Finance and Tax Committee

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

MEETING PACKET
AGENDA

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

I. Call to Order/Roll Call

II. Chair’s Opening Remarks

III. Consideration on the following bills:
CS/HB 707 Fantasy Contests by Business & Professions Subcommittee, Gaetz, Workman
HB 1297 Discretionary Sales Surtaxes by Cummings, Ray
PCS for HB 1297 Discretionary Sales Surtaxes

IV. Workshop on the following:
House Tax Reduction Package

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

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

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

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

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

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

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

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

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background of fantasy contest industry:

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

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

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

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

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

Current situation:

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

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\(^1\) FANTASY SPORTS TRADE ASSOCIATION, http://fsta.org/about (last visited January 8, 2016).
\(^4\) s. 849.08, F.S.
\(^5\) s. 849.01, F.S.
\(^6\) s. 849.09, F.S.
\(^7\) s. 849.16, F.S.
\(^8\) s. 849.085, F.S.
\(^9\) s. 849.0931, F.S.
\(^10\) s. 849.086, F.S.
\(^11\) s. 849.0935, F.S.
\(^12\) s. 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
\(^13\) s. 546.10, F.S.
In 2013, the Legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prize are prohibited slot machines.\(^\text{14}\)

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

**Lotteries**

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

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

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

**Slot machines**

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

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\(^{15}\) s. 546.10, F.S.

\(^{16}\) Article X, s. 7, Fla. Const. *But see* Article X, s. 15, Fla. Const., authorizing lotteries operated by the state.


\(^{18}\) *Little River Theatre Corp.*, *supra* at 868.

\(^{19}\) s. 849.15, F.S., originally enacted by s. 1, ch. 18143, L.O.F. (1937).

\(^{20}\) See Article X, Section 23, Florida Constitution; ch. 2010-29, L.O.F. and chapter 551, F.S.
Gaming Compact

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

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

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

Pari-mutuel wagering

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

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21 s. 285.710, F.S.
22 2010 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida, p. 37 (April 7, 2010), on file with the Business & Professions Subcommittee.
24 s. 285.710, F.S.
26 Id. at 50.
28 2015 Gaming Compact, p. 44.
divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes."\textsuperscript{29}

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

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

**Fantasy contests in Florida**

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

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

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

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

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

\textsuperscript{29} s. 550.002(22), F.S.
\textsuperscript{30} s. 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.
\textsuperscript{31} See s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.”
\textsuperscript{32} s. 849.25(1)(b), F.S.
\textsuperscript{34} Creash v. State, 131 Fla. 111, 118 (Fla. 1938).
\textsuperscript{36} Id.
players' contributions. It is unknown whether all fantasy contest operators conduct fantasy contests similarly. Numerous types of contests are currently being offered, including, but not limited to, cash games, guaranteed prize pool games, double-up or 50/50 games, and head-to-head games. Most prizes appear to be based on the accumulation of entry fees and contests have been cancelled when the number of required participants has not been met and operators reserve the right to cancel contests at their discretion.\footnote{37}

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

**Fantasy contests in the United States**

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

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

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

Contest operators argue that they are legal under the UIGEA. In Humphrey v. Viacom, Inc., the district court determined that because the entry fee was paid "unconditionally," the owner did not participate, and the prizes were guaranteed and determined in advance, the fantasy contest entry fees were not "wagers" under the act.\footnote{43} However, although the UIGEA exempts fantasy and simulation sports contests from the application of the UIGEA, it does not make such contests legal generally. The UIGEA does not change or preempt any other federal or state law. As expressed in the Rule of Construction in the UIGEA, "no provision of this subchapter shall be construed as altering, limiting, or extending any federal or state law or tribal-state compact prohibiting, permitting, or regulating gambling within the United States."\footnote{44} Therefore, any other state or federal law could apply.
The federal Professional and Amateur Sports Protection Act of 1992 ("PASPA") states that it is unlawful for a governmental entity or person to operate or promote any gambling that is based directly or indirectly on one or more competitive sports games or on the performance of an amateur or professional athlete in a competitive sports game.\(^{45}\) States are prohibited from authorizing or licensing sports betting not already legal as of 1992.\(^{46}\) A professional or amateur sports organization whose competitive game is alleged to be the basis of a violation of PASPA has standing to bring a civil action in federal district court to enjoin a violation. Currently, the NCAA and others are suing the state of New Jersey for attempting to repeal an anti-sports betting statute.\(^{47}\)

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

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

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

\(^{46}\) Nevada, Delaware, Montana, and Oregon allowed sports betting in 1992 and met the criteria under the law.
\(^{47}\) NCAA v. Governor of the State of N.J., 730 F.3d 208 (3d Cir. Sept. 17, 2013). The Court determined that New Jersey's law violated PASPA because it authorizes sports gambling, but has since granted a re-hearing of the case which vacates the original decision.
\(^{49}\) See Marissa Lankester, Time to Fight against Sports Gambling, Star Ledger (Newark, NJ), May 29, 2014, at 17.
\(^{50}\) Edelman at 34.
\(^{54}\) Iowa, Louisiana, and Montana brought forth unsuccessful legislation to clarify and regulate fantasy contests in 2015. Washington held a committee hearing on a bill to be introduced in the 2016 session.
\(^{56}\) HB 4323 (IL 2016).
Effect of the bill:

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

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

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

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

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

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

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

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

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

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

B. SECTION DIRECTORY:

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

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
   DACS assumes that there will be two registrants based on the number of registrations in other states that have enacted similar legislation. DACS estimates $1,000,000 in non-recurring revenues for 2016-17 and $200,000 in annual recurring revenues for 2017-18 and 2018-19.\(^{58}\)

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
   None.

2. Expenditures:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

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

\(^{58}\) Department of Agriculture and Consumer Services, Agency Analysis of 2015 Senate Bill 832, p. 3 (Nov. 25, 2015).

\(^{59}\) Id.

\(^{60}\) s. 551.118, F.S.
The bill does not require the fantasy contest operator to pay tax on revenues collected. Currently, amusement games and machines are taxed at a rate of 4%, slot machines at 35%, cardrooms at 10%, and pari-mutuel wagering at 1.5%. In addition, these businesses may pay licensing fees. Wagers placed on sports events or contests, in a wagering pool on a sports event or contest, or in a lottery conducted for profit are taxed by the Internal Revenue Service at a rate of 0.25% for wagers authorized under the law of the state in which the wager was accepted and a rate of 2% for wagers not authorized under the law of the state in which the wager was accepted. It is unknown whether existing contest operators are currently paying the excise tax for wagers to the Internal Revenue Service.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   Indeterminate.

B. RULE-MAKING AUTHORITY:

   DACS is given rulemaking authority under the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   DACS recommendations

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

   General comments

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

   61 26 U.S.C § 4401.
   63 HB 1197 (PA 2015).
   64 Department of Agriculture and Consumer Services, Agency Analysis of 2015 Senate Bill 832, p. 2 (Nov. 25, 2015).
   65 See s. 496.419(5) (solicitation of contributions), s. 559.921(4) (motor vehicle repair), s. 507.09 (intrastate movers), s. 501.612(2) (telemarketing), and s. 559.9355 (sellers of travel).
Other consumer protection concerns have been raised around the country. Massachusetts has proposed rules to provide consumer protection including limiting each player to a deposit of $1000 per month, requiring prominent disclaimers, requiring advertising indicating where problem participants can get help, prohibiting fantasy contests based on the performance of high school and college athletes, limiting certain games to beginner participants, and requiring participants from the state to be at least 21 years old.

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

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

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

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

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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

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

66 Some have argued that professional fantasy contest participants have an unfair advantage over regular participants. Statistics show that 91% of contest prizes were won by 1.3% of the participants. See McKinsey & Company, For daily fantasy-sports operators, the curse of too much skill, http://www.mckinsey.com/insights/media_entertainment/for_daily_fantasy_sports_operators_the_curse_of_too much_skill (last visited Jan. 16, 2016).


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

The staff analysis is drafted to reflect the committee substitute.
A bill to be entitled
An act relating to fantasy contests; creating s.
501.935, F.S.; providing definitions; providing
requirements for the operation of fantasy contests;
directing the Department of Agriculture and Consumer
Services to contract with a private provider for
services related to the prevention of compulsive or
addictive behavior; providing penalties; specifying
that chapter 849, F.S., relating to gambling offenses,
does not apply to fantasy contests; specifying
conditions under which a person or entity offering
fantasy contests is not considered a contest operator
and is exempt from certain regulation; authorizing the
department to adopt rules; providing an effective
date.

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

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

501.935 Fantasy contests.—
(1) DEFINITIONS.—As used in this section, the term:
(a) "Confidential information" means information related
to the playing of fantasy contests by contest participants which
is obtained solely as a result of a person's employment with or
work as an agent or employee of a contest operator.
(b) "Contest operator" means a person or entity that offers fantasy contests for a cash prize to 750 or more members of the public per year.

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

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

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

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

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

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

4. Winning outcomes are not based on the score, point spread, or performance of a single actual team or combination of such teams or on any single performance of a single human athlete or player in a single sporting event or game.
CONSUMER PROTECTION.—A contest operator offering fantasy contests in the state must:

(a) Register with the department. The initial registration fee is $500,000 and the annual renewal fee is $100,000.

(b) Implement procedures that are intended to:

1. Prevent an employee or agent of the contest operator, a relative of the contest operator who resides in the same household as the contest operator, or a relative of such employee or agent who resides in the same household as the employee or agent from competing in a fantasy contest in which the cash prize is more than $5.

2. Prohibit the contest operator from being a contest participant in a fantasy contest offered by the contest operator.

3. Prevent an employee or agent of the contest operator from sharing confidential information with third parties that could affect fantasy contests until the information is made publicly available.

4. Verify that a contest participant is 18 years of age or older.

5. Restrict a person who is a player, game official, or other participant in an actual sporting event or game from participating in a fantasy contest that is determined in whole or in part on his or her performance, the performance of his or her actual team, or the accumulated statistical results of the sporting event or game in which he or she is a player, game.
officer, or other participant.

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

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

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

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

(d) Offer training to employees and agents of the contest operator on responsible play and practices, and work with the compulsive or addictive behavior prevention program under subsection (3) to recognize problem situations, implement responsible play and practices, and implement protections for underage participants.
(3) COMPULSIVE OR ADDICTIVE BEHAVIOR PREVENTION PROGRAM.—

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

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

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

(5) EXEMPTIONS.—

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

(b) A person or entity that offers fantasy contests to fewer than 750 members of the public per year is not considered a contest operator and is exempt from regulation under
subsection (2) and chapter 849.

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

Section 2. This act shall take effect July 1, 2016.
The bill provides that a county, upon approval by a majority vote of the electors of the county, may levy a pension liability discretionary sales surtax to fund underfunded defined benefit plans or systems at a rate not to exceed 0.5 percent. A county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The surtax may be imposed only if:

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

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

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

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local Discretionary Sales Surtaxes

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

The eight discretionary sales surtaxes and their maximum rates are:

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

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

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

Local Government Infrastructure Surtax

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

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\(^1\) The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.


\(^4\) Section 212.055(2)(a)1., F.S.

\(^5\) However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent.
distributed to the county and the municipalities within the county according to an interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population.  

Proceeds and accrued interest may be expended for any of the following purposes:  
- By school districts to finance, plan, and construct infrastructure;  
- To acquire land for public recreation, conservation, or protection of natural resources;  
- To provide loans, grants, or rebates to commercial or residential property owners who make energy efficiency improvements, provided a local government ordinance authorizing such use is approved by referendum; or  
- To finance the closure of county or municipal solid waste landfills.  

Eighteen counties currently levy the surtax. Two counties levy the surtax at the rate of 0.5 percent: Duval and Hillsborough. Sixteen counties levy the surtax at the rate of 1 percent: Charlotte, Clay, Escambia, Glades, Highlands, Indian River, Lake, Leon, Monroe, Osceola, Pasco, Pinellas, Putnam, Sarasota, Seminole, and Wakulla. During the 2016-17 fiscal year, these counties are expected to receive combined county revenues of $748,024,282.  

Counties are not allowed to levy a combination of the Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax in excess of a combined rate of 1 percent.  

Actuarial Soundness of Retirement Systems  
Part VII of Chapter 112 of the Florida Statutes governs the actuarial soundness of retirement systems. The intent of this part is to ensure that governmental retirement systems or plans are "managed, administered, operated, and funded in such a manner as to maximize the protection of public employee benefits." The part establishes minimum standards for the operation and funding of public employee retirement systems and plans. The provisions of part VII are applicable to "any and all units, agencies, branches, departments, boards, and institutions of state, county, special district, and municipal governments which participate in, operate, or administer a retirement system or plan for public employees, funded in whole or in part by public funds." Each retirement system or plan under part VII must have regularly scheduled actuarial reports prepared and certified by an enrolled actuary.  

The actuarial report must include, but is not limited to, the following:  
- Adequacy of employer and employee contribution rates in meeting levels of employee benefits provided in the system and changes, if any, needed in such rates to achieve or preserve a level of funding deemed adequate to enable payment through the indefinite future of the benefit amounts prescribed by the system, which shall include a valuation of present assets, based on statement value, and prospective assets and liabilities of the system and the extent of unfunded accrued liabilities, if any.  
- A plan to amortize any unfunded liability pursuant to s. 112.64, F.S., and a description of actions taken to reduce the unfunded liability.  
- A description and explanation of actuarial assumptions.  
- A schedule illustrating the amortization of unfunded liabilities, if any.  

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6 Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.  
7 Section 212.055(2)(d), F.S.  
8 Infrastructure is defined in Section 212.055(2)(d)1.a-e, F.S.  
10 Section 112.61, F.S.  
11 Section 112.61, F.S.  
12 Section 112.62, F.S.  
13 Section 112.63(1), F.S.  
14 Section 112.63(1), F.S.
• A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.
• The mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.
• A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of the act.

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

**Effect of the Proposed Changes**

**Local Discretionary Sales Surtaxes**

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

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

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

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\(^{15}\) Section 112.62, F.S.
\(^{16}\) Section 112.63, F.S.
\(^{17}\) Section 112.64, F.S.
The bill provides that pursuant to s. 212.054(4), F.S., the proceeds of the surtax collected under the newly created s. 212.055(9), F.S., less an administrative fee that may be retained by the DOR, shall be distributed by the DOR to the local government. The local government shall distribute the proceeds it receives from the DOR, less an administrative fee not to exceed 2 percent of the surtax collected, to an eligible defined benefit retirement plan or system, except the Florida Retirement System. The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The pension liability surtax proceeds may only be used to reduce or amortize the unfunded actuarial liability of the defined benefit retirement plan or system. A defined benefit retirement plan or system may no longer receive the surtax proceeds once the plan or system reaches or exceeds 100 percent of actuarial funding. If the local government makes advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system which are secured by future revenues associated with the surtax, the local government may fully reimburse itself from the surtax proceeds for such payments.

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

**Actuarial Soundness of Retirement Systems**

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

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

**B. SECTION DIRECTORY:**

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

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

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

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

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

1. Revenues:

   None.
2. Expenditures:
   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

2. Expenditures:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
   None.

D. FISCAL COMMENTS:
   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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

2. Other:
   None.

B. RULE-MAKING AUTHORITY:
   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:
   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES
A bill to be entitled
An act relating to discretionary sales surtaxes;
amending s. 112.64, F.S.; authorizing a county to
apply proceeds of a pension liability surtax toward
reducing the unfunded liability of a defined benefit
retirement plan or system; specifying the method of
determining the amortization schedule if a surtax is
approved; amending s. 212.055, F.S.; authorizing a
county to levy a pension liability surtax by ordinance
if certain conditions are met; prescribing the form of
the ballot statement if the ordinance is conditioned
on a referendum; requiring the Department of Revenue
and participating local governments to distribute the
surtax proceeds, less administrative fees; requiring
the ordinance to specify the method and frequency of
distributing proceeds; prohibiting a defined benefit
retirement plan or system from receiving surtax
proceeds after a certain level of actuarial funding is
reached; requiring that surtax proceeds be used to
reduce or amortize the unfunded liability of the
system or plan; specifying conditions under which the
surtax terminates; providing an effective date.

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

Section 1. Subsection (6) of section 112.64, Florida
Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

112.64 Administration of funds; amortization of unfunded liability.—

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

(b) The payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.
Section 2. Subsection (9) is added to section 212.055, Florida Statutes, 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.

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

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

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

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

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

(c) Pursuant to s. 212.054(4), the proceeds of the surtax collected under this subsection, less an administrative fee that may be retained by the department, shall be distributed by the department to the local government. The local government shall distribute the proceeds it receives from the department, less an administrative fee not to exceed 2 percent of the surtax collected, to an eligible defined benefit retirement plan or
system, except the Florida Retirement System. The ordinance providing for the imposition of the pension liability surtax must specify the method of determining the percentage of the proceeds, and the frequency of such payments, distributed to each eligible defined benefit retirement plan or system. The pension liability surtax proceeds may be used only to reduce or amortize the unfunded actuarial liability of the defined benefit retirement plan or system. A defined benefit retirement plan or system may no longer receive the surtax proceeds once the plan or system reaches or exceeds 100 percent of actuarial funding. If the local government makes advanced payments toward the unfunded liability of an underfunded defined benefit retirement plan or system which are secured by future revenues associated with the surtax, the local government may fully reimburse itself from the surtax proceeds for such payments. (d) Notwithstanding s. 212.054(5), a pension liability surtax imposed pursuant to this subsection shall terminate for any defined benefit retirement plan or system when the actuarial funding level of that plan or system reaches or exceeds 100 percent.

Section 3. This act shall take effect July 1, 2016.
The bill provides that a county, upon approval by a majority vote of the electors of the county, may levy a pension liability discretionary sales surtax to fund underfunded defined benefit plans or systems at a rate not to exceed 0.5 percent. A county may not impose a pension liability surtax unless the underfunded defined benefit retirement plan or system is below 80 percent of actuarial funding at the time the ordinance or referendum is passed. The surtax may be imposed only if:

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

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

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

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local Discretionary Sales Surtaxes

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

The eight discretionary sales surtaxes and their maximum rates are:

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

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

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

Local Government Infrastructure Surtax

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

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


4 Section 212.055(2)(a)1., F.S.

5 However, the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax are limited to a maximum combined rate of 1 percent.
between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population.\textsuperscript{6}

Proceeds and accrued interest may be expended for any of the following purposes:\textsuperscript{7}

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

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

**Actuarial Soundness of Retirement Systems**

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

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

\textsuperscript{6} Section 212.055(2)(c)1., F.S. The agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities.

\textsuperscript{7} Section 212.055(2)(d), F.S.

\textsuperscript{8} Infrastructure is defined in Section 212.055(2)(d)1.a-e, F.S.


\textsuperscript{10} Section 112.61, F.S.

\textsuperscript{11} Section 112.61, F.S.

\textsuperscript{12} Section 112.62, F.S.

\textsuperscript{13} Section 112.63(1), F.S.

\textsuperscript{14} Section 112.63(1), F.S.
• A comparative review illustrating the actual salary increases granted and the rate of investment return realized over the 3-year period preceding the actuarial report with the assumptions used in both the preceding and current actuarial reports.

• The mortality tables used in either of the two most recently published actuarial valuation reports of the Florida Retirement System, including the projection scale for mortality improvement. Appropriate risk and collar adjustments must be made based on plan demographics. The tables must be used for assumptions for preretirement and postretirement mortality.

• A statement by the enrolled actuary that the report is complete and accurate and that in his or her opinion the techniques and assumptions used are reasonable and meet the requirements and intent of the act.

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

**Effect of the Proposed Changes**

**Local Discretionary Sales Surtaxes**

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

• The employees, including police officers and firefighters, who enter employment on or after the date that the local government meets the requirements for enacting the pension liability surtax, are prohibited from enrolling in a defined benefit retirement plan or system that will receive the surtax proceeds.

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

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

• The county currently levies a local government infrastructure surtax pursuant to s. 212.055(2), F.S., which is scheduled to terminate and is not subject to renewal.

• The pension liability surtax does not take effect until the local government infrastructure surtax is terminated.

\(^{15}\) Section 112.62, F.S.

\(^{16}\) Section 112.63, F.S.

\(^{17}\) Section 112.64, F.S.
The bill provides that a referendum to adopt a pension liability surtax must meet the requirements of s. 101.161, F.S., and must include a brief and general description of the purposes for which the surtax proceeds will be used. Section 101.161, F.S., requires the public measure to include a ballot summary that is printed in clear and unambiguous language on the ballot. The ballot summary must be an explanatory statement of the chief purpose of the measure and may not exceed 75 words in length.

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

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

**Actuarial Soundness of Retirement Systems**

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

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

**B. SECTION DIRECTORY:**

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

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

**Section 3.** The bill has an effective date of July 1, 2016.
II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:
   1. Revenues:
      None.
   2. Expenditures:
      None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:
   1. Revenues:
      The Revenue Estimating Conference has not estimated the potential revenue impact of the bill on local government. However, staff estimates the revenue impact of the bill is positive indeterminate because it requires future county governing board action and voter approval.
   2. Expenditures:
      None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
   None.

D. FISCAL COMMENTS:
   None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:
   1. Applicability of Municipality/County Mandates Provision:
      Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.
   2. Other:
      None.

B. RULE-MAKING AUTHORITY:
   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:
   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES
A bill to be entitled
An act relating to discretionary sales surtaxes;
amending s. 112.64, F.S.; authorizing a county to
apply proceeds of a pension liability surtax toward
reducing the unfunded liability of a defined benefit
retirement plan or system; specifying the method of
determining the amortization schedule if a surtax is
approved; amending s. 212.055, F.S.; authorizing a
county to levy a pension liability surtax by ordinance
if certain conditions are met; prescribing the form of
the ballot statement if the ordinance is conditioned
on a referendum; requiring the Department of Revenue
and participating local governments to distribute the
surtax proceeds, less administrative fees; requiring
the ordinance to specify the method and frequency of
distributing proceeds; prohibiting a defined benefit
retirement plan or system from receiving surtax
proceeds after a certain level of actuarial funding is
reached; requiring that surtax proceeds be used to
reduce or amortize the unfunded liability of the
system or plan; specifying conditions under which the
surtax terminates; providing an effective date.

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

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

CODING: Words stricken are deletions; words underlined are additions.
Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

112.64 Administration of funds; amortization of unfunded liability.—

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

(b) The payroll of all employees in classifications covered by a closed retirement plan or system that receives funds from the pension liability surtax must be included in determining the unfunded liability amortization schedule for the closed plan, regardless of the plan in which the employees currently participate, and the payroll growth assumption must be adjusted to reflect the payroll of those employees when calculating the amortization of the unfunded liability.
Section 2. Subsection (9) is added to section 212.055, Florida Statutes, 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.

(9) PENSION LIABILITY SURTAX.—

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

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

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

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

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

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

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

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

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

Section 3. This act shall take effect July 1, 2016.
HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

REFERENCE ACTION ANALYST STAFF DIRECTOR or BUDGET/POLICY CHIEF

Orig. Comm.: Finance & Tax Committee Aldridge Langston

SUMMARY ANALYSIS

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

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

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

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

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

The total of -$989.2 million in tax reductions proposed by the bill are the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the pure nonrecurring impacts, reflecting temporary tax reductions. The bill also includes nonrecurring General Revenue appropriations of $887,199. Also see FISCAL COMMENTS section.

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

A. EFFECT OF PROPOSED CHANGES:

Sales Tax

Florida's sales and use tax is a 6 percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, commercial real estate rentals, and motor vehicles, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (77.0 percent for FY 2015-2016) and is administered by the Department of Revenue (DOR) under chapter 212, F.S.

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

Current Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property. Sales tax is due at the rate of 6 percent on the total rent paid for the right to use or occupy commercial real property and county sales surtax can also be levied on total rent. If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

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

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

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the business rent tax in 2014.

Proposed Changes

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

Current Situation

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

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

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

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

The exemption expires on April 30, 2017.

Proposed Changes

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

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

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5 Ch. 2013-39, Laws of Fla
6 Section 212.08(7)(kkk), F.S.
8 NAICS codes 31-33 pertain to manufacturing businesses. A more detailed description of the specific types of businesses included in NAICS codes 31-33 is available at: http://www.naics.com/six-digit-naics/?code=3133; (last visited January 21, 2016).
9 NAICS code 423930 pertains to recyclable material merchant wholesalers. This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. A more detailed description of the specific types of businesses included in NAICS code 423930 is available at: http://www.naics.com/naics-code-description/?code=423930 (last visited January 21, 2016).
10 NAICS code 115114 pertains to establishments primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing. See: http://www.naics.com/naics-code-description/?code=115114.
personal property or other property that has a depreciable life of 3 years or more and that is used primarily for postharvest activities, and includes repair parts, materials and labor.

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

Veterans’ Organizations

Current Situation

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

Proposed Changes

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

Datacenters

Current Situation

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

Proposed Changes

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

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

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11 Section 212.08(7)(n)1., F.S.
12 Section 212.08(7)(n)2., F.S.
Sales Tax on Admissions

Current Situation

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

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

Several exceptions and exemptions exist, such as:

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

Generally speaking, sales of tangible personal property made for resale are exempt from sales tax.\textsuperscript{13} This treatment does not apply to sales of taxable admissions.\textsuperscript{14}

Proposed Changes

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

College or University Textbooks Sales Tax Exemption

Current Situation

In 2015, the Legislature created a one-year sales tax exemption\textsuperscript{15} for textbooks, and printed and digital materials required or recommended for a course offered by a public postsecondary educational

\textsuperscript{13} See the definition of “retail sale” in s. 212.02(14), F.S. Also see s. 212.07, F.S.
\textsuperscript{14} Section 212.04(1)(c), F.S.
\textsuperscript{15} Section 29, ch. 2015-221, L.O.F.
institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

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

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

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

**Proposed Changes**

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

**Book Fairs Sales Tax Exemption**

**Current Situation**

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

**Proposed Changes**

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

**Aircraft Registered in a Foreign Jurisdiction**

**Current Situation**

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

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

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

**Proposed Changes**

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

- Application for the aircraft’s registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days from the date of purchase,
The purchaser removes the aircraft from Florida to a foreign jurisdiction within 10 days from the date the aircraft is registered by the applicable foreign airworthiness authority, and

The aircraft is operated in Florida solely for the removal from the state to a foreign jurisdiction

Sales Tax Holidays

Current Situation

Since 1998, the Legislature has enacted 19 temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays--Florida has enacted a “back to school” sales tax holiday 14 times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently $100. Books valued at $50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from $10 to $15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of $750 or less were exempted. In 2014, the first $750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back to school sales tax holidays in Florida:

<table>
<thead>
<tr>
<th>Dates</th>
<th>Length</th>
<th>TAX EXEMPTION THRESHOLDS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Clothing/ Footwear</td>
</tr>
<tr>
<td>August 15-21, 1998</td>
<td>7 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>July 31-August 8, 1999</td>
<td>9 days</td>
<td>$100 or less</td>
</tr>
<tr>
<td>July 29-August 6, 2000</td>
<td>9 days</td>
<td>$100 or less</td>
</tr>
<tr>
<td>July 28-August 5, 2001</td>
<td>9 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>July 24-August 1, 2004</td>
<td>9 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>July 23-31, 2005</td>
<td>9 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>July 22-30, 2006</td>
<td>9 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>August 4-13, 2007</td>
<td>10 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>August 13-15, 2010</td>
<td>3 days</td>
<td>$50 or less</td>
</tr>
<tr>
<td>August 12-14, 2011</td>
<td>3 days</td>
<td>$75 or less</td>
</tr>
<tr>
<td>August 3-5, 2012</td>
<td>3 days</td>
<td>$75 or less</td>
</tr>
<tr>
<td>August 2-4, 2013</td>
<td>3 days</td>
<td>$75 or less</td>
</tr>
<tr>
<td>August 1-3, 2014</td>
<td>3 days</td>
<td>$100 or less</td>
</tr>
<tr>
<td>August 7-16, 2015</td>
<td>10 days</td>
<td>$100 or less</td>
</tr>
</tbody>
</table>

Small Business Saturday--In 2010, American Express instituted a “Small Business Saturday” incentive for their cardholders who shopped at small, independent business on the Saturday after “Black
Friday.” It is estimated that consumers spent $5.5 billion at small, independent businesses on Small Business Saturday in 2012, with pre-holiday surveys estimated at $5.3 billion.

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

Proposed Changes

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

Back-to-School Holiday—The bill provides for a ten-day sales tax holiday from August 5, 2016, through August 14, 2016. During the holiday, the following items that cost $100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

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

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

Also exempt will be the first $750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

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

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

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

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

The “back to school,” “hunting and fishing” and “technology” sales tax holidays do not apply to the following sales:

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

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

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

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

Rural Areas of Opportunity

Current Situation

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

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

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

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

22 Section 288.0656(6)(a), F.S.
23 Section 288.0656(2)(d), F.S.
24 Section 288.0656(7)(1), F.S.
• South Central RAO – DeSoto, Glades, Hardee, Hendry, Highlands and Okeechobee Counties, the Cities of Pahokee, Belle Glade and South Bay in Palm Beach County, and a portion of the Immokalee area in Collier County.


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

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

Proposed Changes

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

Corporate Income Tax

Florida levies corporate income tax on corporations of 5.5 percent for income earned in Florida.25 The calculation of Florida corporate income tax starts with a corporation’s federal taxable income.26 After certain addbacks and subtractions to federal taxable income required by chapter 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.27 The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation’s business activities attributable to Florida.28 Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first $50,000 of net income is exempt.29

Voluntary Cleanup Tax Credit Program - Brownfields Tax Credit

Current Situation

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

• A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program (DSCP),30

• A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or

25 Section 220.11, F.S.
26 Section 220.12, F.S.
27 Section 220.15, F.S.
28 Section 220.15, F.S.
29 Section 220.14, F.S.
30 Section 376.30781, F.S.
• A brownfield site in a designated brownfield area.\^31

Eligible tax credit applicants may receive up to $500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, the VCTC statute also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a $500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to $500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to $500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is $5 million annually. In the event that approved tax credit applications exceed the $5 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year’s authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

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

**Proposed Changes**

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

**Florida Renewable Energy Production Credit**

**Current Situation**

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

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

The combined total amount of tax credits which may be granted for all taxpayers was limited to $5 million in state fiscal year 2012-13 and $10 million per state fiscal year in state fiscal years 2013-14.
through 2016-17. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192 but unallocated due to a lack of authorized funds.

Credits may not be granted beyond state fiscal year 2016-17.

Proposed Changes

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

Florida Renewable Energy Technology Credit

Current Situation

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

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

In effect, the program will expire after fiscal year 2016-17.

Proposed Changes

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

Research and Development Credits

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

38 Section 220.193(3)(g), F.S.
39 Renewable energy technologies investment tax credit.
40 Section 220.193(3)(g), F.S.
41 Ch. 2006-230, Laws of Fla. (SB 888)
42 Ch. 2012-117, Laws of Fla. (HB 7117)
43 Renewable energy production tax credit.
44 Section 220.192(1)(c), and (2), F.S.
period of economic recession.\textsuperscript{45} For the 2012 federal tax year, 15,873 companies claimed $10.8 billion in R&D tax credits, including $168.9 million claimed via "pass-through" entities.\textsuperscript{46} At $6.6 billion, manufacturing companies claimed the largest portion of research tax credits.\textsuperscript{47}

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

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

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

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

\textit{Federal Tax Code Conformance}--"Piggyback"

\textit{Current Situation}

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

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


\textsuperscript{47}Ibid.


\textsuperscript{49}Section 220.11(2), F.S.

\textsuperscript{50}Section 220.12, F.S.
Tax Calculation

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

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

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

Corporate Income Tax Returns

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

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

55 The bonus depreciation amount begins in 2019 for certain longer-lived and transportation property.
Under Florida law, the due dates to file several tax returns related to corporate income tax are tied to the federal law. Florida corporations must file income tax returns on or before the 4th month following the close of the tax year or the 15th day following the federal due date (on or before the 5th month for partnership informational returns). 57

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

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

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

Proposed Changes

Tax Calculation

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

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

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57 Section 220.222(1), F.S.
58 If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return pursuant to s. 220.32, F.S.
59 Section 220.222(2), F.S.
60 Section 220.32, F.S.
61 Sections 220.24 and 220.241, F.S.
62 Id.
estimated impact of Florida accepting all of these changes in its tax code for fiscal years 2015-16 and 2016-17 combined is -$396.6 million.64

Corporate Income Tax Returns

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

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

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

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

<table>
<thead>
<tr>
<th>Tax Year End</th>
<th>Current Law (extension due date in parentheses)</th>
<th>Upon Bill Becoming Law (tax year 2016-2025) (extension due date in parentheses)</th>
<th>Upon Bill Becoming Law (tax years 2026-beyond) (extension due date in parentheses)</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 31</td>
<td>May 1 (November 1)</td>
<td>June 1 (November 1)</td>
<td>June 1 (November 1)</td>
</tr>
<tr>
<td>February 28</td>
<td>June 1 (December 1)</td>
<td>July 1 (December 1)</td>
<td>July 1 (December 1)</td>
</tr>
<tr>
<td>March 31</td>
<td>July 1 (January 1)</td>
<td>August 1 (January 1)</td>
<td>August 1 (January 1)</td>
</tr>
<tr>
<td>April 30</td>
<td>August 1 (February 1)</td>
<td>September 1 (February 1)</td>
<td>September 1 (February 1)</td>
</tr>
<tr>
<td>May 31</td>
<td>September 1 (March 1)</td>
<td>October 1 (March 1)</td>
<td>October 1 (March 1)</td>
</tr>
<tr>
<td>June 30</td>
<td>October 1 (April 1)</td>
<td>October 1 (May 1)</td>
<td>October 1 (April 1)</td>
</tr>
<tr>
<td>July 31</td>
<td>November 1 (May 1)</td>
<td>December 1 (May 1)</td>
<td>December 1 (May 1)</td>
</tr>
<tr>
<td>August 31</td>
<td>December 1 (June 1)</td>
<td>January 1 (June 1)</td>
<td>January 1 (June 1)</td>
</tr>
<tr>
<td>September 30</td>
<td>January 1 (July 1)</td>
<td>February 1 (July 1)</td>
<td>February 1 (July 1)</td>
</tr>
<tr>
<td>October 31</td>
<td>February 1 (August 1)</td>
<td>March 1 (August 1)</td>
<td>March 1 (August 1)</td>
</tr>
<tr>
<td>November 30</td>
<td>March 1 (September 1)</td>
<td>April 1 (September 1)</td>
<td>April 1 (September 1)</td>
</tr>
<tr>
<td>December 31</td>
<td>April 1 (October 1)</td>
<td>May 1 (October 1)</td>
<td>May 1 (October 1)</td>
</tr>
</tbody>
</table>

Documentary Stamp Tax

Current Situation

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

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

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

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

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65 3.3 percent of return filers in Florida use a December 31 year-end, which represents 3.6 percent of the corporate income tax liability.
66 84 percent of return filers in Florida use a December 31 year-end, which represents 74.5 percent of the corporate income tax liability.
67 Section 159.604, F.S.
68 Section 159.605, F.S.
69 Section 159.608, F.S.
Proposed Changes

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

Aviation Fuel Taxes

Current Situation

Aviation Fuel, Kerosene, and Aviation Gasoline Taxes

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use and a tax of 6.9 cents on each gallon of kerosene and aviation gasoline sold or brought into the state for use in an aircraft.70

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

- Aviation fuel means "fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications."71
- Kerosene means "all aviation turbine fuels and any distillate known as diesel #1, K-1, or any product suitable for use as a substitute for kerosene not taxed as a diesel fuel under Ch. 206, Part II, F.S. Any kerosene meeting the definition of diesel under s. 206.86(1) is taxed under Ch. 206, Part II, F.S."72 When kerosene is used for aviation fuel, it is awarded the same tax treatment as aviation fuel.73
- Aviation gasoline means "any motor fuel blended or produced specifically for use in aircraft which has been dyed in accordance with federal regulations. Aviation gasoline does not include any such fuel used in any manner other than being placed in the storage tank of an aircraft."74

Florida Aviation Fuel Tax Exemption

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

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

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

70 See section 206.9825, F.S. (The administration of kerosene taxes and aviation gasoline taxes differ from aviation fuel. 206.9825(2)-(3), F.S.)
71 Section 206.9815, F.S.
72 Id.
73 See s. 206.9825, F.S.
74 See s. 206.9825, F.S.
75 Id.
76 Id.
carrier's Florida workforce fell below the additional 250, the exemption granted would cease to apply as long as the number of employees remains below the additional 250.\textsuperscript{77}

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

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

The following chart illustrates data relating to the aviation fuel tax from June 2013, through July 2014.\textsuperscript{83}

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

\textsuperscript{77} Id.
\textsuperscript{78} Id.
\textsuperscript{79} Id.
\textsuperscript{80} See s. 206.9825(1)(a), F.S.
\textsuperscript{81} Section 21, Ch. 96-323, Laws of Fla
\textsuperscript{82} See s. 5, Ch. 2002-2, Laws of Fla
\textsuperscript{83} The Department of Revenue provided the data in this chart to the Economic Development and Tourism Subcommittee via e-mail on November 24, 2015 (which e-mail is on file with staff). The data does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. Further, all returns have not been processed through June 2015, and sales reported on unworked returns are not included. Lastly, tax due does not include reduction due to collection allowance.
<table>
<thead>
<tr>
<th>AirTran Airways, Inc.</th>
<th>1,398,434</th>
<th>0.16%</th>
<th>$96,491.95</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miami Air</td>
<td>1,038,493</td>
<td>0.12%</td>
<td>$71,656.02</td>
</tr>
<tr>
<td>United Airlines, Inc.</td>
<td>343,751</td>
<td>0.04%</td>
<td>$23,718.82</td>
</tr>
<tr>
<td>Atlas Air, Inc.</td>
<td>298,737</td>
<td>0.03%</td>
<td>$20,612.85</td>
</tr>
<tr>
<td>ABX Air, Inc.</td>
<td>69,280</td>
<td>0.01%</td>
<td>$4,780.32</td>
</tr>
<tr>
<td>TEM Enterprises, Inc.</td>
<td>57,719</td>
<td>0.01%</td>
<td>$3,982.61</td>
</tr>
<tr>
<td>AmeriJet</td>
<td>53,518</td>
<td>0.01%</td>
<td>$3,692.74</td>
</tr>
<tr>
<td>Presidential</td>
<td>14,277</td>
<td>0.00%</td>
<td>$985.11</td>
</tr>
<tr>
<td>Reva, Inc.</td>
<td>10,337</td>
<td>0.00%</td>
<td>$713.25</td>
</tr>
<tr>
<td>Professional</td>
<td>5,018</td>
<td>0.00%</td>
<td>$346.24</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>893,708,166</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>$61,665,863.45</strong></td>
</tr>
</tbody>
</table>

**Proposed Changes**

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

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

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

**Alcohol and Tobacco Related Taxes and Fees**

**Taxation of Wine and Cider**

**Current Situation**

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

The tax rates on wines are as follows:

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

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

Cruise Lines

Current Situation

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

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

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

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

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

Proposed Changes

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

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

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

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

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

Current Situation

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

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

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

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

Proposed Changes

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

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

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

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

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

Property Taxation in Florida

Local governments, including counties, school districts, and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.\(^\text{85}\) Ad valorem taxes are

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\(^{84}\) Micjo, Inc. v. Dep't of Bus. & Prof'l Regulation, Div. of Alcoholic Beverages & Tobacco, 78 So. 3d 124 (Fla. Dist. Ct. App. 2012)

\(^{85}\) Fla. Const. art VII, s. 9.
collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

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

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

Disabled Veteran Exemption Transfer

Current Situation

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

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

Article VII, section 3(b) of the Florida Constitution provides for exemption from property taxes for persons who are totally and permanently disabled. The Legislature implemented this provision through various property tax exemptions in chapter 196, Florida Statutes, including s. 196.081(1)-(3), F.S.

These subsections provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability.
disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died. 95

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

**Proposed Changes**

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

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

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

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

**Exemptions for Surviving Spouses of Veterans**

**Current Situation**

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

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

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

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95 Section 196.081(1), F.S.
96 Section 196.011(1)(a), F.S.; see also s. 196.031(1)(a), F.S.
97 Section 196.081(1), F.S.
98 Section 196.081(2) and (3), F.S.
99 Section 196.081(3), F.S.
**Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses**

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

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

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

**Portability**

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

**Proposed Changes**

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

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

Current Situation

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

Proposed Changes

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

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

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

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

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103 Fla. Const., art. VII, s. 4.
105 Fla. Const., art. VII, s. 3.
107 The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. See 26 U.S.C. § 501(c)(3) ("charitable purposes" include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).
108 s. 196.195, F.S.,
109 s. 196.195(3), F.S.
110 s. 196.196(1)(a)-(b), F.S.
recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

**Economic Development Exemption**

**Current Situation**

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

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

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

**Proposed Changes**

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

**Aerial Photographs**

**Current Situation**

Under Florida law, local property appraisers are responsible for developing the assessment (tax) roll within their jurisdiction.\(^{11}\) Property appraisers are required to physically inspect property in their jurisdiction at least once every five years, but they may use “image technology” in lieu of physical inspection to ensure that the tax roll meets all the requirements of law.\(^{112}\) DOR is required to establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.\(^{113}\)

DOR coordinates the capture and distribution of ortho-imagery\(^{114}\) of approximately one-third of the state each year according to the provisions of ch. 195.022, F.S. At least once every three years, or upon

\(^{11}\) Sections 193.023(1) and 193.114, F.S.

\(^{112}\) Section 193.023(2), F.S.

\(^{113}\) Id.

\(^{114}\) According to DOR, an “orthophoto” is a photographic copy, prepared from a perspective photograph, in which displacements of images due to tilt and relief have been removed. See Department of Revenue, Orthoimage Program Frequently Asked Questions, June 4, 2014.
request of any property appraiser, DOR must furnish aerial photographs and nonproperty ownership maps to the property appraisers to ensure that all real property within the state is properly listed on the roll.115

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

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

Proposed Changes

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

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

Tourist Development Taxes

Current Situation

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

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

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

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

115 Section 195.022, F.S.
116 Id.
The 1 to 2 Percent Tax and the Additional 1 Percent taxes can be used to fund a wide variety of tourist-related facilities including convention centers, stadiums, aquariums, museums, zoos, tourist information centers & bureaus, and beach facilities and maintenance. Additionally all five taxes authorized by this section may be used to promote and advertise tourism in this state nationally and internationally. If revenues are expended for an activity, service, venue, or event it must have attraction of tourists as one of its main purposes, as evidenced by promotion of the activity, service, venue, or event to tourists. Because of the statutory location and phrasing of this requirement, it may allow for broad interpretation of allowable expenditures.

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

Proposed Changes

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

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

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

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

Current Situation

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

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

Proposed Changes

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

B. SECTION DIRECTORY:

Section 1. Amends s. 125.0104(2) and (5), F.S., relating to tourist development taxes, to clarify definitions, add new allowable and required uses, and new requirements for proposed expenditures, and provides a civil cause of action for unauthorized expenditures.

Section 2. Amends s. 159.621, F.S., to add certain notes or mortgages to a documentary stamp tax exemption.

Section 3. Amends s. 163.387(6), F.S., to add a new allowable use for redevelopment trust fund revenues and requires at least 5% of these revenues be spent on youth centers in certain circumstances.

Section 4. Amends s. 195.022, F.S., changing population thresholds for aerial photography.

Section 5. Amends s. 196.011(1), F.S., to conform to changes made by section 6 of the bill.

Section 6. Amends s. 196.012(14) and (15), F.S., to modify the definitions of “new business” and “expansion of an existing business” to include areas designated as enterprise zones as of December 30, 2015.

Section 7. Amends s. 196.081(1), (4), (5), (6) and (7) F.S., to allow a midyear transfer of the disabled veteran homestead exemption.
Section 8. Amends s. 196.1978, F.S., to create a property tax discount on certain property used for charitable affordable housing.

Section 9. Amends s. 196.1995 F.S., to clarify that economic development ad valorem tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015.

Section 10. Amends s. 206.9825, F.S.; to end an aviation fuel tax credit for certain aviation fuels.

Section 11. Amends s. 206.9825, F.S., to reduce the tax rate on aviation fuel to a rate designed to make the changes by section 9 of the bill revenue neutral.


Section 14. Amends s. 212.031, F.S., to permanently reduce the business rent tax from 6% to 5%, with an additional one percentage point reduction (to 4%) in calendar year 2018.

Section 15. Amends s. 212.04, F.S., to provide an exemption for certain resales of taxable admissions.

Section 16. Amends s. 212.05, F.S., to clarify the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction.

Section 17. Amends s. 212.08(5) and (7), F.S., to provide sales tax exemptions for building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity; certain equipment, electricity and building materials used by datacenters, veterans' organizations, and certain industrial, postharvest activity and metal recycler machinery and equipment.

Section 18. Amends s. 220.03, F.S., to conform dates to adopt the Internal Revenue Code in effect January 1, 2016.

Section 19. Amends s. 220.13, F.S., to "decouple" from certain federal provisions relating to bonus depreciation.

Section 20. Specifies that changes made by sections 17 and 18 of the bill are effective upon becoming law and operate retroactively to January 1, 2016.

Section 21. Grants DOR emergency rulemaking authority to implement sections 17, 18 and 19 of the bill.

Section 22. Amends s. 220.1845, F.S., to increase the total amount of contaminated site rehabilitation tax credits for 2 years.

Section 23. Amends s. 220.192, F.S., to extend the renewable energy technology tax credit for 1 year.

Section 24. Amends s. 220.193, F.S., to extend the renewable energy production tax credit for 1 year.

Section 25. Amends s. 220.196(2), F.S., to increase the total amount of research and development tax credits for 1 year.
Section 26. Amends s. 220.222, F.S., to make changes to address certain federal date filing changes.

Section 27. Amends s. 220.241, F.S., to make changes to address certain federal date filing changes.

Section 28. Amends s. 220.33(1), F.S., to make changes to address certain federal date filing changes.

Section 29. Amends s. 220.34(2), F.S., to make changes to address certain federal date filing changes.

Section 30. Specifies that the changes made by sections 26, 27 and 28 of the bill apply to estimated payments for taxable years beginning on or after January 1, 2017.

Section 31. Amends s. 376.30781(4), F.S., to increase the total amount of tax credits for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas for one year.

Section 32. Amends s. 564.06(4), F.S., to equalize the tax rates on apple and pear cider.

Section 33. Amends s. 565.02(9), F.S., to replace the current tax calculation on liquor and tobacco sold on cruise ships with a simpler, revenue neutral calculation.

Section 34. Amends s. 951.22(1), F.S., to conform a reference to changes made by section 12 of this bill.

Section 35. Provides an exemption from the sales and use tax for the retail sale of certain clothes, school supplies, and personal computers and personal computer-related accessories during a specified period; provides emergency rulemaking authority; provides an appropriation.

Section 36. Provides an exemption from the sales and use tax for the retail sale of certain items and articles of tangible personal property by certain small businesses during a specified period; provides emergency rulemaking authority; provides an appropriation.

Section 37. Provides an exemption from the sales and use tax on the retail sale of certain firearms, ammunition for firearms, camping tents, and fishing supplies during a specified period; provides emergency rulemaking authority; provides an appropriation.

Section 38. Provides an exemption from the sales and use tax on the retail sale of certain radios, batteries, generators and other hurricane supplies during a specified period; provides emergency rulemaking authority; provides an appropriation.

Section 39. Provides an exemption for the sale of books and other reading materials at school book fairs for 1 year.

Section 40. Provides an exemption for the sale of college textbooks and instructional materials for 1 year.

Section 41. Provides an appropriation to the Department of Revenue to implement section 13 of the bill.

Section 42. Provides an appropriation to the Department of Revenue to pay the costs of aerial photography created by section 4 of the bill.
Section 43. Specifies that the changes made by sections 5 and 8 of this bill are remedial and apply retroactively to December 31, 2015.

Section 44. Provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
   See FISCAL COMMENTS below.

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
   See FISCAL COMMENTS below.

2. Expenditures:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

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

Appropriations Detail—The $887,199 appropriated in the bill consists of the following: $229,982 to implement the "back-to-school" sales tax holiday; and $55,908 to implement the business rent tax rate changes; $91,470 to implement the hunting and fishing sales tax holiday; $229,982 to implement the technology sales tax holiday; and $279,857 to pay additional costs associated with provision of aerial photography by DOR. The appropriations for the back-to-school holiday and the technology sales tax holiday are to pay the cost of mailing a taxpayer information publication (TIP) to approximately 590,000 sales tax dealers notifying them of the tax free period. Similarly the appropriations hunting and fishing tax holiday is to pay the cost of mailing a taxpayer information publication (TIP) to approximately 264,900 sales tax dealers notifying them of the tax free period. Of the appropriation for the business rent tax rate reduction, $45,188 is for tax dealer notification and the remainder is for computer system reprogramming.
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<th>Issue</th>
<th>General Revenue 1st Yr</th>
<th>Resur.</th>
<th>State Trust Funds 1st Yr</th>
<th>Resur.</th>
<th>Local 1st Yr</th>
<th>Resur.</th>
<th>Total 1st Yr</th>
<th>Resur.</th>
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<td>Corp Inc Tax: Renewable Energy Technology Credits/1 Yr Extension</td>
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<td>Ad Valorem: Affordable Housing/Recorded Agreements (1)</td>
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<tr>
<td>Ad Valorem: EDATE Clarification/Enterprise Zones</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(**)</td>
<td>(**)</td>
<td>(**)</td>
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<tr>
<td>Ad Valorem: Aerial Photography (Appropriation)</td>
<td>(0.3)</td>
<td>-</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>(0.3)</td>
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</tr>
<tr>
<td>Aviation Fuel Tax: Exemption Elimination/Rate Cut</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<td>-</td>
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</tr>
<tr>
<td>BevTax/Tobacco Tax: Cruise Line Tax Simplification</td>
<td>(0.1)</td>
<td>-</td>
<td>(*)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(0.1)</td>
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<tr>
<td>BevTax: Pear Cider Rate Reduction</td>
<td>(0.1)</td>
<td>(0.1)</td>
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<td>Doc Stamp Tax: Affordable Housing-related Notes</td>
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<td>Tobacco Tax: Other Tob Prod/Definition Clarification</td>
<td>0.9</td>
<td>0.9</td>
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<td>Appropriations: Tax Holidays &amp; Admin</td>
<td>(0.6)</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>(0.6)</td>
<td>-</td>
</tr>
<tr>
<td>FY 2016-17 Total</td>
<td>(303.3)</td>
<td>(328.8)</td>
<td>1.2</td>
<td>0.4</td>
<td>(61.6)</td>
<td>(88.7)</td>
<td>(353.7)</td>
<td>(417.1)</td>
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</table>

**Non-recurring Impacts After FY 2016-17**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Cash</th>
<th>Cash</th>
<th>Cash</th>
<th>Cash</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Tax: Admissions Resales (17/18 &amp; 18/19)</td>
<td>(3.4)</td>
<td>-</td>
<td>-</td>
<td>(1.0)</td>
</tr>
<tr>
<td>Sales Tax: Rural Areas of Opportunity/Bldg Materials</td>
<td>(7.2)</td>
<td>-</td>
<td>-</td>
<td>(2.7)</td>
</tr>
<tr>
<td>Sales Tax: Business Rent/1% for 1 yr (1/1/2018)</td>
<td>(274.8)</td>
<td>-</td>
<td>(*)</td>
<td>-</td>
</tr>
<tr>
<td>Corp Inc Tax: Federal Code Conformance Issues</td>
<td>(2.8)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Corp Inc Tax: Renewable Energy Prod Credits (17/18)</td>
<td>(10.0)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Corp Inc Tax: Renewable Energy Technology Credits (17/18)</td>
<td>(10.0)</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>Corp Inc Tax: R&amp;D Credits (17/18)</td>
<td>(2.6)</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Bill Total</strong></td>
<td>(614.1)</td>
<td>(328.8)</td>
<td>1.2</td>
<td>0.4</td>
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</tbody>
</table>

Recurring + Pure Nonrecurring (2) = (889.2)

(*) Impact less than $50,000.
(+/-) Indeterminate impact, direction can be positive or negative
(1) Ad valorem tax impacts assume current tax rates.
(2) Recurring total = -$417.1 million; pure nonrecurring in FY 2016-17 = -$222.1 million; pure nonrecurring after FY 2016-17 = -$350.0 million.
III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
   The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill, by expanding current ad valorem tax exemptions, may reduce local government’s authority to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:
   None.

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

C. DRAFTING ISSUES OR OTHER COMMENTS:
   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES
<table>
<thead>
<tr>
<th>Issue</th>
<th>General Revenue</th>
<th>State Trust Funds</th>
<th>Local</th>
<th>Total</th>
<th>Bill Line #</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1st Yr Recur.</td>
<td>1st Yr Recur.</td>
<td>1st Yr Recur.</td>
<td>1st Yr Recur.</td>
<td></td>
</tr>
<tr>
<td>Sales Tax: Business Rent/1% Permanent/2% for 1 Yr</td>
<td>(106.8) (256.4)</td>
<td>(<em>) (</em>)</td>
<td>(13.8) (33.1)</td>
<td>(120.6) (289.5)</td>
<td>863-901; 2291</td>
</tr>
<tr>
<td>Sales Tax: Machinery/Equipment--Manufacturing Exemption Extension</td>
<td>- (59.7)</td>
<td>- (*)</td>
<td>- (13.4)</td>
<td>- (73.1)</td>
<td>1612</td>
</tr>
<tr>
<td>Sales Tax: Machinery/Equipment--Fruit &amp; Vegetable Packinghouses</td>
<td>(0.8) (0.9)</td>
<td>(<em>) (</em>)</td>
<td>(0.2) (0.2)</td>
<td>(1.0) (1.1)</td>
<td>1531; 1566-1599</td>
</tr>
<tr>
<td>Sales Tax: Machinery/Equipment--Metal Recyclers</td>
<td>(0.8) (0.9)</td>
<td>(<em>) (</em>)</td>
<td>(0.2) (0.2)</td>
<td>(1.0) (1.1)</td>
<td>1530; 1547-1550</td>
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<tr>
<td>Sales Tax: Tax Holiday/&quot;Back-to-School&quot;</td>
<td>(55.9)</td>
<td>- (*)</td>
<td>- (12.6)</td>
<td>- (68.5)</td>
<td>2082-2139</td>
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<tr>
<td>Sales Tax: Tax Holiday/Small Business</td>
<td>(35.0)</td>
<td>- (*)</td>
<td>- (7.9)</td>
<td>- (42.9)</td>
<td>2140-2168</td>
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<tr>
<td>Sales Tax: Tax Holiday/Technology</td>
<td>(22.8)</td>
<td>- (*)</td>
<td>- (5.1)</td>
<td>- (27.9)</td>
<td>2198-2232</td>
</tr>
<tr>
<td>Sales Tax: Tax Holiday/Hunting and Fishing</td>
<td>(2.3)</td>
<td>- (*)</td>
<td>- (0.5)</td>
<td>- (2.8)</td>
<td>2169-2197</td>
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<tr>
<td>Sales Tax: College Textbooks/1 Yr Extension</td>
<td>(33.3)</td>
<td>- (*)</td>
<td>- (7.6)</td>
<td>- (40.9)</td>
<td>2254-2286</td>
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<tr>
<td>Sales Tax: Datacenters Exemption</td>
<td>(5.7) (8.7)</td>
<td>(0.1) (0.9)</td>
<td>(1.4) (2.0)</td>
<td>(7.2) (11.6)</td>
<td>1240-1471</td>
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<td>Sales Tax: Admissions Resales (3 Yrs)</td>
<td>(1.5)</td>
<td>- (*)</td>
<td>- (0.3)</td>
<td>- (1.8)</td>
<td>902-930</td>
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<tr>
<td>Sales Tax: Rural Areas of Opportunity/Bldg Materials</td>
<td>(3.2)</td>
<td>- (*)</td>
<td>- (1.3)</td>
<td>- (4.5)</td>
<td>1122-1239</td>
</tr>
<tr>
<td>Sales Tax: School Book Fairs/1 Yr Exemption</td>
<td>(2.3)</td>
<td>- (*)</td>
<td>- (0.5)</td>
<td>- (2.8)</td>
<td>2233-2253</td>
</tr>
<tr>
<td>Sales Tax: Veterans' Service Organizations/Food &amp; Drink</td>
<td>(1.2) (1.4)</td>
<td>(<em>) (</em>)</td>
<td>(0.2) (0.2)</td>
<td>(1.4) (1.6)</td>
<td>1494-1507</td>
</tr>
<tr>
<td>Corp Inc Tax: Federal Code Conformance Issues</td>
<td>(20.0) (1.5)</td>
<td>- - - -</td>
<td>(20.0) (1.5)</td>
<td>1614-1721; 1829-1942</td>
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<tr>
<td>Corp Inc Tax: R&amp;D Credits/1 Yr Increase @ 9m</td>
<td>(6.4)</td>
<td>- - - -</td>
<td>(6.4)</td>
<td>1814-1828</td>
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<tr>
<td>Corp Inc Tax: Brownfield Credits/1 Yr Increase</td>
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<td>(5.0)</td>
<td>1722; 1948</td>
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<td>Corp Inc Tax: Renewable Energy Prod Credits/1 Yr Extension</td>
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<td>- - - -</td>
<td>- -</td>
<td>1765-1804</td>
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<tr>
<td>Corp Inc Tax: Renewable Energy Technology Credits/1 Yr Extension</td>
<td>- - - -</td>
<td>- - - -</td>
<td>- -</td>
<td>1730-1764</td>
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<tr>
<td>Ad Valorem: Affordable Housing/Recorded Agreements (1)</td>
<td>- - - -</td>
<td>- (37.9)</td>
<td>- (37.9)</td>
<td>564-620</td>
<td></td>
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<tr>
<td>Ad Valorem: Surviving Spouse/Disabled Veterans - Residency (1)</td>
<td>- - - -</td>
<td>- (1.7)</td>
<td>- (1.7)</td>
<td>540-563</td>
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<tr>
<td>Ad Valorem: Disabled Vets Exemption Transferability</td>
<td>- - - -</td>
<td>+/- +/- +/- +/-</td>
<td>- -</td>
<td>493-530</td>
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<tr>
<td>Ad Valorem: EDATE Clarification/Enterprise Zones</td>
<td>- - - -</td>
<td>(<strong>) (</strong>) (<strong>) (</strong>)</td>
<td>- -</td>
<td>469-489; 621-666</td>
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<tr>
<td>Ad Valorem: Aerial Photography (Appropriation)</td>
<td>(0.3)</td>
<td>- - - -</td>
<td>(0.3)</td>
<td>385-440; 2295</td>
<td></td>
</tr>
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</table>
## Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of $)

<table>
<thead>
<tr>
<th>Issue</th>
<th>General Revenue</th>
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<th>Local</th>
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<tr>
<td></td>
<td>1st Yr</td>
<td>Recur.</td>
<td>1st Yr</td>
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<td>-</td>
<td>-</td>
<td>-</td>
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<td>Bev Tax/Tobacco Tax: Cruise Line Tax Simplification</td>
<td>(0.1)</td>
<td>-</td>
<td>(*)</td>
<td>-</td>
<td>-</td>
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<td>(0.1)</td>
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<td>-</td>
<td>-</td>
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<td>(0.1)</td>
<td>(0.2)</td>
<td>(0.2)</td>
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<tr>
<td>Tobacco Tax: Other Tob Prod/Definition Clarification</td>
<td>0.9</td>
<td>0.9</td>
<td>1.5</td>
<td>1.5</td>
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</tr>
<tr>
<td>Appropriations: Tax Holidays &amp; Admin</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>FY 2016-17 Total</strong></td>
<td>(303.3)</td>
<td>(328.8)</td>
<td>1.2</td>
<td>0.4</td>
<td>(51.6)</td>
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### Non-recurring Impacts After FY 2016-17

<table>
<thead>
<tr>
<th>Issue</th>
<th>General Revenue</th>
<th>State Trust Funds</th>
<th>Local</th>
<th>Total</th>
<th>Bill Line #</th>
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<tr>
<td></td>
<td>Cash</td>
<td>Cash</td>
<td>Cash</td>
<td>Cash</td>
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<tr>
<td>Sales Tax: Admissions Resales (17/18 &amp; 18/19)</td>
<td>(3.4)</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>(2.7)</td>
</tr>
<tr>
<td>Sales Tax: Business Rent/1% for 1 yr (1/1/2018)</td>
<td>(274.8)</td>
<td>-</td>
<td>(*)</td>
<td>-</td>
<td>(35.5)</td>
</tr>
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<td>Corp Inc Tax: Federal Code Conformance Issues</td>
<td>(2.8)</td>
<td>-</td>
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<td>-</td>
</tr>
<tr>
<td>Corp Inc Tax: Renewable Energy Prod Credits (17/18)</td>
<td>(10.0)</td>
<td>-</td>
<td>-</td>
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<td>-</td>
</tr>
<tr>
<td>Corp Inc Tax: Renewable Energy Technology Credits (17/18)</td>
<td>(10.0)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Corp Inc Tax: R&amp;D Credits (17/18)</td>
<td>(2.6)</td>
<td>-</td>
<td>-</td>
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<td>-</td>
</tr>
<tr>
<td><strong>Bill Total</strong></td>
<td>(614.1)</td>
<td>(328.8)</td>
<td>1.2</td>
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<td>(90.8)</td>
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### Other Issues

<table>
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<th>Bill Line #</th>
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<td>Cash</td>
<td>Cash</td>
<td>Cash</td>
<td>Cash</td>
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<tr>
<td>Sales Tax: Aircraft/Foreign Registered Clarification</td>
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<td>CRAs: Non-profit Youth Centers &amp; Other</td>
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<td>-</td>
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<td>Tourist Development Tax: Uses &amp; Other Provisions</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

| (*) Impact less than $50,000. |
| (+/-) Indeterminate impact, direction can be positive or negative |
| (1) Ad valorem tax impacts assume current tax rates. |
| (2) Recurring total = -$417.1 million; pure nonrecurring in FY 2016-17 = -$222.1 million; pure nonrecurring after FY 2016-17 = -$350.0 million. |
A bill to be entitled
An act relating to taxation; amending s. 125.0104, F.S.; providing definitions; amending authorized uses of certain tourist development taxes; requiring recommendations for proposed usage of certain tourist development tax revenue to be in writing; providing an additional means of ensuring that certain tourist development tax revenues are used for authorized purposes; requiring the performance of a return-on-investment analysis in specified circumstances; amending s. 159.621, F.S.; amending an exemption from documentary stamp tax for certain housing bonds; amending s. 163.387; amending uses for community redevelopment agency redevelopment trust fund; amending s. 195.022, F.S.; revising the county population thresholds for purposes of identifying the governmental entity responsible for payment of aerial photographs and ownership maps; amending s. 196.011, F.S.; making conforming changes; amending s. 196.012, F.S.; amending definitions; amending s. 196.081, F.S.; allowing an exemption from ad valorem tax for certain permanently and totally disabled veterans under specified circumstances; removing the requirement that a deceased veteran must have resided in this state on a specified date before the ad valorem tax exemption for homestead property may apply to the veteran's
surviving spouse; exempting the unremarried surviving spouse of certain deceased veterans from payment of ad
valorem taxes for certain homestead property in this state, irrespective of the state in which the veteran's homestead was located at the time of death, if certain conditions are met; amending 196.1978, F.S.; providing property tax exemption for property used to provide affordable housing to eligible person amending s. 196.1995, F.S.; amending an economic development ad valorem tax exemption; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal; revising the rate of the excise tax on certain aviation fuels; amending s. 210.13, F.S.; amending definitions; amending s. 212.031, F.S.; reducing the tax levied on the renting, leasing, letting, or granting a license for the use of real property; amending s. 212.04, F.S.; providing for a refund or credit of tax for certain resales of admissions; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.08, F.S.; creating an exemption for certain sales of datacenter equipment, certain sales of electricity and certain sales of
building materials; providing definitions; exempting
the sales of food or drinks by certain qualified
veterans' organizations; removing the expiration date
on the exemption for purchases of certain machinery
and equipment; including recyclable material merchant
wholesalers in the definition of the term "eligible
manufacturing business" and certain tangible personal
property used in the recycling of metals for sale in
the definition of the term "industrial machinery and
equipment" for purposes of qualification for the sales
and use tax exemption; providing an exemption for the
purchase of certain postharvest machinery and
equipment; defining postharvest machinery and
equipment, postharvest activities and eligible
postharvest activity business; amending s. 220.03,
F.S.; adopting the 2016 version of the Internal
Revenue Code; amending s. 220.13, F.S.; incorporating
a reference to a recent federal act into state law for
the purpose of defining the term "adjusted federal
income"; revising the treatment by this state of
certain depreciation of assets allowed for federal
income tax purposes; authorizing the Department of
Revenue to adopt emergency rules; providing for
retroactive applicability; amending s. 220.1845, F.S.;
increasing the total amount of contaminated site
rehabilitation tax credits for 3 years; amending s.
220.192; extending the renewable energy technology corporate income tax credit for 1 year; amending s. 220.193; extending the renewable energy production corporate income tax credit for 1 year; amending s. 220.196, F.S.; increasing the total amount of research and development tax credits that may be awarded to business enterprises for 1 year; amending s. 220.222, F.S.; amending due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; amending due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; amending the due date of estimated payments of corporate income tax; amending 220.34, F.S.; amending the dates used to calculate interest and penalties on underpayments of estimated corporate income tax; amending s. 376.30781, F.S.; increasing the total amount of tax credits for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas for 3 years; amending s. 564.06, F.S.; providing that cider may be made from pears for purposes of taxation; amending s. 565.02, F.S.; creating an alternative method for taxation of alcoholic beverages and tobacco products sold on certain cruise ships; providing an exemption from the sales and use tax for the retail sale of certain clothes, school supplies,
and personal computers and personal computer-related accessories during a specified period; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation to the department for administrative purposes; providing for the reversion of unspent and unencumbered funds; providing an exemption from the sales and use tax for the retail sale of certain items and articles of tangible personal property by certain small businesses during a specified period; providing an appropriation; providing an exemption from the sales and use tax on the retail sale of certain firearms, ammunition for firearms, camping tents, and fishing supplies during a specified period; providing exemptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing for the reversion of unspent and unencumbered funds; authorizing the Department of Revenue to adopt emergency rules; providing an exemption from the sales and use tax for certain personal computers and related accessories during a specified period; providing exceptions; providing an appropriation; providing for the reversion of unspent and unencumbered funds; providing an exemption from the sales and use tax on the sale of certain books and other reading materials at book fairs for 1 year; extending the exemption from
the sales and use tax on the retail of certain
textbooks for 1 year; providing effective dates.

Be it enacted by the Legislature of the State of Florida:

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

125.0104 Tourist development tax; procedure for levying;
authorized uses; referendum; enforcement.—
(2) APPLICATION; DEFINITIONS.—
(b) Definitions.—For purposes of this section:
1. "Advertise" or "promote" means the act of engaging in
advertising or promotion.
2. "Advertising" or "promotion" means advising,
announcing, giving notice of, publishing, or calling attention
to, by use of oral, written, or graphic statement, disseminated
in any manner or by any means, for the purpose of increasing
tourist-related business activities in this state.
1. "Promotion" means marketing or advertising designed to
increase tourist-related business activities.
3. "Tourist" means a person who participates in trade
or recreation activities outside the county of his or her
permanent residence or who rents or leases transient
accommodations as described in paragraph (3)(a).
4. "Retained spring training franchise" means a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least the 10 years preceding that date.

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE. -

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

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax
pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

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

(5) AUTHORIZED USES OF REVENUE.—

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

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

2. In a coastal county, up to 10 percent of the revenues may be used to provide emergency medical services, as defined in s. 401.107(2), or law enforcement services that are needed for
enhanced emergency medical or public safety services related to
increased tourism and visitors to an area. If taxes collected
pursuant to this section are used to fund emergency medical
services or public safety for tourism or special events a Board
of County Commissioners or a City Commission is prohibited from
using such taxes to supplant the normal operating expenses for
an emergency services department, a Sheriff’s Office or a Police
Department.

3. The remaining revenues shall be used for the following
purposes only:
   a. To acquire, construct, extend, enlarge, remodel,
      repair, improve, maintain, operate, or promote one or more:
         (I) Publicly owned and operated convention centers,
            sports stadiums, sports arenas, coliseums, or auditoriums within
            the boundaries of the county or subcounty special taxing
district in which the tax is levied; or
         (II) Aquariums or museums that are publicly owned and
              operated or owned and operated by not-for-profit organizations
              and open to the public, within the boundaries of the county or
              subcounty special taxing district in which the tax is levied;
   b. To promote zoological parks that are publicly owned
      and operated or owned and operated by not-for-profit
      organizations and open to the public;
   c. To promote and advertise tourism in this state and
      nationally and internationally; however, if tax revenues are
      expended for an activity, service, venue, or event, the

CODING: Words stricken are deletions; words underlined are additions.
activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

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

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

f. To hold special events of seven days or less in duration, one of the main purposes of which must be to increase
tourist-related business activities in this state as evidenced by promotion of the event to tourists.

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

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

(c) The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in sub-subparagraphs (a)3.a., b., and e. subparagraphs (a)1., 2., and 5. or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the
revenues from the tourist development tax may be pledged to secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in sub-subparagraph (a)3.e. subparagraph (a)§. Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph be full and complete authority for accomplishing such purposes, but such authority is supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

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

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

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

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

(g) As an additional means of enforcing the prohibition of
paragraph (f), any remitter of the tax provided for in this
section, or any organization representing multiple remitters of
the tax, may challenge the county’s decision to devote such tax
revenues to a particular use or uses that the challenger claims
are in violation of paragraph (f) in an action filed pursuant to
chapter 120. During the pendency of the administrative
proceeding and any resulting appeals, no tax revenues collected
under this section may be used to fund the challenged use or
uses. The county's interpretation of this section shall be afforded no deference in the proceedings. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney's fees, including on appeal.

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

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

(2) For any note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to s. 159.608(8), to be exempt from all taxes pursuant to subsection (1), documentation from the housing finance authority affirming that the loan was made by or on behalf of the housing finance authority.
finance authority, must be included with the mortgage at the
time the mortgage is recorded.

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

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

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

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

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

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

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

195.022 Forms to be prescribed by Department of Revenue.—
The Department of Revenue shall prescribe all forms to be used
by property appraisers, tax collectors, clerks of the circuit
court, and value adjustment boards in administering and
collecting ad valorem taxes. The department shall prescribe a form for each purpose. The county officer shall reproduce forms for distribution at the expense of his or her office. A county officer may use a form other than the form prescribed by the department upon obtaining written permission from the executive director of the department; however, a county officer may not use a form if the substantive content of the form varies from the form prescribed by the department for the same or a similar purpose. If the executive director finds good cause to grant such permission he or she may do so. The county officer may continue to use the approved form until the law that specifies the form is amended or repealed or until the officer receives written disapproval from the executive director. Otherwise, all such officers and their employees shall use the forms, and follow the instructions applicable to the forms, which are prescribed by the department. Upon request of any property appraiser or, in any event, at least once every 3 years, the department shall prescribe and furnish such aerial photographs and nonproperty ownership maps to the property appraisers as necessary to ensure that all real property within the state is properly listed on the roll. All photographs and maps furnished to a county that meets the population thresholds of a rural community in s. 288.0656(2)(e) counties with a population of 25,000 or fewer shall be paid for by the department as provided by law. For a county that does not meet those population thresholds counties with a population greater than 25,000, the
department shall furnish such items at the property appraiser's expense. The department may incur reasonable expenses for procuring aerial photographs and nonproperty ownership maps and may charge a fee to the respective property appraiser equal to the cost incurred. The department shall deposit such fees into the Certification Program Trust Fund created pursuant to s. 195.002. There shall be a separate account in the trust fund for the aid and assistance activity of providing aerial photographs and nonproperty ownership maps to property appraisers. The department shall use money in the fund to pay such expenses. All forms and maps and instructions relating to their use must be substantially uniform throughout the state. An officer may employ supplemental forms and maps, at the expense of his or her office, which he or she deems expedient for the purpose of administering and collecting ad valorem taxes. The forms required in ss. 193.461(3)(a) and 196.011(1) for renewal purposes must require sufficient information for the property appraiser to evaluate the changes in use since the prior year. If the property appraiser determines, in the case of a taxpayer, that he or she has insufficient current information upon which to approve the exemption, or if the information on the renewal form is inadequate for him or her to evaluate the taxable status of the property, he or she may require the resubmission of an original application.

Section 5. Effective January 1, 2017, subsection (1) of section 196.011, Florida Statutes, is amended to read:
196.011 Annual application required for exemption.—

(1)(a) Except as provided in s. 196.081, every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

(b) The form to apply for an exemption under s. 196.031, s. 196.081, s. 196.091, s. 196.101, s. 196.173, or s. 196.202 must include a space for the applicant to list the social security number of the applicant and of the applicant's spouse, if any. If an applicant files a timely and otherwise complete application, and omits the required social security numbers, the application is incomplete. In that event, the property appraiser shall contact the applicant, who may refile a complete application by April 1. Failure to file a complete application by that date constitutes a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).
Section 6. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, is amended to read:

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

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

(15) "Expansion of an existing business" means:
(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015 or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 7. Effective January 1, 2017, subsections (1) and (4) of section 196.081, Florida Statutes, are amended, subsections (5) and (6) are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:
196.081 Exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans; exemption for surviving spouses of first responders who die in the line of duty.—

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

(b) Notwithstanding section 196.011 and the timing of the residency requirements of paragraph (a) of section 196.031(1), the exemption under paragraph (a) may be applied to a tax year if the real estate owned and used as a homestead is acquired after January 1 of that tax year and the veteran received the exemption on another property in the immediately prior tax year.

To receive the exemption pursuant to this paragraph, the veteran must file with the property appraiser within 30 days of acquisition of the new property and no later than the 25th day following the mailing by the property appraiser of the notices required under s. 194.011(1), an application that lists and describes both the previous homestead and the new property and...
certifies under oath that the veteran:

1. is otherwise qualified to receive the exemption under s. 196.081,
2. holds legal title to the new property, and
3. intends to use the new property as his or her homestead.

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

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

(5)(a) The unremarried surviving spouse of a veteran who was honorably discharged with a service-connected total and permanent disability is entitled to the same exemption that would otherwise be granted to a surviving spouse as described in subsections (1)-(3) if the veteran, at the time of death, owned property in another state in the United States and used it in a manner that would have qualified for homestead exemption under
s. 196.031 had the property been located in this state on January 1 of the year the veteran died. To qualify for the exemption under this subsection, the unremarried surviving spouse, subsequent to the death of the veteran, must hold the legal or beneficial title to homestead property in this state and permanently reside thereon as specified in s. 196.031 as of January 1 of the tax year for which the exemption is being claimed.

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

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

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

196.1978 Affordable housing property exemption.—
(1) Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely-low-income, very-low-income, low-income, or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s.
501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this subsection must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member.

(2)(a) Notwithstanding ss. 196.195 and 196.196, property in a multifamily project containing more than 70 units that are used to provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, which is subject to an agreement with the Florida Housing Finance Corporation, recorded in the official records of the county in which the property is located, to provide affordable housing to extremely low, very low, or low-income persons is considered property used for a charitable purpose and shall receive a 50 percent discount from the amount of ad valorem tax otherwise owed beginning in the
sixteenth year of the term of the agreement on those portions of
the affordable housing property that provide housing to natural
persons or families classified as extremely low income, very low
income, or low income under s. 420.0004. This discount shall
terminate when the property is no longer serving extremely low,
very low, or low-income persons pursuant to the recorded
agreement.

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

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

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

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

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

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

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

196.1995 Economic development ad valorem tax exemption.–
(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015 or brownfield area. An exemption granted for a new business as defined in s. 196.012(14)(b) or expansion of an existing business as defined in s. 196(15)(b) that is in an area that was designated as an
enterprise zone pursuant to chapter 290 as of December 30, 2015, and not in a brownfield area, must be approved by the local governing body prior to March 31, 2018. Property acquired to replace existing property shall not be considered to facilitate a business expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

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

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996 but before July 1, 2016, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as
the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 11. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

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

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering
transcontinental jet service and that, after January 1, 1996,
but before July 1, 2016, increases the air carrier's Florida
workforce by more than 1000 percent and by 250 or more full-time
equivalent employee positions, may receive a credit or refund as
the ultimate vendor of the aviation fuel for the 6.9 cents
excise tax previously paid, provided that the air carrier has no
facility for fueling highway vehicles from the tank in which the
aviation fuel is stored. In calculating the new or additional
Florida full-time equivalent employee positions, any full-time
equivalent employee positions of parent or subsidiary
corporations which existed before January 1, 1996, shall not be
counted toward reaching the Florida employment increase
thresholds. The refund allowed under this paragraph is in
furtherance of the goals and policies of the State Comprehensive
Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1.,
4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

e) If, before July 1, 2001, the number of full-time
equivalent employee positions created or added to the air
carrier's Florida workforce falls below 250, the exemption
granted pursuant to this section shall not apply during the
period in which the air carrier has fewer than the 250
additional employees.

(d) The exemption taken by credit or refund pursuant to
paragraph (b) shall apply only under the terms and conditions
set forth therein. If any part of that paragraph is judicially
declared to be unconstitutional or invalid, the validity of any
provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.

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

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and
b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

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

3. A college or university qualified under this paragraph, which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent 6.9-cent excise
tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

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

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

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

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

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

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of
the kerosene for the 4.27-cent 6.9-cents excise tax previously paid.

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

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

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

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part or other person required to remit the tax under this part fails to file any return required under this part, or having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer.
Such a determination shall finally and irrevocably fix the tax unless the dealer against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, shall have been first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

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

210.25 Definitions.—As used in this part:
(1) "Affiliate" means a manufacturer or other person that
directly or indirectly, through one or more intermediaries,
controls or is controlled by a distributor or that is under
common control with a distributor.

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

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

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

(b) The federal excise tax paid by the distributor on the
tobacco products, if the tax is not included in the full price
Section 14. Effective January 1, 2017, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended, and paragraph (e) is added to that section, to read:

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

(1) For the exercise of such privilege, a tax is levied in an amount equal to 4 percent, except for the period beginning January 1, 2018, and ending December 31, 2018, during which the tax shall be 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. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a
reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(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, except for the period beginning January 1, 2018, and ending December 31, 2018, during which the tax shall be levied in an amount equal to 4 percent, of the value of the property, goods, wares, merchandise, services, or other thing of value.

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

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

212.04 Admissions tax; rate, procedure, enforcement.—
(1)
(c)
1. The provisions of this chapter that authorize a tax-exempt sale for resale do not apply to sales of admissions. However, if a purchaser of an admission subsequently resells the admission for more than the amount paid, the purchaser shall
collect tax on the full sales price and may take credit for the
amount of tax previously paid. If the purchaser of the admission
subsequently resells it for an amount equal to or less than the
amount paid, the purchaser shall not collect any additional tax,
nor shall the purchaser be allowed to take credit for the amount
of tax previously paid.

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

Section 16. Paragraph (a) of subsection (1) of section
212.05, Florida Statutes, 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, 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 6 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 any nationally recognized publication for
valuation of used motor vehicles 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 (e), 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 or 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 pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident
of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

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

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

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

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

b. For the purpose of this subparagraph, the term “foreign jurisdiction” means any jurisdiction outside of the United States or any of its territories.
1015. c. The purchaser, within 30 days from the date of departure, shall provide the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

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

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

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

1037. g. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of
the repairs or alterations, the nonresident purchaser shall apply to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, prior to delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are
subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date prior to its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and
enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft 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).

The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 17. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended, and paragraphs (r) and (s) are added to subsection (5) of that section, 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
1119 storage to be used or consumed in this state of the following
1120 are hereby specifically exempt from the tax imposed by this
1121 chapter.
1122
1123 (5) EXEMPTIONS; ACCOUNT OF USE.—
1124 (r) Building materials, rental of tangible personal
1125 property, and pest control services used to build new
1126 construction located in a rural area of opportunity.—
1127 1. Building materials, rental of tangible personal
1128 property, and pest control used to build new construction
1129 located in a rural area of opportunity designated pursuant to s.
1130 288.0656 are exempt from the tax imposed by this chapter upon an
1131 affirmative showing to the satisfaction of the department that
1132 the items and services have been used for new construction
1133 located in a rural area of opportunity. Except as provided in
1134 subparagraph 2., this exemption inures to the owner, lessee, or
1135 lessor at the time the new construction occurs, but only through
1136 a refund of previously paid taxes. To receive a refund pursuant
1137 to this paragraph, the owner, lessee, or lessor of the new
1138 construction must file an application under oath with the Rural
1139 Economic Development Initiative as defined in s. 288.0656. The
1140 application must include:
1141 a. The name and address of the person claiming the refund.
1142 b. An address and assessment roll parcel number of the
1143 real property improved with new construction for which a refund
1144 of previously paid taxes is being sought.
1145 c. A description of the new construction.
d. A copy of a valid building permit issued by the county or municipal building department for the new construction.
e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the new construction, which lists the exempt goods and services, the actual cost of the exempt goods and services, and the amount of sales tax paid in this state on the exempt goods and services, and which states that the improvement to the real property was new construction. If a general contractor was not used, the applicant, not a general contractor, shall make the sworn statement required by this sub-subparagraph. Copies of the invoices that evidence the purchase of the exempt goods and services and the payment of sales tax thereon must be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of exempt goods and services and the payment of sales taxes is documented by a general contractor or by the applicant in this manner, the cost of the exempt goods and services is deemed to be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.
f. A certification by the local building code inspector that the new construction is substantially completed and is new construction.

2. This exemption inures to a municipality, county, other governmental unit or agency, or nonprofit community-based organization through a refund of previously paid taxes if the
exempt goods and services are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund, a municipality, county, other governmental unit or agency, or nonprofit community-based organization must file an application that includes the same information required in subparagraph 1. In addition, the application must include a sworn statement signed by the chief executive officer of the municipality, county, other governmental unit or agency, or nonprofit community-based organization seeking a refund which states that the exempt goods and services for which a refund is sought were funded by a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

3. Within 10 working days after receipt of an application, the Rural Economic Development Initiative shall review the application to determine if it contains all the information required by subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The Rural Economic Development Initiative shall certify all applications that contain the required information and are eligible to receive a refund. The certification must be in writing, and a copy of the certification shall be transmitted to the executive director of the department. The applicant is responsible for forwarding a certified application to the department within the time specified in subparagraph 4.
4. An application for a refund must be submitted to the department within 6 months after the new construction is deemed to be substantially completed by the local building code inspector or by November 1 after the improved property is first subject to assessment.

5. Only one exemption through a refund of previously paid taxes for the new construction is permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. A refund may not be granted unless the amount to be refunded exceeds $500. A refund may not exceed the lesser of 97.5 percent of the Florida sales or use tax paid on the cost of the exempt goods and services as determined pursuant to sub-subparagraph 1.e. or $10,000. A refund shall be made within 30 days after formal approval by the department of the application for the refund.

6. 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.

7. The department shall deduct an amount equal to 10 percent of each refund granted under this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the new construction is located and shall transfer that amount to the General Revenue Fund.

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

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

b. "Exempt goods and services" means building materials, rental of tangible personal property, and pest control used to build new construction.

c. "New construction" means improvements, to real property, which did not previously exist, and does not include reconstruction, renovation, restoration, rehabilitation, modification, alteration or expansion of buildings already located on the parcel on which the new construction is built.

d. "Pest control" has the same meaning as in s. 482.021.

e. "Real property" has the same meaning as provided in s. 192.001(12), except that the term does not include a condominium parcel or condominium property as defined in s. 718.103.

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

(s) Datacenter Equipment and Electricity-

1. The sale of datacenter equipment to an entity certified pursuant to this paragraph is exempt from the tax imposed by this chapter.

2. The sale of electricity for a qualifying datacenter to an entity certified pursuant to this paragraph is exempt from the tax imposed by this chapter.

3. Building materials purchased for use in constructing or expanding a qualifying datacenter are exempt from the tax
imposed by this chapter.

4. For sales of items that are tax-exempt pursuant to this paragraph, possession of a written certification from the purchaser, certifying the purchaser's entitlement to the exemption, relieves the seller of the responsibility of collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

5.a. To be eligible to receive the exemption provided by subparagraph 1., subparagraph 2., or subparagraph 3., the Department of Economic Opportunity must certify that a business has made or will make a cumulative capital investment of at least seventy-five million dollars ($75,000,000). To be certified, a business shall initially apply to Enterprise Florida, Inc. Enterprise Florida, Inc. will review that application and forward it with a recommendation to approve or disapprove to the Department of Economic Opportunity. If the Department of Economic Opportunity approves the application, the original certification is valid for a period of 2 years. Until the required cumulative capital investment has been made, in lieu of submitting a new application, the original certification may be renewed biennially by submitting to the Department of Economic Opportunity a statement, certified under oath, that there has not been a material change in the conditions or circumstances entitling the business entity to the original certification. The initial application and the certification

CODING: Words stricken are deletions; words underlined are additions.
renewal statement shall be developed by the Department of Economic Opportunity.

b. The Division of Strategic Business Development of the Department of Economic Opportunity shall review each submitted initial application and determine whether or not the application is complete within 5 working days. Once complete, the division shall, within 10 working days, evaluate the application and recommend approval or disapproval to the Department of Economic Opportunity.

c. Upon receipt of the initial application and recommendation from the division or upon receipt of a certification renewal statement, the Department of Economic Opportunity shall certify within 5 working days those applicants who are found to meet the requirements of this section and shall notify both the applicant of the original certification or certification renewal and also the department, which department in turn shall issue an exemption certificate to the applicant within 5 working days after such notification. If the Department of Economic Opportunity finds that the applicant does not meet the requirements, it shall notify the applicant and Enterprise Florida, Inc., within 10 working days that the application for certification has been denied and the reasons for denial. The Department of Economic Opportunity has final approval authority for certification under this section.

d. Within five years from the date that a business certified pursuant to this paragraph makes its first qualifying
real or tangible property investment in the construction or expansion of a datacenter, the business shall apply to the Department of Economic opportunity for final certification. The application must contain information sufficient for the Department of Economic Opportunity to verify that the business made the cumulative capital investment required by the thresholds contained in sub-subparagraph 8.c. associated with their initial certification. The Department of Economic Opportunity shall notify the applicant for final certification and the department of its determination. The limitations in s. 95.091(3) shall be tolled from the time the department issues an exemption certificate pursuant to sub-subparagraph 5.c. until the Department of Economic Opportunity makes a final certification determination pursuant to this sub-subparagraph.

e. The initial application and certification renewal statement must indicate, for program evaluation purposes only, the average number of full-time equivalent employees at the facility over the preceding calendar year, the average wage and benefits paid to those employees over the preceding calendar year, the total investment made in real and tangible personal property over the preceding calendar year, and the total value of tax-exempt purchases and taxes exempted during the previous year. The department shall assist the Department of Economic Opportunity in evaluating and verifying information provided in the application for exemption.

f. The Department of Economic Opportunity may use the
information reported on the initial application and certification renewal statement for program evaluation purposes only. The average number of full-time equivalent employees, a specific level of employment creation or maintenance, or the like is not a prerequisite or requirement to qualify for this exemption.

6. A business is eligible to receive the exemption provided by subparagraph 3., if it has written certification from a business certified pursuant to this paragraph that the building materials purchased tax-exempt are for use in the construction or expansion of a qualifying datacenter.

7. The Department of Economic Opportunity and the department may adopt rules that provide for implementation of this exemption. Purchasers and lessees of datacenter equipment, and purchasers of electricity, qualifying for the exemption provided in this paragraph shall furnish the vendor with a copy of the exemption certificate for the item or items eligible to be exempted. Any person furnishing a false exemption certificate to the vendor for the purpose of evading payment of any tax imposed under this chapter shall be subject to the penalty set forth in s. 212.085 and as otherwise provided by law. Purchasers with self-accrual authority shall maintain all documentation necessary to prove the exempt status of purchases.

8. As used in this paragraph, the term:
   a. "Datacenter" means a facility that:
      (I) is comprised of one or more land parcels in Florida,
along with the buildings, substations and other infrastructure, fixtures, and personal property located on those parcels;

(II) is or will be occupied by one or more operators, owners, users, or tenants; and

(III) is primarily used to house and operate equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, and/or transmits data, and services and functions related thereto.

b. "Datacenter equipment" means equipment that is used wholly within, wholly at, or wholly in conjunction with a datacenter to outfit, operate, support, power, secure, or protect a datacenter, along with component parts, installations, refreshments, replacements, redundancies, operating or enabling software including their updates and new versions, and upgrades to or for this equipment, whether any of the equipment is affixed to or incorporated into real property, including:

(I) Equipment necessary for the transformation, generation, distribution, storage, back-up, or management of electricity that is required to operate computer server equipment, including generators, transformers, substations (whether located at the facility or off-site), uninterruptible power supply systems, power distribution units, power panels conduit, gaseous fuel piping, cabling, wiring, busses, duct banks, switches, switchboards and other switch gear, batteries, and testing equipment.

(II) Equipment necessary to cool and maintain a controlled
environment for the operation of computers, servers, and other
components of the datacenter, including mechanical equipment,
refrigerant piping, gaseous fuel piping, adiabatic and free
cooling systems, cooling towers, chillers, condensers, pumps,
fans, water softeners, air handling units, indoor direct
exchange units, fans, ducting and filters, and related HVAC
equipment.

(III) Water conservation systems, including facilities or
mechanisms that are designed to collect, conserve, and reuse
water.

(IV) Computers, servers, and related equipment, chassis,
networking and telecommunications equipment, switches, racks,
cabling, trays, conduit, fiber optics, and routers.

(V) Monitoring equipment and security systems.

(VI) Modular datacenters and preassembled components of any
item described in this paragraph, including components used in
the manufacturing of modular datacenters.

(VII) Other tangible personal property, fixtures, and
infrastructure that are essential to the operations of a
datacenter.

c. "Qualifying datacenter" means a datacenter for which the
Department of Economic Opportunity has certified that one or
more of the datacenter's owners, operators, users, or tenants,
individually, has or will make a cumulative capital investment
of at least seventy-five million dollars ($75,000,000).

d. "Cumulative capital investment" means the total capital
investment in land, buildings, equipment including datacenter equipment, and all other eligible capital costs made in connection with the construction or expansion of a datacenter in this state. “Cumulative capital investment” does not include expenditures to replace tangible personal property that has reached the end of its useful life, nor does it include expenditures made to acquire an existing datacenter. To qualify, such investment must be made on or after January 1, 2016, and within five years after the date an owner, operator, user, or tenant of a datacenter makes its first real or tangible property investment in the construction or expansion of a datacenter.

e. “Eligible capital costs” means all expenses incurred by an owner, operator, user, or tenant of a datacenter in connection with the acquisition, construction, installation, equipping, or expansion of a datacenter, including, but not limited to:

(I) The costs of acquiring, constructing, installing, equipping, and financing a datacenter, including all obligations incurred for labor and obligations to contractors, subcontractors, builders, and materialmen.

(II) The costs of acquiring land or rights to land and any cost incidental thereto, including recording fees.

(III) The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental mitigation, and supervision of construction, as well as the
(IV) The costs associated with the installation of fixtures and equipment; surveys, including archaeological and environmental surveys; site tests and inspections; subsurface site work and excavation; removal of structures, roadways, and other surface obstructions; filling, grading, paving, and provisions for drainage, storm water retention, and installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and offsite construction of utility extensions to the boundaries of the property.

9.a. In addition to its existing audit and investigation authority, the department may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the tax credit applicant, which are necessary to verify eligibility for the exemptions authorized by this paragraph and to ensure compliance with this paragraph. The Department of Economic Opportunity shall provide technical assistance when requested by the Department of Revenue on any technical audits or examinations performed pursuant to this subparagraph.

b. If the department determines, as a result of an audit or examination or from information received from the Department of Economic Opportunity, that a certified entity received a tax
exemption pursuant to this paragraph to which it was not
entitled, the department may, in addition to the remedies
provided by this subsection, pursue recovery of such funds
pursuant to the laws and rules governing the assessment of
taxes.

c. The Department of Economic Opportunity may revoke or
modify any written decision certifying eligibility for tax
exemptions authorized under this paragraph if it is discovered
that the tax exemption applicant submitted any false statement,
representation, or certification in any application, record,
report, plan, or other document filed in an attempt to receive
tax exemptions authorized under this paragraph. The Department
of Economic Opportunity shall immediately notify the department
of any revoked or modified orders affecting previously certified
tax exemptions.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
entity by this chapter do not inure to any transaction that is
otherwise taxable under this chapter when payment is made by a
representative or employee of the entity by any means,
including, but not limited to, cash, check, or credit card, even
when that representative or employee is subsequently reimbursed
by the entity. In addition, exemptions provided to any entity by
this subsection do not inure to any transaction that is
otherwise taxable under this chapter unless the entity has
obtained a sales tax exemption certificate from the department
or the entity obtains or provides other documentation as
required by the department. Eligible purchases or leases made
with such a certificate must be in strict compliance with this
subsection and departmental rules, and any person who makes an
exempt purchase with a certificate that is not in strict
compliance with this subsection and the rules is liable for and
shall pay the tax. The department may adopt rules to administer
this subsection.

(n) Veterans' organizations.—
1. There are exempt from the tax imposed by this chapter
transactions involving sales or leases to qualified veterans'
organizations and their auxiliaries when used in carrying on
their customary veterans' organization activities or sales of
food or drinks by qualified veterans' organizations in
connection with customary veterans' organization activities to
members of qualified veterans' organizations.
2. As used in this paragraph, the term "veterans'
organizations" means nationally chartered or recognized
veterans' organizations, including, but not limited to, the
American Legion, Veterans of Foreign Wars of the United States,
Florida chapters of the Paralyzed Veterans of America, Catholic
War Veterans of the U.S.A., Jewish War Veterans of the U.S.A.,
and the Disabled American Veterans, Department of Florida, Inc.,
which hold current exemptions from federal income tax under s.
501(c)(4) or (19) of the Internal Revenue Code of 1986, as
amended.

(kkk) Certain machinery and equipment.—
1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in within this state, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacture, processing, compounding, or production of items of tangible personal property for sale shall be exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:
   a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, and 33, and 423930.
   b. "Eligible postharvest activity business" means any business whose primary business activity at the location where the postharvest machinery and equipment is located is within NAICS code 115114.
c. As used in this subparagraph, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d. "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term "industrial machinery and equipment" includes tangible personal property or other property that has a depreciable life of 3 years or more that is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to
an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased prior to the date the machinery and equipment are placed in service.

f. "Postharvest machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports, that the building or structural component can be expected to be replaced when the postharvest machinery and equipment are replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

g. "Postharvest activities" (means services performed on crops, subsequent to their harvest, with the intent of preparing them for market or further processing. Postharvest activities, include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.
3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state shall be exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into such postharvest machinery and equipment, is also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4. A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale shall be exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph paragraph is repealed April 30,
Section 18. Paragraph (n) subsection (1), and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—
(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:
   (n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016, except as provided in subsection (3).
   (2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:
   (c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 19. Paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

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


1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, and s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the
amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to
the amount of deferred income included in such taxable income
pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be
transferred to the surviving or acquiring entity following a
merger or acquisition and used in the same manner and with the
same limitations as specified by this paragraph.

5. The additions and subtractions specified in this
paragraph are intended to adjust taxable income for Florida tax
purposes, and, notwithstanding any other provision of this code,
such additions and subtractions shall be permitted to change a
taxpayer's net operating loss for Florida tax purposes.

Section 20. The amendments made by this act to paragraph
(n) of subsection (1) and paragraph (c) of subsection (2) of
section 220.03, Florida Statutes and to paragraph (e) of
subsection (1) of section 220.13, Florida Statutes, are
effective upon becoming law and shall operate retroactively to
January 1, 2016.

Section 21. (1) The Department of Revenue is authorized,
and all conditions are deemed to be met, to adopt emergency
rules pursuant to s. 120.54(4), Florida Statutes, for the
purpose of implementing the amendments made by this act to
paragraph (n) of subsection (1) and paragraph (c) of subsection
(2) of section 220.03, Florida Statutes and to paragraph (e) of
subsection (1) of section 220.13, Florida Statutes.

(2) Notwithstanding any other provision of law, emergency
rules adopted pursuant to subsection (1) are effective for 6
months after adoption and may be renewed during the pendency of
procedures to adopt permanent rules addressing the subject of
the emergency rules.
(3) This section expires January 1, 2020.

Section 22. Paragraph (f) of subsection (2) of section
220.1845, Florida Statutes, is amended to read:
220.1845 Contaminated site rehabilitation tax credit.—
(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—
(f) The total amount of the tax credits which may be
granted under this section is $21.6 million in the 2015-2016
fiscal year, $10 million the 2016-2017 fiscal year, and $5
million annually thereafter.

Section 23. Paragraph (c) of subsection (1) and subsection
(2) of section 220.192, Florida Statutes, is amended to read:
220.192 Renewable energy technologies investment tax
credit.—
(1) DEFINITIONS.—For purposes of this section, the term:
(c) "Eligible costs" means 75 percent of all capital
costs, operation and maintenance costs, and research and
development costs incurred between July 1, 2012, and June 30,
2017, not to exceed $1 million per state fiscal year for
each taxpayer and up to a limit of $10 million per state fiscal
year for all taxpayers, in connection with an investment in the
production, storage, and distribution of biodiesel (B10-B100),
ethanol (E10-E100), and other renewable fuel in the state,
including the costs of constructing, installing, and equipping such technologies in the state. Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel distribution qualify as an eligible cost under this section.

(2) TAX CREDIT.—For tax years beginning on or after January 1, 2013, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs. Credits may be used in tax years beginning January 1, 2013, and ending December 31, 2017, after which the credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2013, and ending December 31, 2019, after which the credit carryover expires and may not be used. A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group. Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

Section 24. Paragraph (e) of subsection (2), paragraphs (b) and (g) of subsection (3) and subsection (8) of section 220.193, Florida Statutes, are amended to read:

220.193 Florida renewable energy production credit.—
(2) As used in this section, the term:

(e) "New facility" means a Florida renewable energy facility that is operationally placed in service after May 1, 2006. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion, and any nonpublic waste to energy facility sited pursuant to ss. 403.501 through 403.518.

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2012.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2013. Beginning in 2014 and continuing until 2017, each taxpayer claiming a credit under this section must apply to the Department of Agriculture and Consumer Services by the date established by the Department of Agriculture and Consumer Services for an allocation of available credits for that year. The application form shall be adopted by rule of the Department of Agriculture and Consumer Services in consultation with the commission. The application form shall, at
a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(g) Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2013, and June 30, 2016. The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to $5 million in state fiscal year 2012-2013 and $10 million per state fiscal year in state fiscal years 2016-2017 and 2017-2018. 2013-2014 through 2016-2017. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192 but unallocated due to a lack of authorized funds.

(8) This section shall take effect upon becoming law and shall apply to tax years beginning on and after January 1, 2013.
that may be granted in the 2016 calendar year is $23 million and the total amount that may be granted in the 2017 calendar year is $18 million. Applications may be filed with the department on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total credits for all applicants exceed the maximum amount allowed under this paragraph, the credits shall be allocated on a prorated basis.

Section 26. Effective upon becoming law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month following the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th 5th month following the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th 4th month following the close of the taxable year or the 15th day following the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is granted.
(b) Notwithstanding paragraph (a) of this subsection, for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month following the close of the taxable year or the 15th day following the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2) (a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until 15 days after the expiration of the federal extension or until the expiration of 6 months from the original due date, whichever first occurs.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraphs (a) and (b) shall not exceed 6 months. No extension granted under this paragraph shall be valid unless the taxpayer complies with the requirements of s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with the requirements of s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.
(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30, and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 27. Effective upon becoming law and applicable to taxable years beginning on or after January 1, 2016, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (a), (b), or (c) of subsection (1) applies.

Section 28. Effective upon becoming law and applicable to taxable years beginning on or after January 1, 2016, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (a), (b), or (c) of subsection (1) applies.

Section 29. Effective upon becoming law and applicable to taxable years beginning on or after January 1, 2016, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (a), (b), or (c) of subsection (1) applies.

Section 30. Effective upon becoming law and applicable to taxable years beginning on or after January 1, 2016, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (a), (b), or (c) of subsection (1) applies.

Section 31. Effective upon becoming law and applicable to taxable years beginning on or after January 1, 2016, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (a), (b), or (c) of subsection (1) applies.
taxable years beginning on or after January 1, 2016, subsection
(1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to
file a declaration of estimated tax pursuant to s. 220.24 shall
pay such estimated tax as follows:

(1) If the declaration is required to be filed before the
1st day of the 6th month of the taxable year, the estimated
tax shall be paid in four equal installments. The first
installment shall be paid at the time of the required filing of
the declaration; the second and third installments shall be paid
before the 1st day of the 7th month and before the 1st day of
the 10th month of the taxable year, respectively; and the fourth
installment shall be paid before the 1st day of the next taxable
year.

Section 29. Effective upon becoming law and applicable to
taxable years beginning on or after January 1, 2016, paragraph
(c) of subsection (2) of section 220.34, Florida Statutes, is
amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with
respect to a failure to pay estimated taxes except the
following:

(c) The period of the underpayment for which interest and
penalties apply shall commence on the date the installment was
required to be paid, determined without regard to any extensions
of time, and shall terminate on the earlier of the following
dates:

1. The first day of the 5th fourth month following the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the first day of the 4th month following the close of the taxable year; or

3. With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 30. The changes made by sections 26, 27 and 28 of this act apply to estimated payments for taxable years beginning on or after January 1, 2017.

Section 31. Subsection (4) of section 376.30781, Florida Statutes, is amended to read:

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

(4) The Department of Environmental Protection is responsible for allocating the tax credits provided for in s. 220.1845, which may not exceed a total of $21.6 million in tax credits in the 2015-2016 fiscal year, $10 million in the 2016-
1956 2017 fiscal year, and $5 million in tax credits annually thereafter.

1958 Section 32. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

1959 564.06 Excise taxes on wines and beverages.—

1960 (4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

1961 Section 33. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

1962 565.02 License fees; vendors; clubs; caterers; and others.—

1963 (9) (a) DEFINITIONS.— As used in this subsection, the term:

1964 1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

1965 2. "Base rate" means an amount equal to the total taxes paid by all permittees pursuant to former s. 565.02(9), Florida Statutes.
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1982 Statutes 2015, for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015 and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance where a vessel departs from a port in Florida.

4. "Lower berth" means a bed which is:
   a. Affixed to a vessel;
   b. Not located above another bed in the same cabin; and
   c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages.
cigarettes, and other tobacco products on the vessel for consumption on board only:

1. During a period not in excess of 24 hours prior to departure while the vessel is moored at a dock or wharf in a port of this state; or

2. At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210., but it Each permittee shall keep a strict account of the quarterly capacity of each of its vessels all such beverages sold within this state and shall make quarterly reports to the division on forms prepared and furnished by the division. A permittee who sells on board the vessel beverages withdrawn from United States Bureau of Customs and Border Protection bonded storage on board...
the vessel may satisfy such accounting requirement by supplying
the division with copies of the appropriate United States Bureau
of Customs and Border Protection forms evidencing such
withdrawals as importations under United States customs laws.

(d) Each Such permittee shall pay to the state an excise
tax for beverages, cigarettes, and other tobacco products sold
pursuant to this subsection section, if such excise tax has not
previously been paid, in an amount equal to the tax which would
be required to be paid on such sales by a licensed manufacturer
or distributor. The excise tax shall be an amount equal to the
base rate multiplied by the permittee’s quarterly capacity
during the calendar quarter.

(e) A vendor holding such permit shall pay the tax
quarterly monthly to the division at the same time he or she
furnishes the required report. Such report shall be filed on or
before the 15th day of each calendar quarter month for the
quarterly capacity sales occurring during the previous calendar
quarter calendar month.

(f) No later than August 1, 2016, each permittee shall
report the annual capacity for each of its vessels for calendar
year 2015 to the division on forms prepared and furnished by the
division. No later than September 1, 2016, the division shall
calculate the base rate and report it to each permittee. The
base rate shall also be published in the Florida Administrative
Register and on the department’s website.

Section 34. Subsection (1) of section 951.22, Florida
Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as
duly authorized by the sheriff or officer in charge, to
introduce into or possess upon the grounds of any county
detention facility as defined in s. 951.23 or to give to or
receive from any inmate of any such facility wherever said
inmate is located at the time or to take or to attempt to take
or send therefrom any of the following articles which are hereby
declared to be contraband for the purposes of this act, to wit:

Any written or recorded communication; any currency or coin; any
article of food or clothing; any tobacco products as defined in
s. 210.25(12); any cigarette as defined in s. 210.01(1); any
cigar; any intoxicating beverage or beverage which causes or may
cause an intoxicating effect; any narcotic, hypnotic, or
excitative drug or drug of any kind or nature, including nasal
inhalators, sleeping pills, barbiturates, and controlled
substances as defined in s. 893.02(4); any firearm or any
instrumentality customarily used or which is intended to be used
as a dangerous weapon; and any instrumentality of any nature
that may be or is intended to be used as an aid in effecting or
attempting to effect an escape from a county facility.

Section 35. Clothing, school supplies, and personal
computers and personal computer-related accessories sales tax
holiday.—

(1) The tax levied under chapter 212, Florida Statutes,
may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $100 or less per item. As used in this paragraph, the term "clothing" means:

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

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

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

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the first $750 of the sales price of personal computers or personal computer-related accessories purchased for noncommercial home or personal use. As used in this subsection, the term:
(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, or tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

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

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

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

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

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund.
to the Department of Revenue for the purpose of implementing this section.

Section 36. Small business Saturday sales tax holiday.—

(1) As used in this section, the term "small business" means a dealer, as defined in s. 212.06, Florida Statutes, that registered with the Department of Revenue and began operation no later than January 11, 2016, and that owed and remitted to the Department of Revenue less than $200,000 in total tax under chapter 212, Florida Statutes, for the 1-year period ending September 30, 2016. If the dealer has not been in operation for a 1-year period as of September 30, 2016, the dealer must have owed and remitted less than $200,000 in total tax under chapter 212, Florida Statutes, for the period beginning on the day that the dealer began operation and ending September 30, 2016, in order to qualify as a small business under this section. If the dealer is eligible to file a consolidated return pursuant to s. 212.11(1)(e), Florida Statutes, the total tax under chapter 212, Florida Statutes, owed and remitted from all of the dealer's places of business must be less than $200,000 for the applicable period ending September 30, 2016.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected by a small business during the period from 12:01 a.m. on November 26, 2016, through 11:59 p.m. on November 26, 2016, on the retail sale, as defined in s. 212.02(14), Florida Statutes, of any item or article of tangible personal property, as defined in s. 212.02(19), Florida Statutes, having
a sales price of $1,000 or less per item.

(3) The Department of Revenue may, and all conditions are
deemed to be met to, adopt emergency rules pursuant to ss.
120.536(1) and 120.54, Florida Statutes, to administer this
section.

Section 37. Hunting and Fishing sales tax holiday.—
(1) The tax levied under chapter 212, Florida Statutes,
may not be collected during the period from 12:01 a.m. on August
20, 2016, through 11:59 p.m. on August 20, 2016, on the retail
sale, as defined in s. 212.02(14), Florida Statutes, of:

(a) Firearms. For purposes of this section, the term
"firearms" means rifles, shotguns, spearguns, crossbows, and
bows. The term "firearms" does not include destructive devices
as defined in s. 790.001(4), Florida Statutes.

(b) Ammunition for firearms.

(c) Camping tents.

(d) Fishing supplies. For purposes of this section, the
term "fishing supplies" means rods, reels, bait, and fishing
tackle. The term "fishing supplies" does not include supplies
used for commercial fishing purposes.

(2) The tax exemptions provided in this section do not
apply to sales within a theme park or entertainment complex as
defined in s. 509.013(9), Florida Statutes, within a public
lodging establishment as defined in s. 509.013(4), Florida
Statutes, or within an airport as defined in s. 330.27(2),
Florida Statutes.
(3) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) For the 2016-2017 fiscal year, the sum of $91,470 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing the provisions of this section.

Section 38. Technology Sales Tax Holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on April 22, 2017, through 11:59 p.m. on April 22, 2017, on the first $1,000 of the sales price of personal computers or personal computer-related accessories. As used in this subsection, the term:

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

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

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

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

(3) The Department of Revenue may, and all conditions are
deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
and 120.54, Florida Statutes, to administer this section.

(4) For the 2016-2017 fiscal year, the sum of $229,982 in
nonrecurring funds is appropriated from the General Revenue Fund
to the Department of Revenue for the purpose of implementing
this section.

Section 39. Books fairs.--

(1) The tax levied under chapter 212, Florida Statutes, may
not be collected on the retail sale of books and other reading
materials when sold:

1. On the premises of a public, parochial, or nonprofit
school operated for and attended by students in grades K through
12; and

2. On the premises of a nonpermanent retail establishment
that operates fewer than 10 days per location each calendar
If such sales are made by a third-party vendor, the vendor must commit some or all of the profits from the sales to the public, parochial, or nonprofit school where the sales were made. The profits may be distributed to the school in the form of cash, in-store credits, in-kind contributions, or similar methods.

(2) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(3) This section is repealed July 1, 2017.

Section 40. Chapter 2015-221, 2015 Laws of Florida, is amended to read:

Section 29. (1) The tax levied under chapter 212, Florida Statutes, may not be collected on the retail sale of textbooks that are required or recommended for use in a course offered by a public postsecondary educational institution as described in s. 1000.04, Florida Statutes, or a nonpublic postsecondary educational institution that is eligible to participate in a tuition assistance program authorized by s. 1009.89 or s. 1009.891, Florida Statutes. As used in this section, the term "textbook" means any required or recommended manual of instruction or any instructional materials for any field of study. As used in this section, the term "instructional materials" means any educational materials, in printed or
digital format, that are required or recommended for use in a
course in any field of study. To demonstrate that a sale is not
subject to tax, the student must provide a physical or an
electronic copy of the following to the vendor:

(a) The student's identification number; and

(b) An applicable course syllabus or list of required and
recommended textbooks and instructional materials that meet the
criteria in s. 1004.085(3), Florida Statutes.

The vendor must maintain proper documentation, as prescribed by
department rule, to identify the complete transaction or portion
of the transaction that involves the sale of textbooks that are
not subject to tax.

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

(3) The Department of Revenue may, and all conditions are
deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
and 120.54, Florida Statutes, to administer this section.

(4) This section is repealed June 30, 2017.
implementing the provisions of section 14 of this act.

Section 42. For the 2016-2017 fiscal year, the sum of $279,857 is nonrecurring funds is appropriated from the General Revenue Fund to the Property Tax Oversight Program within the Department of Revenue for the purpose of providing aerial photographs and maps to counties that meet the increased population thresholds as required by section 4 of this act. These funds are in addition to any funds that may be provided in the 2016-2017 General Appropriations Act for providing aerial photographs and maps to counties with a population of 50,000 or less.

Section 43. The amendments to ss. 196.012 and 196.1995, Florida Statutes, made by this act are remedial and apply retroactively to December 31, 2015.

Section 44. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon becoming a law, this act shall take effect July 1, 2016.