

By Senator Horne

6-664-99

1                                   A bill to be entitled  
2           An act relating to tax administration; amending  
3           s. 199.106, F.S.; granting a credit against the  
4           intangibles tax to natural persons for an  
5           identical tax paid in another state; creating  
6           s. 201.165, F.S.; granting a credit against the  
7           documentary stamp tax for an identical tax paid  
8           in another state; amending s. 212.02, F.S.;  
9           amending the definition of the term "retail  
10          sale" with respect to materials that are  
11          incorporated into repaired motor vehicles,  
12          airplanes, or boats; amending ss. 212.04,  
13          212.12, 212.13, F.S., and creating s. 213.757,  
14          F.S.; increasing the criminal penalties for  
15          willful violations of certain tax provisions;  
16          amending ss. 212.07, 212.18, F.S.; providing  
17          for the annual issuance of resale certificates  
18          to active accounts; amending s. 213.053, F.S.;  
19          authorizing the Department of Revenue to  
20          disclose to a dealer or taxpayer whether a  
21          specified certificate is active, canceled,  
22          inactive, or invalid; amending s. 212.08, F.S.;  
23          amending the exemption for electricity and  
24          steam used for manufacturing; providing an  
25          exemption for sales or leases to organizations  
26          holding current exemption from federal income  
27          tax under s. 501(c)(3) of the Internal Revenue  
28          Code; amending s. 213.27, F.S.; authorizing the  
29          Department of Revenue to enter into contracts  
30          with private vendors to develop an automated  
31          case-tracking system; amending s. 213.67, F.S.;

1 authorizing the Department of Revenue to reduce  
2 the amount of an administrative garnishment  
3 which is subject to a freeze to the amount  
4 equal to the delinquent amount; amending ss.  
5 220.151, 220.21, 220.221, 220.222, F.S.;  
6 authorizing the Department of Revenue to accept  
7 electronic or telephonic corporate income tax  
8 returns in lieu of written paper returns;  
9 directing the Department of Revenue to  
10 establish a toll-free number for the  
11 verification of valid registration numbers and  
12 resale certificates; directing the Department  
13 of Revenue to establish a system for receiving  
14 information from dealers regarding certificate  
15 numbers; directing the Department of Revenue to  
16 expand its dealer education program regarding  
17 the proper use of resale certificates;  
18 providing appropriations; providing an  
19 effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Subsections (2) and (3) of section 199.106,  
24 Florida Statutes, are amended to read:

25 199.106 Credit for taxes imposed by other states.--

26 (2) For intangible personal property that has a  
27 taxable situs in this state under s. 199.175(1) or any similar  
28 predecessor statute, a credit against the tax imposed by s.  
29 199.032 is allowed to a taxpayer, ~~other than a natural person,~~  
30 in an amount equal to a like tax lawfully imposed and paid by  
31 that taxpayer on the same property in another state, territory

1 of the United States, or the District of Columbia when the  
2 other taxing authority is also claiming situs under provisions  
3 similar or identical to those in s. 199.175(1) or any similar  
4 predecessor statute. For purposes of this subsection, "like  
5 tax" means an ad valorem tax on intangible personal property  
6 which is also subject to tax under s. 199.032. The credit may  
7 not exceed the tax imposed on the property under s. 199.032.  
8 Proof of entitlement to such a credit must be made pursuant to  
9 rules and forms adopted by the department.

10 (3) The credits provided by this section ~~subsections~~  
11 ~~(1) and (2)~~ apply retroactively to ~~December 31, 1979~~.

12 However, notwithstanding the retroactivity of these credit  
13 provisions, this section does not reopen a closed period of  
14 nonclaim under s. 215.26 or any other statute or extend the  
15 period of nonclaim under s. 215.26 or any other statute.

16 Section 2. Section 201.165, Florida Statutes, is  
17 created to read:

18 201.165 Credit for tax paid to other states.--

19 (1) With respect to each tax imposed by any section of  
20 this chapter, a credit against the specific tax imposed by  
21 that section is allowed in an amount equal to the amount of a  
22 like tax lawfully imposed and paid on the same document or  
23 instrument in another state or territory of the United States  
24 or in the District of Columbia. As used in this subsection,  
25 the term "like tax" means an excise tax on documents which is  
26 in substance identical to the tax imposed by this chapter on  
27 the same document. The credit may not exceed the amount of the  
28 tax imposed on the document by this chapter. Proof of  
29 entitlement to the credit must be provided to the department.  
30 The department may adopt rules to implement this credit and  
31 designate forms that establish what proof is required.

1           (2) The credit provided by this section applies  
2 retroactively. Notwithstanding the retroactivity of this  
3 credit provision, this section does not reopen a closed period  
4 of nonclaim under s. 215.26 or any other statute, nor does  
5 this section extend the period of nonclaim under s. 215.26 or  
6 any other statute.

7           Section 3. Paragraph (c) of subsection (14) of section  
8 212.02, Florida Statutes, 1998 Supplement, is amended to read:

9           212.02 Definitions.--The following terms and phrases  
10 when used in this chapter have the meanings ascribed to them  
11 in this section, except where the context clearly indicates a  
12 different meaning:

13           (14)

14           (c) "Retail sales," "sale at retail," "use,"  
15 "storage," and "consumption" do not include materials,  
16 containers, labels, sacks, bags, or similar items intended to  
17 accompany a product sold to a customer without which delivery  
18 of the product would be impracticable because of the character  
19 of the contents and be used one time only for packaging  
20 tangible personal property for sale or for the convenience of  
21 the customer or for packaging in the process of providing a  
22 service taxable under this chapter. When a separate charge for  
23 packaging materials is made, the charge shall be considered  
24 part of the sales price or rental charge for purposes of  
25 determining the applicability of tax. The terms do ~~term also~~  
26 ~~does~~ not include the sale, use, storage, or consumption of  
27 industrial materials, including chemicals and fuels except as  
28 provided herein, for future processing, manufacture, or  
29 conversion into articles of tangible personal property for  
30 resale when such industrial materials, including chemicals and  
31 fuels except as provided herein, become a component or

1 ingredient of the finished product ~~and do not include the~~  
2 ~~sale, use, storage, or consumption of materials for use in~~  
3 ~~repairing a motor vehicle, airplane, or boat, when such~~  
4 ~~materials are incorporated into the repaired vehicle,~~  
5 ~~airplane, or boat.~~ However, the terms include the sale, use,  
6 storage, or consumption of tangible personal property,  
7 including machinery and equipment or parts thereof, purchased  
8 electricity, and fuels used to power machinery, when such  
9 items are used and dissipated in fabricating, converting, or  
10 processing tangible personal property for sale, even though  
11 they may become ingredients or components of the tangible  
12 personal property for sale through accident, wear, tear,  
13 erosion, corrosion, or similar means. The terms do not include  
14 the sale of materials to a registered repair facility for use  
15 in repairing a motor vehicle, airplane, or boat when such  
16 materials are incorporated into and sold as part of the  
17 repair. Such a sale is to be considered a purchase for resale  
18 by the repair facility even though every material is not  
19 separately stated or separately priced on the repair invoice.

20 Section 4. Effective January 1, 2000, subsections (4)  
21 and (5) of section 212.04, Florida Statutes, 1998 Supplement,  
22 are amended to read:

23 212.04 Admissions tax; rate, procedure, enforcement.--

24 (4) Each person who exercises the privilege of  
25 charging admission taxes, as herein defined, shall apply for,  
26 and at that time shall furnish the information and comply with  
27 the provisions of s. 212.18 not inconsistent herewith and  
28 receive from the department, a certificate of right to  
29 exercise such privilege, which certificate shall apply to each  
30 place of business where such privilege is exercised and shall  
31 be in the manner and form prescribed by the department. Such

1 certificate shall be issued upon payment to the department of  
2 a registration fee of \$5 by the applicant. Each person  
3 exercising the privilege of charging such admission taxes as  
4 herein defined shall cause to be kept records and accounts  
5 showing the admission which shall be in the form as the  
6 department may from time to time prescribe, inclusive of  
7 records of all tickets numbered and issued for a period of not  
8 less than the time within which the department may, as  
9 permitted by s. 95.091(3), make an assessment with respect to  
10 any admission evidenced by such records and accounts, and  
11 inclusive of all bills or checks of customers who are charged  
12 any of the taxes defined herein, showing the charge made to  
13 each for that period. The department is empowered to use each  
14 and every one of the powers granted herein to the department  
15 to discover the amount of tax to be paid by each such person  
16 and to enforce the payment thereof as are hereby granted the  
17 department for the discovery and enforcement of the payment of  
18 taxes hereinafter levied on the sales of tangible personal  
19 property. ~~The failure of any person to pay such taxes before~~  
20 ~~the 21st day of the succeeding month after the taxes are~~  
21 ~~collected shall render such person liable to the same~~  
22 ~~penalties that are hereafter imposed upon such person for~~  
23 ~~being delinquent in the payment of taxes imposed upon the~~  
24 ~~sales of tangible personal property; the failure of any person~~  
25 ~~to render returns and to pay taxes as prescribed herein shall~~  
26 ~~render such person subject to the same penalties, by way of~~  
27 ~~charges for delinquencies, at the rate of 10 percent per month~~  
28 ~~for a total amount of tax delinquent up to a total of 50~~  
29 ~~percent of such tax and at the rate of 100-percent penalty for~~  
30 ~~attempted evasion of payment of any such tax or for any~~  
31

1 ~~attempt to file false or misleading returns that are required~~  
2 ~~to be filed by the department.~~

3 (5) All of the provisions of this chapter relating to  
4 collection, investigation, discovery, and aids to collection  
5 of taxes upon sales of tangible personal property shall  
6 likewise apply to all privileges described or referred to in  
7 this section, and the obligations imposed in this chapter upon  
8 retailers are hereby imposed upon the seller of such  
9 admissions. All penalties applicable to a dealer of tangible  
10 personal property for failure to meet any such obligation,  
11 including, but not limited to, any failure related to the  
12 filing of returns, the payment of taxes, or the maintenance  
13 and production of records, are applicable to the seller of  
14 admissions.When tickets or admissions are sold and not used  
15 but returned and credited by the seller, the seller may apply  
16 to the department for a credit allowance for such returned  
17 tickets or admissions if advance payments have been made by  
18 the buyer and have been returned by the seller, upon such form  
19 and in such manner as the department may from time to time  
20 prescribe. The department may, upon obtaining satisfactory  
21 proof of the refunds on the part of the seller, credit the  
22 seller for taxes paid upon admissions that have been returned  
23 unused to the purchaser of those admissions. The seller of  
24 admissions, upon the payment of the taxes before they become  
25 delinquent and the rendering of the returns in accordance with  
26 the requirement of the department and as provided in this law,  
27 shall be entitled to a discount of 2.5 percent of the amount  
28 of taxes upon the payment thereof before such taxes become  
29 delinquent, in the same manner as permitted the sellers of  
30 tangible personal property in this chapter. However, if the  
31 amount of the tax due and remitted to the department for the

1 reporting period exceeds \$1,200, no discount shall be allowed  
2 for all amounts in excess of \$1,200.

3 Section 5. Effective February 1, 2000, paragraph (b)  
4 of subsection (1) of section 212.07, Florida Statutes, 1998  
5 Supplement, is amended to read:

6 212.07 Sales, storage, use tax; tax added to purchase  
7 price; dealer not to absorb; liability of purchasers who  
8 cannot prove payment of the tax; penalties; general  
9 exemptions.--

10 (1)

11 (b) A resale must be in strict compliance with s.  
12 212.18 and the rules and regulations, and any dealer who makes  
13 a sale for resale which is not in strict compliance with s.  
14 212.18 and the rules and regulations shall himself or herself  
15 be liable for and pay the tax. A dealer who makes a sale for  
16 resale shall document the exempt status of the transaction, as  
17 established by rules adopted by the department, by retaining a  
18 copy of the purchaser's resale certificate. In lieu of  
19 maintaining a copy of the certificate, a dealer may document,  
20 before the sale, an authorization number provided by the  
21 department electronically or by telephone, or by other means  
22 established by the department by rule. The department shall  
23 adopt rules that provide that, for purchasers who continually  
24 purchase on account from a dealer, the dealer may rely on a  
25 resale certificate issued under s. 212.18(3)(c), which is  
26 valid at the time of receipt from the purchaser, without  
27 seeking annual verification of the resale certificate.A  
28 dealer may, through the informal protest provided for in s.  
29 213.21 and the rules of the Department of Revenue, provide the  
30 department with evidence of the exempt status of a sale. ~~The~~  
31 ~~Department of Revenue shall adopt rules which provide that~~

1 ~~valid resale certificates and~~ Consumer certificates of  
2 exemption executed by those ~~dealers or~~ exempt entities that  
3 ~~which~~ were registered with the department at the time of sale,  
4 resale certificates provided by purchasers who were active  
5 dealers at the time of sale, and verification by the  
6 department of a purchaser's active dealer status at the time  
7 of sale in lieu of a resale certificate shall be accepted by  
8 the department when submitted during the protest period, but  
9 may not be accepted in any proceeding under chapter 120 or any  
10 circuit court action instituted under chapter 72.

11 Section 6. Paragraph (ii) of section 212.08, Florida  
12 Statutes, 1998 Supplement, is amended, and paragraph (zz) is  
13 added to that subsection, to read:

14 212.08 Sales, rental, use, consumption, distribution,  
15 and storage tax; specified exemptions.--The sale at retail,  
16 the rental, the use, the consumption, the distribution, and  
17 the storage to be used or consumed in this state of the  
18 following are hereby specifically exempt from the tax imposed  
19 by this chapter.

20 (7) MISCELLANEOUS EXEMPTIONS.--

21 (ii) Certain electricity or steam uses.--

22 1. Subject to the phase-in provisions in subparagraph  
23 4., charges for electricity or steam used to operate machinery  
24 and equipment at a fixed location in this state when such  
25 machinery and equipment is used to manufacture, process,  
26 compound, produce, or prepare for shipment items of tangible  
27 personal property for sale, or to operate pollution control  
28 equipment, recycling equipment, maintenance equipment, or  
29 monitoring or control equipment used in such operations are  
30 exempt to the extent provided in this paragraph. If in order  
31 to qualify for this exemption, 75 percent or more of the

1 electricity or steam used at the fixed location ~~is must be~~  
2 used to operate qualifying machinery or equipment, 100 percent  
3 of the charges for electricity or steam used at the fixed  
4 location is exempt. If less than 75 percent but 50 percent or  
5 more of the electricity or steam ~~is~~ used at the a fixed  
6 location is used to operate qualifying machinery or equipment,  
7 ~~then it is presumed that~~ 50 percent of the charges for  
8 electricity or steam used at the fixed location is exempt  
9 ~~charge for electricity is for nonexempt purposes~~. If less than  
10 50 percent of the electricity or steam used at the fixed  
11 location is used to operate qualifying machinery and  
12 equipment, none of the charges for electricity or steam used  
13 at the fixed location is exempt.

14           2. This exemption applies only to industries  
15 classified under SIC Industry Major Group Numbers 10, 12, 13,  
16 14, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34,  
17 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means  
18 those classifications contained in the Standard Industrial  
19 Classification Manual, 1987, as published by the Office of  
20 Management and Budget, Executive Office of the President.

21           3. Possession by a seller of a written certification  
22 by the purchaser, certifying the purchaser's entitlement to an  
23 exemption permitted by this subsection, relieves the seller  
24 from the responsibility of collecting the tax on the  
25 nontaxable amounts, and the department shall look solely to  
26 the purchaser for recovery of such tax if it determines that  
27 the purchaser was not entitled to the exemption.

28           4. Such exemption shall be applied as follows:

29           a. Beginning July 1, 1996, 20 percent of the charges  
30 for such electricity shall be exempt.

31

1           b. Beginning July 1, 1997, 40 percent of the charges  
2 for such electricity shall be exempt.

3           c. Beginning July 1, 1998, 60 percent of the charges  
4 for such electricity or steam shall be exempt.

5           d. Beginning July 1, 1999, 80 percent of the charges  
6 for such electricity or steam shall be exempt.

7           e. Beginning July 1, 2000, 100 percent of the charges  
8 for such electricity or steam shall be exempt.

9           5. Notwithstanding any other provision in this  
10 paragraph to the contrary, in order to receive the exemption  
11 provided in this paragraph a taxpayer must first register with  
12 the WAGES Program Business Registry established by the local  
13 WAGES coalition for the area in which the taxpayer is located.  
14 Such registration establishes a commitment on the part of the  
15 taxpayer to hire WAGES program participants to the maximum  
16 extent possible consistent with the nature of their business.

17           6.a. In order to determine whether the exemption  
18 provided in this paragraph from the tax on charges for  
19 electricity or steam has an effect on retaining or attracting  
20 companies to this state, the Office of Program Policy Analysis  
21 and Governmental Accountability shall periodically monitor and  
22 report on the industries receiving the exemption.

23           b. The first report shall be submitted no later than  
24 January 1, 1997, and must be conducted in such a manner as to  
25 specifically determine the number of companies within each SIC  
26 Industry Major Group receiving the exemption as of September  
27 1, 1996, and the number of individuals employed by companies  
28 within each SIC Industry Major Group receiving the exemption  
29 as of September 1, 1996.

30           c. The second report shall be submitted no later than  
31 January 1, 2001, and must be comprehensive in scope, but, at a

1 minimum, must be conducted in such a manner as to specifically  
2 determine the number of companies within each SIC Industry  
3 Major Group receiving the exemption as of September 1, 2000,  
4 the number of individuals employed by companies within each  
5 SIC Industry Major Group receiving the exemption as of  
6 September 1, 2000, whether the change, if any, in such number  
7 of companies or employees is attributable to the exemption  
8 provided in this paragraph, whether it would be sound public  
9 policy to continue or discontinue the exemption, and the  
10 consequences of doing so.

11 d. Both reports shall be submitted to the President of  
12 the Senate, the Speaker of the House of Representatives, the  
13 Senate Minority Leader, and the House Minority Leader.

14 (zz) Internal Revenue Code s. 501(c)(3)  
15 organizations.--Also exempt from the tax imposed by this  
16 chapter are sales or leases to organizations holding recurrent  
17 exemptions from federal income tax under s. 501(c)(3) of the  
18 Internal Revenue Code of 1986, as amended.

19  
20 Exemptions provided to any entity by this subsection shall not  
21 inure to any transaction otherwise taxable under this chapter  
22 when payment is made by a representative or employee of such  
23 entity by any means, including, but not limited to, cash,  
24 check, or credit card even when that representative or  
25 employee is subsequently reimbursed by such entity.

26 Section 7. Effective January 1, 2000, subsections (2)  
27 and (13) of section 212.12, Florida Statutes, 1998 Supplement,  
28 are amended to read:

29 212.12 Dealer's credit for collecting tax; penalties  
30 for noncompliance; powers of Department of Revenue in dealing  
31

1 with delinquents; brackets applicable to taxable transactions;  
2 records required.--

3           (2)(a) When any person, firm, or corporation required  
4 hereunder to make any return or to pay any tax or fee imposed  
5 by this chapter fails to timely file such return or fails to  
6 pay the tax or fee due within the time required hereunder, in  
7 addition to all other penalties provided herein and by the  
8 laws of this state in respect to such taxes or fees, a  
9 specific penalty shall be added to the tax or fee in the  
10 amount of 10 percent of any unpaid tax or fee if the failure  
11 is for not more than 30 days, with an additional 10 percent of  
12 any unpaid tax or fee for each additional 30 days, or fraction  
13 thereof, during the time which the failure continues, not to  
14 exceed a total penalty of 50 percent, in the aggregate, of any  
15 unpaid tax or fee. In no event may the penalty be less than  
16 \$10 for failure to timely file a tax return required by s.  
17 212.11(1)(b) or \$5 for failure to timely file a tax return  
18 authorized by s. 212.11(1)(c) or (d).

19           (b) Any person who knowingly and with a willful intent  
20 to evade any tax imposed under this chapter fails to file six  
21 consecutive returns as required by law commits a felony of the  
22 third degree, punishable as provided in s. 775.082 or s.  
23 775.083.

24           (c) Any person who makes a false or fraudulent return  
25 with a willful intent to evade payment of any tax or fee  
26 imposed under this chapter is, in addition to the other  
27 penalties provided by law, liable for a specific penalty of  
28 100 percent of the tax bill or fee and for fine and punishment  
29 as provided in s. 775.082, s. 775.083, or s. 775.084.

30           1. If the total amount of unreported taxes or fees is  
31 less than \$300, the first offense is a misdemeanor of the

1 second degree, the second offense is a misdemeanor of the  
2 first degree, and the third and each subsequent offense is a  
3 felony of the third degree.

4 2. If the total amount of unreported taxes or fees is  
5 at least \$300 but less than \$20,000, the offense is a felony  
6 of the third degree.

7 3. If the total amount of unreported taxes or fees is  
8 at least \$20,000 but less than \$100,000, the offense is a  
9 felony of the second degree.

10 4. If the total amount of unreported taxes or fees is  
11 \$100,000 or more, the offense is a felony of the first degree.

12 ~~In the case of a false or fraudulent return or a willful~~  
13 ~~intent to evade payment of any tax or fee imposed under this~~  
14 ~~chapter, in addition to the other penalties provided by law,~~  
15 ~~the person making such false or fraudulent return or willfully~~  
16 ~~attempting to evade the payment of such a tax or fee shall be~~  
17 ~~liable for a specific penalty of 100 percent of the tax bill~~  
18 ~~or fee and for fine and punishment as provided by law for a~~  
19 ~~conviction of a misdemeanor of the first degree.~~

20 (d)(b) When any person, firm, or corporation fails to  
21 timely remit the proper estimated payment required under s.  
22 212.11, a specific penalty shall be added in an amount equal  
23 to 10 percent of any unpaid estimated tax. ~~Beginning with~~  
24 ~~January 1, 1985, returns,~~The department, upon a showing of  
25 reasonable cause, is authorized to waive or compromise  
26 penalties imposed by this paragraph. However, other penalties  
27 and interest shall be due and payable if the return on which  
28 the estimated payment was due was not timely or properly  
29 filed.

30 (e)(c) Dealers filing a consolidated return pursuant  
31 to s. 212.11(1)(e)~~s. 212.11(i)(d)~~ shall be subject to the

1 penalty established in paragraph (b) unless the dealer has  
2 paid the required estimated tax for his or her consolidated  
3 return as a whole without regard to each location. If the  
4 dealer fails to pay the required estimated tax for his or her  
5 consolidated return as a whole, each filing location shall  
6 stand on its own with respect to calculating penalties  
7 pursuant to paragraph (b).

8 (13) In order to aid the administration and  
9 enforcement of the provisions of this chapter with respect to  
10 the rentals and license fees, each lessor or person granting  
11 the use of any hotel, apartment house, roominghouse, tourist  
12 or trailer camp, real property, or any interest therein, or  
13 any portion thereof, inclusive of owners; property managers;  
14 lessors; landlords; hotel, apartment house, and roominghouse  
15 operators; and all licensed real estate agents within the  
16 state leasing, granting the use of, or renting such property,  
17 shall be required to keep a record of each and every such  
18 lease, license, or rental transaction which is taxable under  
19 this chapter, in such a manner and upon such forms as the  
20 department may prescribe, and to report such transaction to  
21 the department or its designated agents, and to maintain such  
22 records as long as required by s. 213.35, subject to the  
23 inspection of the department and its agents. Upon the failure  
24 by such owner; property manager; lessor; landlord; hotel,  
25 apartment house, roominghouse, tourist or trailer camp  
26 operator; or real estate agent to keep and maintain such  
27 records and to make such reports upon the forms and in the  
28 manner prescribed, such owner; property manager; lessor;  
29 landlord; hotel, apartment house, roominghouse, tourist or  
30 trailer camp operator; receiver of rent or license fees; or  
31 real estate agent is guilty of a misdemeanor of the second

1 degree, punishable as provided in s. 775.082 or s. 775.083,  
2 for the first offense; for subsequent offenses, they are each  
3 guilty of a misdemeanor of the first degree, punishable as  
4 provided in s. 775.082 or s. 775.083. However, any subsequent  
5 offense that involves intentional destruction of such records  
6 with intent to evade payment of or deprive the state of any  
7 tax revenues is a felony of the third degree, punishable as  
8 provided in s. 775.082 or s. 775.083.

9 Section 8. Effective January 1, 2000, subsection (1)  
10 and (2) of section 212.13, Florida Statutes, are amended to  
11 read:

12 212.13 Records required to be kept; power to inspect;  
13 audit procedure.--

14 (1) For the purpose of enforcing the collection of the  
15 tax levied by this chapter, the department is hereby  
16 specifically authorized and empowered to examine at all  
17 reasonable hours the books, records, and other documents of  
18 all transportation companies, agencies, or firms that conduct  
19 their business by truck, rail, water, aircraft, or otherwise,  
20 in order to determine what dealers, or other persons charged  
21 with the duty to report or pay a tax under this chapter, are  
22 importing or are otherwise shipping in articles or tangible  
23 personal property which are liable for said tax. In the event  
24 said transportation company, agency, or firm refuses to permit  
25 such examination of its books, records, or other documents by  
26 the department as aforesaid, it is guilty of a misdemeanor of  
27 the first degree, punishable as provided in s. 775.082 or s.  
28 775.083. However, any subsequent offense that involves  
29 intentional destruction of such records with an intent to  
30 evade payment of or deprive the state of any tax revenues is a  
31 felony of the third degree, punishable as provided in s.

1 775.082 or s. 775.083.The department shall have the right to  
2 proceed in any chancery court to seek a mandatory injunction  
3 or other appropriate remedy to enforce its right against the  
4 offender, as granted by this section, to require an  
5 examination of the books and records of such transportation  
6 company or carrier.

7 (2) Each dealer, as defined in this chapter, shall  
8 secure, maintain, and keep as long as required by s. 213.35 a  
9 complete record of tangible personal property or services  
10 received, used, sold at retail, distributed or stored, leased  
11 or rented by said dealer, together with invoices, bills of  
12 lading, gross receipts from such sales, and other pertinent  
13 records and papers as may be required by the department for  
14 the reasonable administration of this chapter; all such  
15 records which are located or maintained in this state shall be  
16 open for inspection by the department at all reasonable hours  
17 at such dealer's store, sales office, general office,  
18 warehouse, or place of business located in this state. Any  
19 dealer who maintains such books and records at a point outside  
20 this state must make such books and records available for  
21 inspection by the department where the general records are  
22 kept. Any dealer subject to the provisions of this chapter who  
23 violates these provisions is guilty of a misdemeanor of the  
24 first degree, punishable as provided in s. 775.082 or s.  
25 775.083. However, any subsequent offense that involves  
26 intentional destruction of such records with an intent to  
27 evade payment of or deprive the state of any tax revenues is a  
28 felony of the third degree, punishable as provided in s.  
29 775.082 or s. 775.083.

1           Section 9. Effective January 1, 2000, subsection (3)  
2 of section 212.18, Florida Statutes, 1998 Supplement, is  
3 amended to read:

4           212.18 Administration of law; registration of dealers;  
5 rules.--

6           (3)(a) Every person desiring to engage in or conduct  
7 business in this state as a dealer, as defined in this  
8 chapter, or to lease, rent, or let or grant licenses in living  
9 quarters or sleeping or housekeeping accommodations in hotels,  
10 apartment houses, roominghouses, or tourist or trailer camps  
11 that are subject to tax under s. 212.03, or to lease, rent, or  
12 let or grant licenses in real property, as defined in this  
13 chapter, and every person who sells or receives anything of  
14 value by way of admissions, must file with the department an  
15 application for a certificate of registration for each place  
16 of business, showing the names of the persons who have  
17 interests in such business and their residences, the address  
18 of the business, and such other data as the department may  
19 reasonably require. However, owners and operators of vending  
20 machines or newspaper rack machines are required to obtain  
21 only one certificate of registration for each county in which  
22 such machines are located. The department, by rule, may  
23 authorize a dealer that uses independent sellers to sell its  
24 merchandise to remit tax on the retail sales price charged to  
25 the ultimate consumer in lieu of having the independent seller  
26 register as a dealer and remit the tax. The department may  
27 appoint the county tax collector as the department's agent to  
28 accept applications for registrations. The application must be  
29 made to the department before the person, firm, copartnership,  
30 or corporation may engage in such business, and it must be  
31 accompanied by a registration fee of \$5. However, a

1 registration fee is not required to accompany an application  
2 to engage in or conduct business to make mail order sales.  
3       **(b)** The department, upon receipt of such application,  
4 will grant to the applicant a separate certificate of  
5 registration for each place of business, which certificate may  
6 be canceled by the department or its designated assistants for  
7 any failure by the certificateholder to comply with any of the  
8 provisions of this chapter. The certificate is not assignable  
9 and is valid only for the person, firm, copartnership, or  
10 corporation to which issued. The certificate must be placed in  
11 a conspicuous place in the business or businesses for which it  
12 is issued and must be displayed at all times. Except as  
13 provided in this paragraph, no person shall engage in business  
14 as a dealer or in leasing, renting, or letting of or granting  
15 licenses in living quarters or sleeping or housekeeping  
16 accommodations in hotels, apartment houses, roominghouses,  
17 tourist or trailer camps, or real property as hereinbefore  
18 defined, nor shall any person sell or receive anything of  
19 value by way of admissions, without first having obtained such  
20 a certificate or after such certificate has been canceled; no  
21 person shall receive any license from any authority within the  
22 state to engage in any such business without first having  
23 obtained such a certificate or after such certificate has been  
24 canceled. The engaging in the business of selling or leasing  
25 tangible personal property or services or as a dealer, as  
26 defined in this chapter, or the engaging in leasing, renting,  
27 or letting of or granting licenses in living quarters or  
28 sleeping or housekeeping accommodations in hotels, apartment  
29 houses, roominghouses, or tourist or trailer camps that are  
30 taxable under this chapter, or real property, or the engaging  
31 in the business of selling or receiving anything of value by

1 way of admissions, without such certificate first being  
2 obtained or after such certificate has been canceled by the  
3 department, is prohibited. The failure or refusal of any  
4 person, firm, copartnership, or corporation to so qualify when  
5 required hereunder is a misdemeanor of the first degree,  
6 punishable as provided in s. 775.082 or s. 775.083, or subject  
7 to injunctive proceedings as provided by law. Such failure or  
8 refusal also subjects the offender to a \$100 initial  
9 registration fee in lieu of the \$5 registration fee authorized  
10 in ~~this~~ paragraph(a). However, the department may waive the  
11 increase in the registration fee if it is determined by the  
12 department that the failure to register was due to reasonable  
13 cause and not to willful negligence, willful neglect, or  
14 fraud.

15 (c) In addition to the certificate of registration,  
16 the department shall provide to each newly registered dealer  
17 an initial resale certificate that is valid for the remainder  
18 of the period of issuance. The department shall provide each  
19 active dealer with an annual resale certificate. As used in  
20 this section, the term "active dealer" means a person who is  
21 currently registered with the department and who complies with  
22 the requirement to file at least once during each applicable  
23 reporting period.

24 (d)~~(b)~~ The department may revoke any dealer's  
25 certificate of registration when the dealer fails to comply  
26 with this chapter. Prior to revocation of a dealer's  
27 certificate of registration, the department must schedule an  
28 informal conference at which the dealer may present evidence  
29 regarding the department's intended revocation or enter into a  
30 compliance agreement with the department. The department must  
31 notify the dealer of its intended action and the time, place,

1 and date of the scheduled informal conference by written  
2 notification sent by United States mail to the dealer's last  
3 known address of record furnished by the dealer on a form  
4 prescribed by the department. The dealer is required to attend  
5 the informal conference and present evidence refuting the  
6 department's intended revocation or enter into a compliance  
7 agreement with the department which resolves the dealer's  
8 failure to comply with this chapter. The department shall  
9 issue an administrative complaint under s. 120.60 if the  
10 dealer fails to attend the department's informal conference,  
11 fails to enter into a compliance agreement with the department  
12 resolving the dealer's noncompliance with this chapter, or  
13 fails to comply with the executed compliance agreement.

14 (e)~~(c)~~ As used in this paragraph, the term "exhibitor"  
15 means a person who enters into an agreement authorizing the  
16 display of tangible personal property or services at a  
17 convention or a trade show. The following provisions apply to  
18 the registration of exhibitors as dealers under this chapter:

19 1. An exhibitor whose agreement prohibits the sale of  
20 tangible personal property or services subject to the tax  
21 imposed in this chapter is not required to register as a  
22 dealer.

23 2. An exhibitor whose agreement provides for the sale  
24 at wholesale only of tangible personal property or services  
25 subject to the tax imposed in this chapter must obtain a  
26 resale certificate from the purchasing dealer but is not  
27 required to register as a dealer.

28 3. An exhibitor whose agreement authorizes the retail  
29 sale of tangible personal property or services subject to the  
30 tax imposed in this chapter must register as a dealer and  
31 collect the tax imposed under this chapter on such sales.

1           4. Any exhibitor who makes a mail order sale pursuant  
2 to s. 212.0596 must register as a dealer.

3  
4 Any person who conducts a convention or a trade show must make  
5 their exhibitor's agreements available to the department for  
6 inspection and copying.

7           Section 10. Effective January 1, 2000, subsection (10)  
8 of section 213.053, Florida Statutes, 1998 Supplement, is  
9 amended to read:

10           213.053 Confidentiality and information sharing.--

11           (10) Notwithstanding any other provision of this  
12 section, with respect to a request for verification of a  
13 certificate of registration issued pursuant to s. 212.18 to a  
14 specified dealer or taxpayer or with respect to a request by a  
15 law enforcement officer for verification of a certificate of  
16 registration issued pursuant to s. 538.09 to a specified  
17 secondhand dealer or pursuant to s. 538.25 to a specified  
18 secondary metals recycler, the department may disclose whether  
19 the specified person holds a valid certificate or whether a  
20 specified certificate number is valid, canceled, inactive, or  
21 invalid and the name of the holder of the ~~such~~ certificate.  
22 This subsection shall not be construed to create a duty to  
23 request verification of any certificate of registration.

24           Section 11. Subsection (8) is added to section 213.27,  
25 Florida Statutes, to read:

26           213.27 Contracts with debt collection agencies.--

27           (8)(a) The executive director of the department may  
28 enter into contracts with private vendors to develop and  
29 implement systems for enhancing tax collections. The vendor's  
30 compensation under such a contract must be funded through  
31 increased tax collections. The amount of the compensation paid

1 to a vendor must be a percentage of the increase in the amount  
2 of tax collected which is attributable to the system, after  
3 all administrative and judicial appeals are exhausted, and the  
4 total amount of compensation paid to a vendor may not exceed  
5 the maximum amount stated in the contract.

6 (b) A person acting on behalf of the department under  
7 a contract authorized by this section does not exercise any of  
8 the powers of the department, except that the person is an  
9 agent of the department for the purposes of developing and  
10 implementing a system for enhancing tax collections.

11 (c) Disclosure of information under this subsection  
12 must be governed by a written agreement between the executive  
13 director and the private vendor. The vendor is bound by the  
14 confidentiality requirements that apply to the Department of  
15 Revenue. Breach of confidentiality is a misdemeanor of the  
16 first degree, punishable as provided in s. 775.082 or s.  
17 775.083.

18 Section 12. Subsection (1) of section 213.67, Florida  
19 Statutes, 1998 Supplement, is amended to read:

20 213.67 Garnishment.--

21 (1) If a person is delinquent in the payment of any  
22 taxes, penalties, and interest owed to the department, the  
23 executive director or his or her designee may give notice of  
24 the amount of such delinquency by registered mail to all  
25 persons having in their possession or under their control any  
26 credits or personal property, exclusive of wages, belonging to  
27 the delinquent taxpayer, or owing any debts to such delinquent  
28 taxpayer at the time of receipt by them of such notice.  
29 Thereafter, any person who has been notified may not transfer  
30 or make any other disposition of such credits, other personal  
31 property, or debts until the executive director or his or her

1 designee consents to a transfer or disposition or until 60  
2 days after the receipt of such notice, except that the amount  
3 by which the value of the credits, other personal property, or  
4 debts, wherever held, exceeds the delinquent amount stipulated  
5 in the notice is exempt from this section if the dealer does  
6 not have a prior history of tax delinquencies. If during the  
7 effective period of the notice to withhold, any person so  
8 notified makes any transfer or disposition of the property or  
9 debts required to be withheld hereunder, he or she is liable  
10 to the state for any indebtedness owed to the department by  
11 the person with respect to whose obligation the notice was  
12 given to the extent of the value of the property or the amount  
13 of the debts thus transferred or paid if, solely by reason of  
14 such transfer or disposition, the state is unable to recover  
15 the indebtedness of the person with respect to whose  
16 obligation the notice was given. If the delinquent taxpayer  
17 contests the intended levy in circuit court or under chapter  
18 120, the notice under this section remains effective until  
19 that final resolution of the contest. Any financial  
20 institution receiving such notice will maintain a right of  
21 setoff for any transaction involving a debit card occurring on  
22 or before the date of receipt of such notice.

23 Section 13. Effective January 1, 2000, section  
24 213.757, Florida Statutes, is created to read:

25 213.757 Willful failure to pay over funds or  
26 destruction of records by agent.--Any person who accepts from  
27 a taxpayer money that is due to the department, for the  
28 purpose of acting as the taxpayer's agent to make the payment  
29 to the department, but who willfully fails to remit the  
30 payment to the department when due, commits a felony of the  
31 third degree, punishable as provided in s. 775.082, s.

1 775.083, or s. 775.084. Any person who has possession as a  
2 taxpayer's agent of the taxpayer's records that are required  
3 to be maintained under the revenue laws of this state and who  
4 intentionally destroys those records with the intent of  
5 depriving the state of tax revenues commits a felony of the  
6 third degree, punishable as provided in s. 775.082, s.  
7 775.083, or s. 775.084.

8 Section 14. Paragraph (b) of subsection (1) of section  
9 220.151, Florida Statutes, is amended to read:

10 220.151 Apportionment; methods for special  
11 industries.--

12 (1)

13 (b) If the principal source of premiums written by an  
14 insurance company consists of premiums for reinsurance  
15 accepted by it, the tax base of such company shall be  
16 apportioned to this state by multiplying such base by a  
17 fraction the numerator of which is the sum of:

18 1. Direct premiums written for insurance upon  
19 properties and risks in this state, plus

20 2. Premiums written for reinsurance, accepted in  
21 respect to properties and risks in this state,

22  
23 and the denominator of which is the sum of direct premiums  
24 written for insurance upon properties and risks everywhere  
25 plus premiums written for reinsurance accepted in respect to  
26 properties and risks everywhere. For purposes of this  
27 paragraph, premiums written for reinsurance accepted in  
28 respect to properties and risks in this state, whether or not  
29 otherwise determinable, shall ~~may, at the election of the~~  
30 ~~company, either~~ be determined on the basis of the proportion  
31 which premiums written for reinsurance accepted from companies

1 resident in or having a regional home office in the state  
2 bears to premiums written for reinsurance accepted from all  
3 sources ~~or, alternatively, on the basis of the proportion~~  
4 ~~which the sum of the direct premiums written for insurance~~  
5 ~~upon properties and risks in this state by each ceding company~~  
6 ~~from which reinsurance is accepted bears to the sum of the~~  
7 ~~total direct premiums written by each such ceding company for~~  
8 ~~the taxable year.~~

9 Section 15. Section 220.21, Florida Statutes, is  
10 amended to read:

11 220.21 Returns and records; regulations.--Every  
12 taxpayer liable for the tax imposed by this code shall keep  
13 such records, render such statements, make such returns and  
14 notices, and comply with such rules and regulations, as the  
15 department may from time to time prescribe. The director may  
16 require any taxpayer or class of taxpayers, by notice or by  
17 regulation, to make such returns and notices, render such  
18 statements, and keep such records as the director deems  
19 necessary to determine whether such taxpayer or taxpayers are  
20 liable for tax under this code. The department may prescribe  
21 standards for acceptance of electronic or telephonic returns;  
22 however, national standards for taxpayer authentication must  
23 be used in lieu of signature.

24 Section 16. Subsection (3) of section 220.221, Florida  
25 Statutes, is amended to read:

26 220.221 Returns; signing and verification.--

27 (3) Each return or notice required to be filed under  
28 this code shall be verified by ~~a written~~ declaration that it  
29 is made under the penalties of perjury, and if prepared by  
30 someone other than the taxpayer the return shall also contain  
31

1 a declaration by the preparer that it was prepared on the  
2 basis of all information of which the preparer had knowledge.

3 Section 17. Paragraphs (a) and (b) of subsection (2)  
4 of section 220.222, Florida Statutes, 1998 Supplement, are  
5 amended to read:

6 220.222 Returns; time and place for filing.--

7 (2)(a) When a taxpayer has been granted an extension  
8 or extensions of time within which to file its federal income  
9 tax return for any taxable year, and if the requirements of s.  
10 220.32 are met, the filing of a ~~written~~ request for such  
11 extension or extensions with the department shall  
12 automatically extend the due date of the return required under  
13 this code until 15 days after the expiration of the federal  
14 extension or until the expiration of 6 months from the  
15 original due date, whichever first occurs.

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

24 Section 18. Effective January 1, 2000, the Department  
25 of Revenue shall establish a toll-free number for the  
26 verification of valid registration numbers and resale  
27 certificates. The system must be adequate to guarantee a low  
28 busy rate, must respond to keypad inquiries, and must provide  
29 data that is updated daily.

30 Section 19. The Department of Revenue shall establish  
31 a system, effective January 1, 2000, for receiving information

1 from dealers regarding certificate numbers of those who are  
2 seeking to make purchases for resale. The department must  
3 provide such dealers, free of charge, with verification of  
4 those numbers that are canceled or invalid.

5 Section 20. Effective July 1, 1999, the Department of  
6 Revenue shall expand its dealer education program regarding  
7 the proper use of resale certificates. The expansion must  
8 include, but need not be limited to, revision of the  
9 registration application for clarity, development of  
10 industry-specific brochures, development of a media campaign  
11 to heighten awareness of resale fraud and its consequences,  
12 outreach to business and professional organizations, and  
13 creation of seminars and continuing-education programs for  
14 taxpayers and licensed professionals.

15 Section 21. (1) There is appropriated from the  
16 General Revenue Fund to the Department of Revenue in fiscal  
17 year 1999-2000, to be used in implementing the changes to the  
18 resale certificate and related provisions of this act:

19 (2) One and one-half full-time-equivalent positions  
20 and the sum of \$211,065 to be used for salaries, benefits, and  
21 expenses; and

22 (3) The sum of \$23,455 to be used for operating  
23 capital outlay.

24 Section 22. Except as otherwise expressly provided in  
25 this act, this act shall take effect July 1, 1999.

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SENATE SUMMARY

Amends provisions relating to tax administration. Grants credits against the intangibles tax and against the documentary stamp tax for an identical tax paid in another state. Amends the definition of the term "retail sale" with respect to materials that are incorporated into repaired motor vehicles, airplanes, or boats. Increases the criminal penalties for willful violations of certain tax provisions. Provides for the annual issuance of resale certificates to active accounts. Authorizes the Department of Revenue to disclose to a dealer or taxpayer whether a specified certificate is active, canceled, inactive, or invalid. Amends the exemption for electricity and steam used for manufacturing. Provides an exemption for sales or leases to organizations holding current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. Authorizes the Department of Revenue to enter into contracts with private vendors to develop an automated case-tracking system. Authorizes the Department of Revenue to reduce the amount of an administrative garnishment which is subject to a freeze to the amount equal to the delinquent amount. Authorizes the Department of Revenue to accept electronic or telephonic corporate income tax returns in lieu of written paper returns. Directs the Department of Revenue to establish a toll-free number for the verification of valid registration numbers and resale certificates. Directs the Department of Revenue to establish a system for receiving information from dealers regarding certificate numbers. Directs the Department of Revenue to expand its dealer education program regarding the proper use of resale certificates. Provides appropriations.