

1 A bill to be entitled

2 An act relating to education funding tax reform;
3 providing legislative intent; replacing revenue from
4 the required local effort education property tax with
5 revenue from an education sales and use tax; amending
6 s. 212.05, F.S.; providing for levy of an education
7 sales and use tax; specifying the tax rate and use of
8 proceeds from the education sales and use tax;
9 qualifying the state to participate in, and directing
10 the Department of Revenue to petition the Streamlined
11 Sales Tax Governing Board on behalf of the state for
12 full membership in, the Streamlined Sales and Use Tax
13 Agreement; providing a finding with respect to the
14 state's participation in the agreement and its effect
15 on the state's collection of Internet sales and use
16 taxes from out-of-state businesses; exempting the
17 retail sale of certain used tangible personal property
18 from the sales and use tax; providing effective dates.

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20 WHEREAS, the required local effort education property tax
21 that the state requires local governments to levy in order to
22 fund public education is approximately \$8 billion annually, and

23 WHEREAS, total education property taxes are approximately
24 44 percent of the overall property tax levied in Florida, with
25 approximately 30 percent of that total being the required local

26 effort education property taxes and approximately 14 percent of
 27 that total being local option education property taxes, and
 28 WHEREAS, no provision of law requires public education to
 29 be funded by education property taxes rather than by other
 30 methods of taxation, NOW, THEREFORE,

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

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 34 Section 1. (1) The Legislature intends to stimulate
 35 growth, business expansion, and job creation through property
 36 tax reform. As a first step toward achieving these goals, the
 37 Legislature intends by passage of this act to replace the
 38 required local effort education property tax with a 2 percent
 39 education sales and use tax levied pursuant to chapter 212,
 40 Florida Statutes.

41 (a) The required local effort education property tax shall
 42 be eliminated from the local property tax levy beginning with
 43 the 2017-2018 fiscal year and a 2 percent education sales and
 44 use tax shall become effective on January 1, 2017, to build up
 45 funds for replacing the required local effort education funding
 46 on a dollar-for-dollar basis.

47 (b) It is financially prudent to allow the buildup of a
 48 revenue reserve from the education sales and use tax to shield
 49 against any potential economic downturn and to ensure that
 50 sufficient funds are available for replacing the currently
 51 required local effort education property tax.

52 (2) To ensure that sufficient revenues are available to
53 replace the required local effort education property tax, this
54 act substantially changes the state's sales and use tax laws and
55 qualifies the state to participate in the Streamlined Sales and
56 Use Tax Agreement. Upon compliance with the Streamlined Sales
57 and Use Tax Agreement, the Department of Revenue shall apply for
58 the state's full membership in the agreement by petitioning the
59 Streamlined Sales Tax Governing Board on behalf of the state in
60 accordance with agreement provisions regarding state entry into
61 the Streamlined Sales and Use Tax Agreement. The state's
62 participation in the Streamlined Sales and Use Tax Agreement
63 will, in turn, make it easier for out-of-state businesses to
64 voluntarily collect and remit Internet sales taxes to the state.
65 Initially, participation in the agreement is projected to have a
66 minimal positive fiscal impact, but after the first 2 years of
67 participation, it is anticipated that an increase in Internet
68 sales tax collections will sufficiently supplement sales tax
69 collections to allow the Legislature to consider rolling back
70 the initial 2 percent education sales and use tax or use the
71 additional revenue to augment education funding.

72 (3) The Legislature intends for the education sales and
73 use tax provided for in this act to replace the required local
74 effort education property tax and for the education sales and
75 use tax to be known and cited as the "education sales and use
76 tax."

77 Section 2. Effective January 1, 2017, paragraph (a) of

78 subsection (1) of section 212.05, Florida Statutes, is amended
 79 to read:

80 212.05 Sales, storage, use tax.—It is hereby declared to
 81 be the legislative intent that every person is exercising a
 82 taxable privilege who engages in the business of selling
 83 tangible personal property at retail in this state, including
 84 the business of making mail order sales, or who rents or
 85 furnishes any of the things or services taxable under this
 86 chapter, or who stores for use or consumption in this state any
 87 item or article of tangible personal property as defined herein
 88 and who leases or rents such property within the state.

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

92 (a)1.a. At the rate of 6 percent of the sales price of
 93 each item or article of tangible personal property when sold at
 94 retail in this state, computed on each taxable sale for the
 95 purpose of remitting the amount of tax due the state, and
 96 including each and every retail sale. Additionally, a tax is
 97 levied at the rate of 2 percent of the sales price of each item
 98 or article, which shall be known and cited as the "education
 99 sales and use tax" and used exclusively for the purposes set
 100 forth in s. 1011.62.

101 b. Each occasional or isolated sale of an aircraft, boat,
 102 mobile home, or motor vehicle of a class or type which is
 103 required to be registered, licensed, titled, or documented in

104 | this state or by the United States Government shall be subject
105 | to tax at the rate provided in this paragraph. The department
106 | shall by rule adopt any nationally recognized publication for
107 | valuation of used motor vehicles as the reference price list for
108 | any used motor vehicle which is required to be licensed pursuant
109 | to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any
110 | party to an occasional or isolated sale of such a vehicle
111 | reports to the tax collector a sales price which is less than 80
112 | percent of the average loan price for the specified model and
113 | year of such vehicle as listed in the most recent reference
114 | price list, the tax levied under this paragraph shall be
115 | computed by the department on such average loan price unless the
116 | parties to the sale have provided to the tax collector an
117 | affidavit signed by each party, or other substantial proof,
118 | stating the actual sales price. Any party to such sale who
119 | reports a sales price less than the actual sales price is guilty
120 | of a misdemeanor of the first degree, punishable as provided in
121 | s. 775.082 or s. 775.083. The department shall collect or
122 | attempt to collect from such party any delinquent sales taxes.
123 | In addition, such party shall pay any tax due and any penalty
124 | and interest assessed plus a penalty equal to twice the amount
125 | of the additional tax owed. Notwithstanding any other provision
126 | of law, the Department of Revenue may waive or compromise any
127 | penalty imposed pursuant to this subparagraph.

128 | 2. This paragraph does not apply to the sale of a boat or
129 | aircraft by or through a registered dealer under this chapter to

130 a purchaser who, at the time of taking delivery, is a
131 nonresident of this state, does not make his or her permanent
132 place of abode in this state, and is not engaged in carrying on
133 in this state any employment, trade, business, or profession in
134 which the boat or aircraft will be used in this state, or is a
135 corporation none of the officers or directors of which is a
136 resident of, or makes his or her permanent place of abode in,
137 this state, or is a noncorporate entity that has no individual
138 vested with authority to participate in the management,
139 direction, or control of the entity's affairs who is a resident
140 of, or makes his or her permanent abode in, this state. For
141 purposes of this exemption, either a registered dealer acting on
142 his or her own behalf as seller, a registered dealer acting as
143 broker on behalf of a seller, or a registered dealer acting as
144 broker on behalf of the purchaser may be deemed to be the
145 selling dealer. This exemption shall not be allowed unless:

146 a. The purchaser removes a qualifying boat, as described
147 in sub-subparagraph f., from the state within 90 days after the
148 date of purchase or extension, or the purchaser removes a
149 nonqualifying boat or an aircraft from this state within 10 days
150 after the date of purchase or, when the boat or aircraft is
151 repaired or altered, within 20 days after completion of the
152 repairs or alterations;

153 b. The purchaser, within 30 days from the date of
154 departure, shall provide the department with written proof that
155 the purchaser licensed, registered, titled, or documented the

156 boat or aircraft outside the state. If such written proof is
157 unavailable, within 30 days the purchaser shall provide proof
158 that the purchaser applied for such license, title,
159 registration, or documentation. The purchaser shall forward to
160 the department proof of title, license, registration, or
161 documentation upon receipt;

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

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

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

175 f. Unless the nonresident purchaser of a boat of 5 net
176 tons of admeasurement or larger intends to remove the boat from
177 this state within 10 days after the date of purchase or when the
178 boat is repaired or altered, within 20 days after completion of
179 the repairs or alterations, the nonresident purchaser shall
180 apply to the selling dealer for a decal which authorizes 90 days
181 after the date of purchase for removal of the boat. The

182 nonresident purchaser of a qualifying boat may apply to the
183 selling dealer within 60 days after the date of purchase for an
184 extension decal that authorizes the boat to remain in this state
185 for an additional 90 days, but not more than a total of 180
186 days, before the nonresident purchaser is required to pay the
187 tax imposed by this chapter. The department is authorized to
188 issue decals in advance to dealers. The number of decals issued
189 in advance to a dealer shall be consistent with the volume of
190 the dealer's past sales of boats which qualify under this sub-
191 subparagraph. The selling dealer or his or her agent shall mark
192 and affix the decals to qualifying boats in the manner
193 prescribed by the department, prior to delivery of the boat.

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

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

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

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

206 (V) Any dealer or his or her agent who issues a decal
207 falsely, fails to affix a decal, mismarks the expiration date of

208 a decal, or fails to properly account for decals will be
209 considered prima facie to have committed a fraudulent act to
210 evade the tax and will be liable for payment of the tax plus a
211 mandatory penalty of 200 percent of the tax, and shall be liable
212 for fine and punishment as provided by law for a conviction of a
213 misdemeanor of the first degree, as provided in s. 775.082 or s.
214 775.083.

215 (VI) Any nonresident purchaser of a boat who removes a
216 decal prior to permanently removing the boat from the state, or
217 defaces, changes, modifies, or alters a decal in a manner
218 affecting its expiration date prior to its expiration, or who
219 causes or allows the same to be done by another, will be
220 considered prima facie to have committed a fraudulent act to
221 evade the tax and will be liable for payment of the tax plus a
222 mandatory penalty of 200 percent of the tax, and shall be liable
223 for fine and punishment as provided by law for a conviction of a
224 misdemeanor of the first degree, as provided in s. 775.082 or s.
225 775.083.

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

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

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233 If the purchaser fails to remove the qualifying boat from this

234 state within the maximum 180 days after purchase or a
235 nonqualifying boat or an aircraft from this state within 10 days
236 after purchase or, when the boat or aircraft is repaired or
237 altered, within 20 days after completion of such repairs or
238 alterations, or permits the boat or aircraft to return to this
239 state within 6 months from the date of departure, except as
240 provided in s. 212.08(7) (fff), or if the purchaser fails to
241 furnish the department with any of the documentation required by
242 this subparagraph within the prescribed time period, the
243 purchaser shall be liable for use tax on the cost price of the
244 boat or aircraft and, in addition thereto, payment of a penalty
245 to the Department of Revenue equal to the tax payable. This
246 penalty shall be in lieu of the penalty imposed by s. 212.12(2).
247 The maximum 180-day period following the sale of a qualifying
248 boat tax-exempt to a nonresident may not be tolled for any
249 reason.

250 Section 3. Effective January 1, 2017, the retail sale of
251 used tangible personal property with a sales price of \$250 or
252 less per item is exempt from the sales and use tax imposed by
253 chapter 212, Florida Statutes.

254 Section 4. Except as otherwise expressly provided in this
255 act, this act shall take effect July 1, 2016.