Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, video tapes, and transcriptions used in producing radio or television broadcasts.

(8) PARTIAL EXEMPTIONS; VESSELS ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) The sale or use of vessels and parts thereof used to transport persons or property in interstate or foreign commerce is subject to the taxes imposed in 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 vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year. The ratio would be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total Florida purchases of such vessels and parts thereof which are used in Florida to establish that portion of the total used and consumed in intrastate movement and subject to the tax at the applicable rate. Items, appropriate to carry out the purposes for which a vessel is designed or equipped and used, purchased by the owner, operator, or agent of a vessel for use on board such vessel shall be deemed to be parts of the vessel upon which the same are used or consumed. Vessels and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

(b) The partial exemption provided for in this subsection shall not be allowed unless the purchaser signs an affidavit stating that the item or items to be partially exempted are for the exclusive use designated herein and setting forth the extent of such partial exemption. Any person furnishing a false affidavit to such effect for the purpose of evading payment of any tax imposed under this part is subject to the penalties set forth in s. 212.12 and as otherwise provided by law.

(c) It is the intent of the Legislature that neither subsection (4) nor this subsection, whether as currently in effect or as amended by chapter 73-240, Laws of Florida, and in effect between June 22, 1973, and June 13, 1977, shall be construed as imposing the tax provided by this part on vessels used as common carriers, contract carriers, or private carriers, engaged in interstate or foreign commerce, except to the extent provided by the pro rata formula provided in subsection (4) and in paragraph (a).

(9) PARTIAL EXEMPTIONS; RAILROADS AND MOTOR VEHICLES ENGAGED IN INTERSTATE OR FOREIGN COMMERCE.—

(a) Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in 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 during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of the railroad which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Railroads which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part.

(b) Motor vehicles which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to tax imposed in 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 motor vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year of the carrier. Such ratio is to be determined at the close of the carrier's fiscal year. This ratio shall be applied each month to the total purchases of such motor vehicles and parts thereof which are used in this state to establish that portion of the total used and consumed in intrastate movement and subject to tax under this part. Motor vehicles which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate and foreign commerce are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part. Motor vehicles and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax.

(10) PARTIAL EXEMPTION; MOTOR VEHICLE SOLD TO RESIDENT OF ANOTHER STATE.—The tax collected on the sale of a new or used motor vehicle in this state to a resident of another state shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state of which the purchaser is a resident, except that such tax shall not exceed the tax that would otherwise be imposed under this chapter. At the time of the sale, the purchaser shall execute a notarized statement of his intent to license the vehicle in the state of which he is a resident within 10 days of the sale and of the fact of the payment to the State of Florida of a sales tax in an amount equivalent to the sales tax of his state of residence and shall submit the statement to the appropriate sales tax collection agency in his state of residence.

(11) PARTIAL EXEMPTION; FLYABLE AIRCRAFT.—

(a) The tax imposed on the sale by a manufacturer of flyable aircraft, who designs such aircraft, which sale may include necessary equipment and modifications placed on such flyable aircraft prior to delivery by the manufacturer, shall be an amount equal to the sales tax which would be imposed on such sale under the laws of the state in which the aircraft will be domiciled.

(b) This partial exemption applies only if the purchaser is a resident of another state who will not use the aircraft in this state, or if the purchaser is a resident of another state and uses the aircraft in interstate or foreign commerce, or if the purchaser is a resident of a foreign country.

(c) The maximum tax collectible under this subsection may not exceed 5 percent of the sales price of such aircraft. No Florida tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled does not allow Florida sales or use tax to be credited against its sales or use tax. Furthermore, no tax may be imposed on the sale of such aircraft if the state in which the aircraft will be domiciled has enacted a sales and use tax exemption for flyable aircraft or if the aircraft will be domiciled outside the United States.

(d) The purchaser shall execute a sworn affidavit attesting that he is not a resident of this state and stating where the aircraft will be domiciled. If the aircraft is subsequently used in this state within 6 months of the time of purchase, in violation of the intent of this subsection, the purchaser shall be liable for payment of the full use tax imposed by this chapter and shall be subject to the penalty imposed by s. 212.12(2), which penalty shall be mandatory.

(12) PARTIAL EXEMPTION; MASTER TAPES, RECORDS, FILMS, OR VIDEO TAPES.—

(a) There are exempt from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, or master films or master video tapes; except that amounts paid to recording studios or motion picture or television studios for the tangible elements of such master tapes, records, films, or video tapes are taxable as otherwise provided in this part.

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

1. "Amounts paid for the tangible elements" does not include any amounts paid for the copyrightable, artistic, or other intangible elements of such master tapes, records, films, or video tapes, whether designated as royalties or otherwise, including, but not limited to, services rendered in producing, fabricating, processing, or imprinting tangible personal property or any other services or production expenses in connection therewith which may otherwise be construed as constituting a "sale" under s. 212.02.

2. "Master films or master video tapes" means films or video tapes utilized by the motion picture and television production industries in making visual images for reproduction.

3. "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

4. "Motion picture or television studio" means a facility in which film or video tape productions or parts of productions are made and which contains the necessary equipment and personnel for this purpose and includes a mobile unit or vehicle that is equipped in much the same manner as a stationary studio and used in the making of film or video tape productions.

5. "Recording studio" means a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

6. "Recording industry" means any person engaged in an occupation or business of making recordings embodying sound for a livelihood or for a profit.

7. "Motion picture or television production industry" means any person engaged in an occupation or business for a livelihood or for profit of making visual motion picture or television visual images for showing on screen or television for theatrical, commercial, advertising, or educational purposes.

(c) This subsection shall expire and be void July 1, 1988.

(13) No transactions shall be exempt from the tax imposed by this chapter except those expressly exempted herein. All laws granting tax exemptions, to the extent they may be inconsistent or in conflict with this chapter, including, but not limited to, the following designated laws, shall yield to and be superseded by the provisions of this subsection: ss. 125.019, 153.76, 154.2331, 159.15, 159.31, 159.50, 159.708, 163.385, 163.395, 215.76, 243.33, 258.14, 315.11, 348.65, 348.762, 349.13, 374.132, 403.1834, 616.07, 623.09, 637.131, and 637.291 and the following Laws of Florida, acts of the year indicated: s. 31, ch. 30843, 1955; s. 19, ch. 30845, 1955; s. 12, ch. 30927, 1955; s. 8, ch. 31179, 1955; s. 15, ch. 31263, 1955; s. 13, ch. 31343, 1955; s. 16, ch. 59-1653; s. 13, ch. 59-1356; s. 12, ch. 61-2261; s. 19, ch. 61-2754; s. 10, ch. 61-2686; s. 11, ch. 63-1643; s. 11, ch. 65-1274; s. 16, ch. 67-1446; and s. 10, ch. 67-1681.

(14) The department shall establish a technical assistance advisory committee with public and private sector members to advise the Department of Revenue and the Department of Health and Rehabilitative Services in determining the taxability of specific products and product lines pursuant to subsection (1) and paragraph (2)(a). In determining taxability and in preparing a list of specific products and product lines which are or are not taxable, the committee shall not be subject to the provisions of chapter 120. Private sector members shall not be compensated for serving on the committee.

(15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—

(a) Charges for electrical energy used by a qualified business at a fixed location in an enterprise zone in a municipality which has enacted

an ordinance pursuant to s. 166.231(8) which provides for exemption of municipal utility taxes on such businesses shall be exempt from the tax imposed by this chapter for a period of 5 years from the billing period beginning not more than 30 days following notification to the applicable utility company by the department that an exemption has been authorized pursuant to this subsection.

(b) To receive this exemption, a business must file an application, on a form provided by the department for the purposes of this subsection and s. 166.231(8). The application shall be made under oath and shall include:

1. The name and location of the business.

2. Either the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.

3. The date on which electrical service is to be first initiated to the business.

4. The name and mailing address of the entity from which electrical energy is to be purchased.

5. The date of the application.

6. The name of the city in which the business is located.

7. The name and address of each permanent employee of the business including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides or such alternate proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.

(c) If, in a subsequent audit conducted by the department, it is determined that the business did not meet the criteria mandated in this subsection, the amount of taxes exempted shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the due date of each bill for the electrical energy purchased as exempt under this subsection, in the manner prescribed by this chapter.

(d) The department shall adopt rules governing applications for, issuance of, and the form of applications for the exemption authorized in this subsection and provisions for recapture of taxes exempted under this subsection; and the department may establish guidelines as to qualifications for exemption.

(e) For the purpose of the exemption provided in this subsection, the term "qualified business" means a business for which not less than 20 percent of its employees are residents of an enterprise zone, excluding temporary employees, for the 5-year duration of this exemption, except as provided in paragraph (f), and which is:

1. First occupying a new structure to which electrical service, other than that used for construction purposes, has not been previously provided or furnished;

2. Newly occupying an existing, remodeled, renovated, or rehabilitated structure to which electrical service, other than that used for remodeling, renovation, or rehabilitation of the structure, has not been provided or furnished in the three preceding billing periods; or

3. Occupying a new, remodeled, rebuilt, renovated, or rehabilitated structure for which a refund has been granted pursuant to paragraph (5)(g).

(f) The employment requirements established by this subsection shall be satisfied, without exception, for the first 6 months of the exemption period authorized in this subsection. Subsequently, any qualified business which fails for a period of 30 consecutive days to maintain such employment requirements will be ineligible for the remainder of the exemption authorized in this subsection.

(g) This subsection shall expire and be void on December 31, 1994, except that:

1. Paragraph (c) shall not expire; and

2. Any qualified business which has been granted an exemption under this subsection prior to that date shall be allowed the full benefit of this exemption as if this subsection had not expired on that date.

Section 14. Section 212.095, Florida Statutes, as amended by section 15 of chapter 87-6 and section 14 of chapter 87-101, Laws of Florida, is amended to read:

212.095 Refunds.—

(1) No exemption granted on a refund basis pursuant to this part is authorized except as provided in this section.

(2)(a) No person may secure a refund under this part unless such person is the holder of an unrevoked refund permit issued by the department before the purchase for which a refund is sought, which permit shall be numbered and issued annually.

(b) To procure a permit, a person must file with the department an application, on forms furnished by the department, stating that he is entitled to a refund according to the provisions of this part and that he intends to file an application for refund for the current calendar year, and must furnish the department such other information as the department requests.

(c) No person may in any event be allowed a refund unless he has filed the application provided for in paragraph (b) with the department. A permit shall be effective on the date issued by the department.

(d) If an applicant for a refund permit has violated any provision of this section or any regulation pursuant hereto, or has been convicted of bribery, theft, or false swearing within the period of 5 years preceding the application, or if the department has evidence of the financial irresponsibility of the applicant, the department may require the applicant to execute a corporate surety bond of \$1,000 to be approved by the department, conditioned upon the payment of all taxes, penalties, and fines for which such applicant may become liable under this part.

(3)(a) When a sale is made to a person who claims to be entitled to a refund under this section, the seller shall make out a sales invoice, which shall contain the following information:

1. The name and business address of the purchaser.
2. A description of the item ~~or services~~ sold.
3. The date on which the purchase was made.
4. The price and amount of tax paid for the item ~~or services~~.
5. The name and place of business of the seller at which the sale was made.
6. The refund permit number of the purchaser.

(b) The sales invoice shall be retained by the purchaser for attachment to his application for a refund, as a part thereof. No refund will be allowed unless the seller has executed such an invoice and unless proof of payment of the taxes for which the refund is claimed is attached. The department may refuse to grant a refund if the invoice is incomplete and fails to contain the full information required in this subsection.

(c) No person may execute a sales invoice, as described in paragraph (a), except a dealer duly registered pursuant to this part, or an authorized agent thereof.

(4)(a) No refund may be authorized unless a sworn application therefor containing the information required in this section is filed with the department not later than 30 days immediately following the quarter for which the refund is claimed. When a claim is filed after such 30 days and a justified excuse for late filing is presented to the department and the last preceding claim was filed on time, such late filing may be accepted through 60 days following the quarter. No refund will be authorized unless the amount due is for \$5 or more in any quarter and unless application is made upon forms prescribed by the department.

(b) Claims shall be filed and paid for each calendar quarter. The department shall deduct a fee of \$2 for each claim, which fee shall be deposited in the General Revenue Fund.

(c) Refund application forms shall include at a minimum the following information:

1. The name and address of the person claiming the refund.

2. The refund permit number of such person.

3. The location at which the items ~~or services~~ for which a refund is claimed are used.

4. A description of each such item ~~or service~~ and the purpose for which such item ~~or service~~ was acquired.

5. Copies of the sales invoices of items ~~or services~~ for which a refund is being claimed.

(5) The right to receive any refund under the provisions of this section is not assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in an insolvency proceeding, of the person entitled to the refund.

(6)(a) Each registered dealer shall, in accordance with the requirements of the department, keep at his principal place of business in this state or at the location where the sale is made a complete record or duplicate sales tickets of all items ~~or services~~ sold by him for which a refund provided in this section may be claimed, which records shall contain the information required in paragraph (3)(a).

(b) Every person to whom a refund permit has been issued under this section shall, in accordance with the requirements of the department, keep at his residence or principal place of business in this state a record of each purchase for which a refund is claimed, including the information required in paragraph (3)(a).

(c) The records required to be kept under this subsection shall at all reasonable hours be subject to audit or inspection by the department or by any person duly authorized by it. Such records shall be preserved and may not be destroyed until 3 years after the date the item to which they relate was sold or purchased.

(d) The department shall keep a permanent record of the amount of refund claimed and paid to each claimant. Such records shall be open to public inspection.

(7) Agents of the department are authorized to go upon the premises of any refund permitholder, or duly authorized agent thereof, to make an inspection to ascertain any matter connected with the operation of this section or the enforcement hereof. However, no agent may enter the dwelling of any person without the consent of the occupant or authority from a court of competent jurisdiction.

(8) If any taxes are refunded erroneously, the department shall advise the payee by registered mail of the erroneous refund. If the payee fails to reimburse the state within 15 days after the receipt of the letter, an action may be instituted by the department against such payee in the circuit court, and the department shall recover from the payee the amount of the erroneous refund plus a penalty of 25 percent.

(9) No person shall:

(a)~~1~~. Knowingly make a false or fraudulent statement in an application for a refund permit or in an application for a refund of any taxes under this section;

(b)~~2~~. Fraudulently obtain a refund of such taxes; or

(c)~~3~~. Knowingly aid or assist in making any such false or fraudulent statement or claim.

(10) The refund permit of any person who violates any provision of this section shall be revoked by the department and may not be reissued until 2 years have elapsed from the date of such revocation. The refund permit of any person who violates any other provision of this part may be suspended by the department for any period, in its discretion, not exceeding 6 months.

(11) Refund permits and refund application forms shall include instructions for dealers and purchasers as to the relevant requirements of this section.

Section 15. Section 212.11, Florida Statutes, as amended by section 16 of chapter 87-6, section 15 of chapter 87-101, and section 3 of chapter 87-239, Laws of Florida, is amended to read:

212.11 Tax returns and regulations.—

(1)(a)1. ~~Except as provided in subparagraph 3,~~ Each dealer shall calculate his estimated tax liability for any month by one of the following methods:

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

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

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

2. Any estimated tax liability greater than or equal to the threshold amount specified in subsection (5) shall be due, payable, and remitted by the 20th day of the month for which the liability applies. The difference between the estimated tax liability paid and the actual amount and taxes due under this part for such month shall become due and payable by the first day of the following month and shall be remitted by the 20th day thereof.

3. For any dealer who has an estimated tax liability of less than the threshold amount specified in subsection (5) or who was not registered for sales tax purposes for the corresponding month of the preceding year or who first remits taxes to the department on or after the effective date of this section, the current taxes levied pursuant to this part shall be due and payable monthly on the first day of the following month and shall be remitted by the 20th day thereof.

(b) For the purpose of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers to make a return, on or before the 20th day of the month, to the department, upon forms prepared and furnished by it, showing the rentals, admissions, gross sales, or purchases, as the case may be, arising from all leases, rentals, admissions, sales, or purchases taxable under this chapter during the preceding calendar month.

(c) However, the department may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$100 and may authorize a semiannual return and payment when the tax remitted by the dealer for the preceding 6 months did not exceed \$200.

~~(d) Beginning October 1, 1987, the department may authorize a quarterly return and payment for dealers registered as service providers and remitting tax solely from the provision of services. Such returns may be authorized only for dealers whose monthly tax collections are less than \$500 in each month for the previous 3 months. Quarterly payments pursuant to this paragraph shall be due and payable in March, June, September, and December of each year.~~

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

(2) Gross proceeds from rentals or leases of tangible personal property shall be reported and the tax shall be paid with respect thereto in accordance with such rules and regulations as the department may prescribe.

(3) Except as otherwise expressly provided for herein, it is hereby declared to be the intention of this chapter to impose a tax on the gross proceeds of all leases and rentals of tangible personal property in this state when the lease or rental is a part of the regularly established business, or the same is incidental or germane thereto.

(4) The 66 percent rate provided in subsection (1) shall be reduced over a period of 5 years beginning January 1, 1986, and is repealed December 31, 1990. During such period the following rates shall be applicable:

(a) From January 1, 1986, through December 31, 1986, the rate shall be 50 percent.

(b) From January 1, 1987, through December 31, 1987, the rate shall be 40 percent.

(c) From January 1, 1988, through December 31, 1988, the rate shall be 30 percent.

(d) From January 1, 1989, through December 31, 1989, the rate shall be 20 percent.

(e) From January 1, 1990, through December 31, 1990, the rate shall be 10 percent.

(5) The threshold amount to be used pursuant to subsection (1) shall be:

(a) \$1,650 before January 1, 1986.

(b) \$1,250 from January 1, 1986, through December 31, 1986.

(c) \$1,000 from January 1, 1987, through December 31, 1987.

(d) \$750 from January 1, 1988, through December 31, 1988.

(e) \$500 from January 1, 1989, through December 31, 1989.

(f) \$250 from January 1, 1990, through December 31, 1990.

Section 16. Section 212.12, Florida Statutes, as amended by sections 17 and 88 of chapter 87-6, section 6 of chapter 87-99, sections 16 and 56 of chapter 87-101, and section 8 of chapter 87-402, Laws of Florida, is amended to read:

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

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records 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 3 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 report and paying the amount due by him; and the department shall allow such deduction of 3 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, 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 \$1,000, the 3-percent allowance shall be reduced to 1 percent for all amounts in excess of \$1,000. 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 tax is delinquent at the time of payment.

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

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return 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, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of taxable purchases; 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 the amounts of gross sales, taxable sales, taxable purchases, and tax collected or due shall be reported by major sales tax source: services; tangible personal property; admissions; transient rentals; commercial leases or licenses; and agricultural equipment.~~

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax imposed by this chapter fails to timely file such return or fails to pay the tax due 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, a specific penalty shall be added to the tax in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, however, a total penalty of 25 percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than \$5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax shall be liable to a specific penalty of 50 percent of the tax bill and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.

(b) 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 5 percent of any unpaid estimated tax. Through December 31, 1984, this penalty shall be waived upon application by the dealer unless the department has determined that there was willful intent by the dealer to evade payment of the 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.

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

(3) When any dealer, or other person charged herein, fails to remit the tax, or any portion thereof, on or before the day when such tax is required by law to be paid, there shall be added to the amount due interest at the rate of 1 percent per month of the amount due from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 21st day of the month following the month for which the tax is due, except as otherwise provided in this part.

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

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

(b) In the event any dealer or other person charged herein fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, fails or refuses to register as a dealer, or fails to make a report and pay the tax as provided by this chapter; or makes a grossly incorrect report, or makes a report that is false or fraudulent, then, in such event,

it shall be the duty of the department to make an assessment from an estimate based upon the best information then available to it for the taxable period of retail sales of such dealer, the gross proceeds from rentals, the total admissions received, amounts received from leases of tangible personal property by such dealer, or of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in this state ~~or of the sales or cost price of all services the sale or use of which is taxable under this part~~, together with interest, plus penalty, if such have accrued, as the case may be. Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct; and the burden to show the contrary shall rest upon the dealer, seller, owner, or lessor, as the case may be.

(6)(a) The department is given the power to prescribe the records to be kept by all persons subject to taxes imposed by this chapter; and it shall be the duty of every person required to make a report and pay any tax under this chapter, every person receiving rentals or license fees, and owners of places of admission, to keep and preserve suitable records of the sales, leases, rentals, license fees, admissions, or purchases, as the case may be, taxable under this chapter; such other books of account as may be necessary to determine the amount of the tax due hereunder; and other information as may be required by the department. It shall be the duty of every such person so charged with such duty, moreover, to keep and preserve for a period of 3 years all invoices and other records of goods, wares, and merchandise, records of admissions, leases, license fees and rentals, and all other subjects of taxation under this chapter; and all such books, invoices, and other records shall be open to examination at all reasonable hours to the department or any of its duly authorized agents.

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

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

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

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

(9) Taxes imposed by this chapter upon the privilege of the use, consumption, storage for consumption, or sale of tangible personal property, admissions, license fees, rentals, *and* 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; and 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 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. 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 5 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 20 cents, both inclusive, 1 cent shall be added for taxes.
- (c) On sales in amounts from 21 cents to 40 cents, both inclusive, 2 cents shall be added for taxes.
- (d) On sales in amounts from 41 cents to 60 cents, both inclusive, 3 cents shall be added for taxes.
- (e) On sales in amounts from 61 cents to 80 cents, both inclusive, 4 cents shall be added for taxes.
- (f) On sales in amounts from 81 cents to \$1, both inclusive, 5 cents shall be added for taxes.
- (g) On sales in amounts of more than \$1, 5 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.

(10) In charter counties which have adopted the discretionary 1-percent tax, the following brackets shall be applicable to all taxable transactions which would otherwise have been transactions taxable at the rate of 5 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 from \$1 up to, and including, the first \$1,000 in price, 6 percent shall be charged upon each dollar of price, plus the appropriate bracket charge upon any fractional part of a dollar.
- (i) On sales in amounts of more than \$1,000 in price, 6 percent shall be added upon the first \$1,000 in price, and 5 percent shall be added upon each dollar of price in excess of the first \$1,000 in price, plus the bracket charges upon any fractional part of a dollar as provided for in subsection (9).

(11) The department shall promulgate by rule the tax amounts and brackets applicable to transactions taxable at 3 percent pursuant to s. 212.08(3) and on transactions which would otherwise have been so taxable in counties which have adopted the discretionary 1-percent tax.

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

(13) In order to aid the administration and enforcement of the provisions of this chapter with respect to the rentals and license fees, each lessor or person granting the use of any hotel, apartment house, rooming-house, tourist or trailer camp, real property, or any interest therein, or

any portion thereof, inclusive of owners, property managers, lessors, landlords, hotel, apartment house, and roominghouse operators and all licensed real estate agents within the state leasing, granting the use of, or renting such property, shall be required to keep a record of each and every such lease, license, or rental transaction which is taxable under this chapter, in such a manner and upon such forms as the department may prescribe, and to report such transaction to the department or its designated agents, and to maintain such records for a period of not less than 3 years, subject to the inspection of the department and its agents; and, upon the failure by such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, or real estate agent to keep and maintain such records and to make such reports upon the forms and in the manner prescribed, such owner, property manager, lessor, landlord, hotel, apartment house, roominghouse, tourist or trailer camp operator, receiver of rent or license fees, or real estate agent is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for the first offense; and for subsequent offenses, they are each guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Section 212.13, Florida Statutes, as amended by sections 18 and 89 of chapter 87-6 and section 57 of chapter 87-101, Laws of Florida, is amended to read:

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

(1) For the purpose of enforcing the collection of the tax levied by this chapter, the department is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all transportation companies, agencies, or firms that conduct their business by truck, rail, water, aircraft, or otherwise, in order to determine what dealers, or other persons charged with the duty to report or pay a tax under this chapter, are importing or are otherwise shipping in articles or tangible personal property which are liable for said tax. In the event said transportation company, agency, or firm refuses to permit such examination of its books, records, or other documents by the department as aforesaid, it is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The department shall have the right to proceed in any chancery court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such transportation company or carrier.

(2) Each dealer, as defined in this chapter, shall secure, maintain, and keep for a period of 3 years a complete record of tangible personal property ~~or services~~ received, used, sold at retail, distributed or stored, leased or rented by said dealer, together with invoices, bills of lading, gross receipts from such sales, and other pertinent records and papers as may be required by the department for the reasonable administration of this chapter; and all such records which are located or maintained in this state shall be open for inspection by the department at all reasonable hours at such dealer's store, sales office, general office, warehouse, or place of business located in this state. Any dealer who maintains such books and records at a point outside this state must make such books and records available for inspection by the department where the general records are kept. Any dealer subject to the provisions of this chapter who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) For the purpose of enforcement of this chapter, every manufacturer and seller of tangible personal property ~~or services~~ licensed within this state is required to permit the department to examine his books and records at all reasonable hours; and, upon his refusal, the department may require him to permit such examination by resort to the circuit courts of this state, subject however to the right of removal of the cause to the judicial circuit wherein such person's business is located or wherein such person's books and records are kept, provided further that such person's books and records are kept within the state.

(4) For the further purpose of enforcement of this chapter, every wholesaler of tangible personal property ~~or services~~ licensed within this state is required to permit the department to examine his books and records at all reasonable hours. He must also maintain such books and records for a period of not less than 3 years in order to disclose the sales of all goods ~~or services~~ sold, and to whom sold, and also the amount of items sold, in such form and in such manner as the department may reasonably require, and so as to permit the department to determine the volume of goods ~~or services~~ sold by wholesalers to dealers, as defined under this

chapter, and the dates and amounts of sales made. The department may require any manufacturer or wholesaler who refuses to keep such records or to permit such inspection through the circuit courts of Florida to submit to such inspection, subject however to the right of removal of the cause as hereinbefore provided in this section.

(5)(a) The department shall send written notification, at least 60 days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The department is not required to give 60 days' prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

(b) Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.

2. A reminder that all of the records, receipts, invoices, resale certificates, and related documentation of the taxpayer must be made available to the auditor.

3. Any other requests or suggestions the department may deem necessary.

(c) Only records, receipts, invoices, resale certificates, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit. A resale certificate containing a date prior to the date the audit commences shall be deemed acceptable documentation of the specific transaction or transactions which occurred in the past, for the purpose of conducting an audit.

(d) The provisions of this chapter concerning fraudulent or improper records, receipts, invoices, resale certificates, and related documentation shall apply when conducting any audit.

(e) The requirement in paragraph (a) of 60 days' written notification does not apply to the distress or jeopardy situations referred to in s. 212.14 or s. 212.15.

Section 18. Section 212.14, Florida Statutes, as amended by sections 19, 58, and 90 of chapter 87-6 and section 58 of chapter 87-101, Laws of Florida, is amended to read:

212.14 Departmental powers; hearings, subpoena; distress warrants; time for assessments.—

(1) Any person required to pay a tax imposed under this chapter, or to make a return, either or both, and who renders a return or makes a payment of a tax with intent to deceive or defraud the state, and to prevent the state from collecting the amount of taxes imposed by this chapter, or otherwise fails to comply with the provisions of this chapter for the taxable period for which any return is made, or any tax is paid, or any report is made to the department, may be required by the department to show cause at a time and place to be set by the department, after 10 days' notice in writing requiring such books, records, or papers as the department may require relating to the business of such person for such tax period, and the department may require such person, or persons, or their employee or employees to give testimony under oath and answer interrogatories by the department, or an assistant, respecting the sale, use, consumption, distribution, or storage rental or license for use of real or personal property ~~or services~~ within the state, or admissions collected therein, or the failure to make a true report thereof, as provided by this chapter, or failure to pay the true amount of the tax required to be paid under this chapter. At said hearing, in the event such person fails to produce such books, records, or papers, or to appear and answer questions within the scope of investigation relating to matters concerning taxes to be imposed under this chapter, or prevents or impedes his or her agents or employees from giving testimony, then the department is authorized under this chapter to estimate any unpaid deficiencies in taxes to be assessed against such person upon such information as may be available to it and to issue a distress warrant for the collection of such taxes, interest, or penalties estimated by him to be due and payable, and such assessment shall be deemed prima facie correct. In such cases said warrant shall be issued to any sheriff in the state where such person owns or possesses any property and such property as may be required to satisfy any such taxes, interest, or penalties shall be by such sheriff seized and sold under said distress warrant in the same manner as property is permitted to be seized and sold under distress warrants issued to secure the payments of delinquent taxes as hereinafter provided, and the department shall also have the right to writ of garnishment to subject any indebtedness due to

the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law. Respecting the place for the holding of a hearing by the department or its agents as provided in this section, the person whose tax return or report being investigated may by written request to the department require the hearing be set at a place within the judicial circuit of Florida wherein the person's business is located or within the judicial circuit of Florida wherein such person's books and records are kept.

(2) Wherever returns are required to be made to the department hereunder the full amount of the taxes required to be paid as shown by said return shall be paid and accompany said return, and the failure to remit said full amount of taxes at the time of making said return shall cause said taxes to become delinquent. All taxes and all interest and penalties imposed under this chapter shall be paid to the department at Tallahassee, or to such designated offices throughout the state as the department may from time to time designate and in the form of remittance required by it.

(3) The department may require all reports of taxes to be paid under this chapter to be accompanied with a written statement, of the person or by an officer of any firm or corporation required to pay such taxes setting forth such facts as the department may reasonably require in order to advise the department as to the amount of taxes that are due and payable upon said return. Filing of return not accompanied by payment is prima facie evidence of conversion of the money due. Any person or any duly authorized corporation officer or agent, members of any firm or incorporated society, or organization who refuses to make a return and pay the taxes due, as required by the department and in the manner and in the form that the department may require, or to state in writing that the return is correct to the best of his knowledge and belief, as so required by the department, shall be subject to a penalty of 6 percent per annum of the amount due and shall upon conviction, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The signing of a written return shall have the same legal effect as if made under oath without the necessity of appending such oath thereto.

(4) In all cases where it is necessary to insure compliance with the provisions of this chapter, the department shall require a cash deposit, bond or other security as a condition to a person obtaining or retaining a dealer's certificate of registration under this chapter. Such bond shall be in the form and such amount as the department deems appropriate under the particular circumstances. Every person failing to produce such cash deposit, bond or other security as provided for herein shall not be entitled to obtain or retain a dealer's certificate of registration under this chapter, and the Department of Legal Affairs is hereby authorized to proceed by injunction, when so requested by the Department of Revenue, to prevent such person from doing business subject to the provisions of this chapter until such cash deposit, bond or other security is posted with the department, and any temporary injunction for this purpose may be granted by any judge or chancellor authorized by law to grant injunctions. Any security required to be deposited may be sold by the department at public sale if it becomes necessary so to do in order to recover any tax, interest or penalty due. Notice of such sale may be served personally or by mail upon the person who deposited such security. If by mail, notice sent to the last known address as the same appears on the records of the department shall be sufficient for the purpose of this requirement. Upon such sale, the surplus, if any, above the amount due under this chapter shall be returned to the person who deposited the security.

(5) Any person entering into a contract for the repair, alteration, construction or improvement of realty who is required to obtain a contractor's occupational license under the laws of this state shall, before entering into the performance of such contract, secure a dealer's certificate of registration, unless such person has held such contractor's occupational license for a period of at least 12 months immediately preceding the date of the contract. As a prerequisite for the issuance of such dealer's certificate of registration, the dealer shall execute and file with the department a good and valid bond endorsed by a surety company authorized to do business in this state, or with sufficient sureties to be approved by the department, conditioned that all taxes which may accrue to the state under this chapter will be paid when due; provided, however, that any taxpayer may pay the tax in advance on any contract in lieu of furnishing bond. Every person failing to procure the certificate of registration required by this law shall be denied the right to perform such contract

until he complies with such requirement, and the Department of Legal Affairs is hereby authorized to proceed by injunction, when so requested by the Department of Revenue, to prevent any activity in the performance of such contract until the certificate of registration is secured, and any temporary injunction enjoining the execution of such contract may be granted without notice by any judge or chancellor now authorized by law to grant injunctions. The bond shall remain in full force and effect during the terms of the contract or until such time as the department has issued a formal certificate of clearance stating that the tax due on the contract has been paid.

(6)(7) The department or any person authorized by it in writing is authorized to make and sign assessments, tax warrants, assignments of tax warrants and satisfaction of tax warrants.

Section 19. Section 212.17, Florida Statutes, as amended by section 20 of chapter 87-6, Laws of Florida, is amended to read:

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

(1) In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this chapter has been collected or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax collected or charged by him, in the manner prescribed by the department; and in case the tax has not been remitted by the dealer to the department, the dealer may deduct the same in submitting his return upon receipt of a signed statement of the dealer as to the gross amount of such refunds during the period covered by said signed statement, which period shall not be longer than 90 days. The department shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected. Such memorandum shall be accepted by the department at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this chapter; provided, in cases where a dealer has retired from business and has filed a final return, a refund of tax may be made if it can be established to the satisfaction of the department that the tax was not due.

(2) A dealer who has paid the tax imposed by this chapter on tangible personal property sold under a retained title, conditional sale, or similar contract, or under a contract wherein the dealer retains a security interest in the property pursuant to chapter 679, may take credit or obtain a refund for the tax paid by him on the unpaid balance due him when he repossesses (with or without judicial process) the property within 12 months following the month in which the property was repossessed. When such repossessed property is resold, the sale is subject in all respects to the tax imposed by this chapter.

(3) A dealer who has paid the tax imposed by this chapter on tangible personal property ~~or services~~ may take a credit or obtain a refund for any tax paid by him on the unpaid balance due on worthless accounts within 12 months following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are thereafter in whole or in part paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

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

(5) The department and its assistants are hereby authorized and empowered to administer the oath for the purpose of enforcing and administering the provisions of this chapter.

(6) The department shall have the power to make, prescribe and publish reasonable rules and regulations not inconsistent with this chapter, or the other laws, or the constitution of this state, or the United States, for the enforcement of the provisions of this chapter and the collection of revenue hereunder, and such rules and regulations shall when enforced be deemed to be reasonable and just.

(7) The department, where admissions, license fees, or rental payments ~~or payments for services~~ are made and thereafter returned to the payers after the taxes thereon have been paid, shall return or credit the taxpayer for taxes so paid on the moneys returned in the same manner as is provided for returns or credits of taxes where purchases or tangible personal property are returnable to a dealer.

Section 20. Section 212.18, Florida Statutes, as amended by sections 21 and 92 of chapter 87-6, section 60 of chapter 87-101, and section 10 of chapter 87-402, Laws of Florida, is amended to read:

212.18 Administration of law; rules and regulations.—

(1) The cost of preparing and distributing the reports, forms, and paraphernalia for the collection of said tax and the inspection and enforcement duties required herein shall be borne by the revenue produced by this chapter, provisions for which are hereinafter made.

(2) The department shall administer and enforce the assessment and collection of the taxes, interest, and penalties imposed by this chapter. It is authorized to make and publish such rules and regulations not inconsistent with this chapter, as it may deem necessary in enforcing its provisions in order that there shall not be collected on the average more than the rate levied herein. The department is authorized to and it shall provide by rule and regulation a method for accomplishing this end. It shall prepare instructions to all persons required by this chapter to collect and remit the tax to guide such persons in the proper collection and remission of such tax and to instruct such persons in the practices that may be necessary for the purpose of enforcement of this chapter and the collection of the tax imposed hereby. The use of tokens in the collection of this tax is hereby expressly forbidden and prohibited.

(3) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business; and it shall be accompanied by a registration fee of \$5. However, no registration fee is required to accompany an application to engage in or conduct business or make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued; and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; and no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property ~~or services~~ or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or subject to injunctive proceedings as provided by law.

(4) The department is hereby given the authority to purchase such supplies and equipment as may be necessary and incur any other necessary expenses as are proper for the enforcement and administration of this chapter.

Section 21. Section 212.21, Florida Statutes, as amended by section 22 of chapter 87-6, Laws of Florida, is amended to read:

212.21 Declaration of legislative intent.—

(1) If any section, subsection, sentence, clause, phrase or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconstitutionality shall not be construed to affect the portions of this chapter not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being hereby declared to be the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable or void portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective or void portions of this chapter, the Legislature would have enacted the valid and constitutional portions thereof.

(2) It is hereby declared to be the specific legislative intent to tax each and every sale, admission, use, storage, consumption or rental levied and set forth in this chapter, except as to such sale, admission, use, storage, consumption, or rental, as shall be specifically exempted therefrom by this chapter, subject to the conditions appertaining to such exemption. It is further declared to be the specific legislative intent that should any exemption or attempted exemption from the tax or the operation or imposition of the tax or taxes be declared to be invalid, ineffective, inapplicable, unconstitutional or void for any reason, such declaration shall not affect the tax or taxes imposed herein, but such sale, admission, use, storage, consumption or rental or any of them exempted or attempted to be exempted from the tax or taxes or the operation or the imposition of the tax or taxes, shall be subject to the tax or taxes and the operation and imposition thereof to the same extent as if such exemption or attempted exemption had never been included herein.

(3) It is further declared to be the specific legislative intent to exempt from the tax or taxes or from the operation or the imposition thereof only such sales, admissions, uses, storages, consumption or rentals in relation to or in respect of the things set forth by this chapter as exempted from the tax to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States. It is further declared to be the specific legislative intent to tax each and every taxable privilege made subject to the tax or taxes, and each and every taxable service made subject to the tax or taxes, except such sales, admissions, uses, storages, consumptions or rentals as are specifically exempted therefrom by this chapter to the extent that such exemptions are in accordance with the provisions of the constitutions of the state and of the United States.

(4) It being further declared to be the specific legislative intent that in the event any exemption or attempted exemption of any sale, admissions, use, storage, consumption or rental from the tax or taxes imposed by this chapter is for any reason declared to be unconstitutional, ineffective, inapplicable or void, that then and in such event each and every such sale, admission, use, storage, consumption or rental shall be subject to the tax or taxes imposed by this chapter as fully and to the same extent as if such exemption or attempted exemption had never been included herein, it being declared to be the specific legislative intent that no unconstitutional, invalid, ineffective, inapplicable or void exemption or attempted exemption or exemptions or attempted exemptions induced the passage of this chapter, it being further declared to be the specific legislative intent that without the inclusion herein of any such unconstitutional, invalid, ineffective, inapplicable or void exemption or attempted exemption, exemptions or attempted exemptions, the valid portions of this chapter would have been enacted.

(5) It is the legislative intent that the repeal of any provision heretofore exempting in whole or part any item or transaction from the tax imposed by this chapter shall result in the full imposition of the applicable tax to any such item or transaction.

Section 22. Section 212.61, Florida Statutes, as amended by section 23 of chapter 87-6, Laws of Florida, is amended to read:

212.61 Definitions.—As used in this part, the term:

(1) "Dealer" means any person who holds a valid license as a dealer of special fuel, issued by the department pursuant to s. 206.89, and who:

(a) Imports and sells at wholesale, retail, or otherwise within this state any special fuel;

(b) Imports, or causes to be imported, and withdraws for use within this state by himself or others any special fuel from the tank car, truck, or other original container or package in which it was imported into this state;

(c) Exports special fuel from this state to another state or foreign country;

(d) Manufactures, refines, produces, or compounds any special fuel within this state and sells such fuel at wholesale, retail, or otherwise within this state;

(e) Imports into this state from any other state or foreign country, or receives by any means into this state and keeps in storage in this state for a period of 24 hours or more after the fuel loses interstate character as a shipment in interstate commerce, any special fuel which is intended to be used in this state;

(f) Is primarily liable under the special fuel tax laws of this state for the payment of special fuel taxes;

(g) Purchases or receives in this state special fuel in bulk quantities for resale to service stations, to a user or another dealer, or to the ultimate consumer for nontaxable consumption upon which the tax has not been paid; or

(h) Has both a taxable use and nontaxable consumption of the same special fuel in this state. However, this paragraph does not require that a person be a dealer when his only purchases of special fuel are delivered into reservoirs attached to motor vehicles to fuel internal combustion engines attached to such motor vehicles.

(2) "Refiner," "importer," or "wholesaler" means any person who holds a valid license as a refiner, importer, or wholesaler, as defined in s. 206.01, of motor fuel, issued by the department pursuant to ss. 206.02 and 206.03.

(3) "Retail dealer" means any person who is licensed pursuant to chapter 206 to sell motor fuel or special fuel at retail to the general public at posted retail prices.

The definitions contained in s. 212.02(2), (5), (8), (11), (13), (14), (15), (16), (17), (18), (19), (21), and (22) ~~(3), (7), (12), (15), (17), (18), (19), (20), (21), (23), (25), (27), and (28)~~ apply to the same terms as used in this part.

Section 23. Section 31 of chapter 87-6, Laws of Florida, as amended by section 18 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 24. Section 32 of chapter 87-6, Laws of Florida, as amended by section 19 of chapter 87-101, Laws of Florida, is amended to read:

Section 32. ~~Rule 12A-1.001(6) of the Department of Revenue is hereby repealed. However, The Department of Revenue is hereby authorized to provide by rule for self-accrual of the sales tax under one or more of the following circumstances:~~

~~(1) Where authorized by law for purchasers of services;~~

(1)(2) Where authorized by law for holders of direct pay permits;

(2)(3) Where tangible personal property is subject to tax on a prorated basis, and the proration factor is based upon characteristics of the purchaser;

(3)(4) Where the taxable status of types of tangible personal property will be known only upon use; ~~and~~

(4)(5) For commercial rentals where the purchaser rents from a number of independent property owners who, apart from rentals to the purchaser in question, would otherwise not be obligated to register as dealers.

(5)(6) Where the purchaser makes purchases in excess of \$10 million per year of tangible personal property in any county.

Section 25. Section 37 of chapter 87-6, Laws of Florida, as amended by section 22 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 26. Section 47 of chapter 87-6, Laws of Florida, as amended by section 26 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 27. Subsection (3) of section 57.071, Florida Statutes, as added by section 42 of chapter 87-6, Laws of Florida, is hereby repealed.

Section 28. Paragraph (d) of subsection (3) of section 57.111, Florida Statutes, as amended by section 43 of chapter 87-6, Laws of Florida, is amended to read:

57.111 Civil actions and administrative proceedings initiated by state agencies; attorneys' fees and costs.—

(3) As used in this section:

(d) The term "small business party" means:

1. A sole proprietor of an unincorporated business, including a professional practice, whose principal office is in this state, who is domiciled in this state, and whose business or professional practice has, at the time the action is initiated by a state agency, not more than 25 full-time employees or a net worth of not more than \$2 million, including both personal and business investments; or

2. A partnership or corporation, including a professional practice, which has its principal office in this state and has at the time the action is initiated by a state agency not more than 25 full-time employees or a net worth of not more than \$2 million.

~~3. Either of the above, without regard to the number of its employees or its net worth, in any action under s. 72.011 or administrative proceeding under that section and s. 120.575(1)(b) to contest the legality of any assessment of tax imposed for the sale or use of services as provided in chapter 212, or interest thereon, or penalty therefor.~~

Section 29. Paragraph (b) of subsection (1) of section 120.57, Florida Statutes, as amended by section 44 of chapter 87-6, section 1 of chapter 87-54, and section 5 of chapter 87-385, Laws of Florida, is amended to read:

120.57 Decisions which affect substantial interests.—The provisions of this section apply in all proceedings in which the substantial interests of a party are determined by an agency, unless such proceedings are exempt pursuant to subsection (5). Unless waived by all parties, subsection (1) applies whenever the proceeding involves a disputed issue of material fact. Unless otherwise agreed, subsection (2) applies in all other cases.

(1) FORMAL PROCEEDINGS.—

(b) In any case to which this subsection is applicable, the following procedures apply:

1. A request for a hearing shall be granted or denied within 15 days of receipt.

2. All parties shall be afforded an opportunity for a hearing after reasonable notice of not less than 14 days; however, the 14-day notice requirement may be waived with the consent of all parties. In a preliminary hearing for the revocation of parole, no less than 7 days' notice shall be given. In a hearing involving a student disciplinary suspension or expulsion conducted by an educational unit, the 14-day notice requirement may be waived by the agency head or the hearing officer without the consent of the parties. The notice shall include:

- a. A statement of the time, place, and nature of the hearing.
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- c. A reference to the particular sections of the statutes and rules involved.
- d. Except for any hearing before an unemployment compensation appeals referee, a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a statement of the issues involved, and thereafter, upon timely written application, a more definite and detailed statement shall be furnished not less than 3 days prior to the date set for the hearing.

3. Except for any proceeding conducted as prescribed in s. 120.54(4) or s. 120.56, or s. ~~120.575(1)(b)~~, a petition or request for a hearing under this section shall be filed with the agency. If the agency elects to request a hearing officer from the division, it shall so notify the division within 15 days of receipt of the petition or request. When the Florida Land and Water Adjudicatory Commission receives a notice of appeal pursuant to s. 380.07, the commission shall notify the division within 60 days of receipt of the notice of appeal if the commission elects to request the assignment of a hearing officer. On the request of any agency, the division shall assign a hearing officer with due regard to the expertise required for the particular matter. The referring agency shall take no further action with respect to the formal proceeding, except as a party litigant, as long as the division has jurisdiction over the formal proceeding. Any party

may request the disqualification of the hearing officer by filing an affidavit with the division prior to the taking of evidence at a hearing, stating the grounds with particularity.

4. All parties shall have an opportunity to respond, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of facts and orders, to file exceptions to any order or hearing officer's recommended order, and to be represented by counsel. When appropriate, the general public may be given an opportunity to present oral or written communications. If the agency proposes to consider such material, then all parties shall be given an opportunity to cross-examine or challenge or rebut it.

5. All pleadings, motions, or other papers filed in the proceeding must be signed by a party, the party's attorney, or the party's qualified representative. The signature of a party, a party's attorney, or a party's qualified representative constitutes a certificate that he has read the pleading, motion, or other paper and that, to the best of his knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. If a pleading, motion, or other paper is signed in violation of these requirements, the hearing officer, upon motion or his own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

6. The record in a case governed by this subsection shall consist only of:

- a. All notices, pleadings, motions, and intermediate rulings;
- b. Evidence received or considered;
- c. A statement of matters officially recognized;
- d. Questions and proffers of proof and objections and rulings thereon;
- e. Proposed findings and exceptions;
- f. Any decision, opinion, proposed or recommended order, or report by the officer presiding at the hearing;
- g. All staff memoranda or data submitted to the hearing officer during the hearing or prior to its disposition, after notice of the submission to all parties, except communications by advisory staff as permitted under s. 120.66(1), if such communications are public records;
- h. All matters placed on the record after an ex parte communication pursuant to s. 120.66(2); and
- i. The official transcript.

7. The agency shall accurately and completely preserve all testimony in the proceeding, and, on the request of any party, it shall make a full or partial transcript available at no more than actual cost. In any proceeding before a hearing officer initiated by a consumptive use permit applicant pursuant to subparagraph 13., the applicant shall bear the cost of accurately and completely preserving all testimony and providing full or partial transcripts to the water management district. At the request of any other party, full or partial transcripts shall be provided at no more than cost.

8. Findings of fact shall be based exclusively on the evidence of record and on matters officially recognized.

9. Except as provided in subparagraph 12., the hearing officer shall complete and submit to the agency and all parties a recommended order consisting of his findings of fact, conclusions of law, interpretation of administrative rules, and recommended penalty, if applicable, and any other information required by law or agency rule to be contained in the final order. The agency shall allow each party at least 10 days in which to submit written exceptions to the recommended order.

10. The agency may adopt the recommended order as the final order of the agency. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on

which the findings were based did not comply with essential requirements of law. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase it without a review of the complete record and without stating with particularity its reasons therefor in the order, by citing to the record in justifying the action. When there is an appeal, the court in its discretion may award reasonable attorney's fees and costs to the prevailing party if the court finds that the appeal was frivolous, meritless, or an abuse of the appellate process or that the agency action which precipitated the appeal was a gross abuse of the agency's discretion.

11. If the hearing officer assigned to a hearing becomes unavailable, the division shall assign another hearing officer who shall use any existing record and receive any additional evidence or argument, if any, which the new hearing officer finds necessary.

12. A hearing officer who is a member of an agency head may participate in the formulation of the final order of the agency, provided he has completed all his duties as hearing officer.

13. In any application for a license or merger pursuant to title XXX-VIII which is referred by the agency to the division for hearing pursuant to this section, the hearing officer shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

14. In any application for a consumptive use permit pursuant to part II of chapter 373, the water management district on its own motion may, or, at the request of the applicant for the permit, shall, refer the matter to the division for the appointment of a hearing officer to conduct a hearing under this section.

Section 30. Paragraph (b) of subsection (1) of section 120.575, Florida Statutes, as added by section 45 of chapter 87-6, Laws of Florida, and amended by section 24 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 31. Subsection (5) of section 120.65, Florida Statutes, as added by section 46 of chapter 87-6, Laws of Florida, and amended by section 25 of chapter 87-101, Laws of Florida, is hereby repealed.

Section 32. Any person who, before the effective date of this act, was required by section 212.13, Florida Statutes, as amended by chapters 87-6 and 87-101, Laws of Florida, to keep records relating to the sale or use of services shall continue to keep such records for a period of 3 years, and such records shall be available for inspection in the same manner as records kept pursuant to section 212.13. The failure to keep such records or to allow their inspection as required by this section is subject to the same penalties provided in section 212.13.

Section 33. The repeal by this act of any statute or part of a statute does not affect the prosecution or continued prosecution of any cause of action that accrued prior to the effective date of this act.

Section 34. This act shall take effect July 1, 1988, provided that it is approved by a majority of the electors voting in a referendum election to be held on March 8, 1988, at which election the question of whether this act shall take effect shall be submitted for approval or rejection. The ballot for such election shall be in substantially the following form:

SALES AND USE TAX ON SERVICES

Shall Chapter 87-_____, Laws of Florida, which abolishes the sales and use tax on services, take effect?

YES

 NO

Senator Gordon moved the following amendment which was adopted:

Amendment 22—In title, on page 2, strike lines 13-19, and insert: creating in the Executive Office

Senator Deratany moved the following amendment which was adopted:

Amendment 23—In title, on page 2, line 26, after the semicolon (;) insert: providing for certain positions and funding to be placed in reserve;

Senator Crawford moved the following amendment which was adopted:

Amendment 24—In title, on page 1, line 13, after the semicolon (;) insert: providing criteria for taxing certain aircraft, boats, motor vehicles, or mobile homes in counties levying discretionary sales surtaxes;

Senator Dudley moved the following amendment which was adopted:

Amendment 25—In title, on page 2, line 26, after the semicolon (;) insert: amending ss. 216.011, 216.046, 216.081, 216.167, 216.181, 216.292, 216.301, 235.41, F.S.; defining the term "proviso"; providing for Governor's supplemental recommendations; providing for data on legislative expenses; providing for Governor's recommendations; providing for appropriation committee statements of intent; providing for transferability and transfer of appropriations; providing for legislative capital outlay budget request; repealing s. 216.031(7), F.S., as amended, relating to information required in legislative budget requests; providing severability;

On motion by Senator Deratany, by two-thirds vote CS for CS for SB 5-B as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—22

Barron	Frank	Jennings	Stuart
Childers, W. D.	Girardeau	Johnson	Thomas
Crawford	Grant	Langley	Weinstein
Crenshaw	Hair	Margolis	Woodson
Deratany	Hollingsworth	Myers	
Dudley	Jenne	Scott	

Nays—16

Mr. President	Gordon	Lehtinen	Peterson
Beard	Grizzle	Malchon	Ros-Lehtinen
Brown	Kirkpatrick	McPherson	Thurman
Childers, D.	Kiser	Meek	Weinstock

Explanation of Vote

I voted in favor of CS for CS for SB 5-B because it may well be my last chance to repeal the services tax. I have tried to force consideration of budget cuts, budget process reform and even other sources of funds. I was able to pass an amendment requiring a local referendum on the now 7th cent local sales tax, but it was reconsidered and removed. We, the legislature have failed the people. We were called here to repeal the \$700 million tax on services and have instead passed \$2.5 billion in sales taxes. But the services tax must be repealed. We also included some budget reform which eases the pain somewhat.

Dick Langley, 11th District

CO-INTRODUCERS

Senator Stuart—SB 24-B; Senator Malchon—SB 25-B

RECESS

On motion by Senator Barron, the Senate recessed at 4:57 p.m. to reconvene at 10:00 a.m., Thursday, October 1.