A bill to be entitled

An act relating to taxation; creating s. 212.059, F.S.; providing for levy of the tax on
sales, use and other transactions on the sale
and use of services; providing for collecting
and remitting thereof; providing for
apportionment of the tax on interstate and
international transportation services; creating
s. 212.0591, F.S.; providing rules of
construction with respect to said tax; creating
s. 212.0592, F.S.; providing exemptions from
said tax; creating s. 212.0593, F.S.; providing
for administration of the exemption for
services sold in this state for use outside
this state; providing for exempt purchase
permits and affidavits; requiring dealers to
maintain monthly logs; providing for
application of certain penalty provisions;
providing for refunds; creating s. 212.0594,
F.S.; providing special provisions applicable
to the tax on construction services;
prohibiting issuance of certificate of
occupancy under certain circumstances; creating
s. 212.0595, F.S.; providing special provisions
applicable to tax on advertising; amending s.
212.02, F.S.; providing definitions; excluding
certain hourly, daily, or mileage charges and
car service agreement charges from the meaning
of "lease" or "service"; specifying when the
sale of a service is a sale for resale;
specifying those activities included within the

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meaning of "services"; excluding factory-built
buildings from the meaning of "tangible
personal property"; amending s. 212.031, F.S.,
relating to exemptions from tax on lease or
rental of real property; reenacting an
exemption for lease payments on recreational
property or the common elements of a
condominium; exempting property used as an
integral part of the performance of certain
qualified production services; exempting
certain property leased to a person providing
food and drink concessionaire services;
reenacting and amending s. 212.04(2)(a), F.S.;
deleting exemptions for admissions to athletic
and other events sponsored by certain
institutions, for dues, memberships fees, and
admission charges imposed by certain nonprofit
organizations, and for certain admissions paid
by students; reenacting the exemption for
admissions to National Football League
championship games; amending ss. 212.05 and
212.054, F.S., to conform; reenacting the
exemption for boats removed from the state
after purchase or repair and the penalty for
violation; including airplanes in said
exemption; exempting lease or rental of certain
commercial motor vehicles; amending ss. 212.06
and 212.07, F.S., relating to dealers and
collection of the tax, and penalties for
violations, to include tax on services;
exempting certain fabrication labor relating to

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motion pictures; amending s. 212.08, F.S.;
re-enacting provisions relating to medical
exemptions and providing an additional
exemption; providing an exemption for services
related to installation of machinery and
equipment in new or expanding industry or used
to produce electrical or steam energy; revising
the exemption for sales to political
subdivisions; restructuring other exemptions;
exempting certain license fees and charges for
films, videotapes, and transcriptions;
re-enacting exemptions for resource recovery
equipment, State Theater Program facilities,
and volunteer fire departments; re-enacting the
partial exemption for sales of flyable aircraft
and removing a deduction allowed manufacturers;
amending s. 212.095, F.S., relating to refunds,
to conform; providing application to attorneys
and accountants; amending s. 212.11, F.S.;
revising provisions relating to estimated tax
liability; authorizing certain quarterly
returns; amending s. 212.12, F.S.; including
the tax on services within enforcement and
collection provisions; providing application of
the dealer's credit to persons who remit taxes
or fees reported on the same documents utilized
for sales and use tax; requiring certain
information on returns; amending ss. 212.13,
212.14, 212.17, 212.18, and 212.21, F.S.,
relating to recordkeeping and inspection,
hearings and enforcement regarding unpaid
taxes, credits for worthless accounts and
returns, dealer registration, legislative
intent, and related penalties, to conform;
amending s. 212.61, F.S.; correcting a
reference; creating s. 212.235, F.S.; providing
for deposit of a portion of funds collected
under part I of chapter 212 in a State
Infrastructure Trust Fund; providing a
limitation; providing uses of the fund;
authorizing issuance of bonds; amending s. 8 of
chapter 86-166, Laws of Florida; deleting the
repeal scheduled for July 1, 1987, of
exemptions relating to certain convention hall
subleases, certain leases or rentals by fair
associations, certain admissions, volunteer
fire departments, resource recovery equipment,
State Theater Program facilities, motor
vehicles sold to residents of another state,
flyable aircraft, and electrical energy,
building materials, and business property used
in, and jobs created in, enterprise zones;
amending ss. 212.0821, 290.007, 403.715, and
564.02, F.S.; correcting references; amending
s. 240.533, F.S.; providing for retention of
sales tax collected on admission to athletic
events by institutions in the State University
System to support women's athletics; providing
for exemption from the tax on services with
respect to certain improvements to real
property; providing penalties; repealing Rule
12A-1.091(6) of the Department of Revenue,
relating to self-accrual; authorizing certain
rules relating thereto; providing for emergency
rules; providing for client confidentiality;
providing for waiver of penalties and interest
with respect to the tax on services for a
specified period; providing for application of
the tax to services provided prior to the
effective date of the act, certain prepaid
services, and services provided over a
specified period; amending s. 201.02, F.S.;
providing for the levy of an additional tax on
deeds and other instruments relating to real
property; amending s. 201.15, F.S.; providing
for payment of such additional tax into the
State Infrastructure Trust Fund; revising the
current distribution of the tax; amending s.
206.87, F.S.; providing for the levy of an
additional tax on special fuels; providing an
exception; providing for collection of the tax;
amending s. 206.875, F.S.; providing for
payment of the proceeds from such additional
tax into the State Infrastructure Trust Fund;
amending s. 207.026, F.S., relating to
allocation of the tax on commercial motor
vehicles, to conform; amending s. 57.071, F.S.;
including sales or use tax on legal services
within court costs; amending s. 57.111, F.S.;
extending the definition of "small business
party" with respect to civil actions or
administrative proceedings initiated by state
agencies to include certain persons contesting

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the legality of any assessment of tax imposed
for the sale or use of services; amending s.
120.57, F.S.; providing an exception to
procedure in a formal proceeding on a decision
which affects substantial interests for any
proceeding to contest the legality of such tax;
amending s. 120.575, F.S.; providing procedure
for taxpayer contest proceedings to contest the
legality of any assessment of such tax;
amending s. 120.65, F.S.; providing for the
appointment of a three-member panel to be the
hearing officer in such taxpayer contest
proceedings; directing the Department of
Revenue to undertake a study regarding taxable
services and report to the Governor and
Legislature; requiring the Department of
Revenue to develop and implement a tax amnesty
program for certain taxes; providing terms and
conditions for such program; amending ss.
95.091, 198.18, 199.232, 211.125, 211.33,
214.50, 214.51, and 220.23, F.S.; repealing ss.
212.14(6) and 214.09, F.S.; providing
limitations on actions to collect certain taxes
and providing for expiration of tax liens;
providing penalties; providing limitations on
enforcement of certain tax liens by foreclosure
and levy proceedings; amending ss. 199.218,
212.08, and 214.04, F.S.; correcting
references; amending ss. 125.0104, 198.37,
198.39, 199.282, 201.17, 201.18, 201.20,
203.01, 203.03, 203.61, 206.04, 206.11, 206.18,

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206.426, 206.44, 206.87, 206.877, 206.9931, 206.007, 211.076, 211.25, 212.0305, 212.05, 212.054, 212.07, 212.085, 212.10, 212.12, 212.13, 212.14, 212.15, 212.18, 212.62, 214.40, 214.60, 214.61, and 220.181, F.S.; creating s. 211.335, F.S.; providing penalties for certain tax crimes; creating s. 213.30, F.S.; providing compensation for information concerning tax law violations; creating ss. 213.70, 213.71, 213.72, 213.73, 213.74, 213.75, and 213.76, F.S.; providing for the levy of real and personal property by the Department of Revenue to satisfy certain claims; requiring notice; providing for jeopardy assessments by the department under certain circumstances; providing for the sale of seized property; providing for the transfer of all right, title, and interest in such property; providing the order of payment of obligations from payments to the department; providing for freezing certain assets and obligations; providing a penalty; providing an appropriation; providing application of penalties; directing the Department of Revenue to establish a sales tax hot-line; providing for severability; providing effective dates.

WHEREAS, the Legislature enacted chapter 86-166, Laws of Florida, which repeals the exemption from the sales tax for all services effective July 1, 1987, and

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WHEREAS, it is not this Legislature's intent to tax essential services such as medical and health services, agricultural services, social services, or religious or humanitarian services, and

WHEREAS, Florida is one of the nation's fastest growing states and by 1990 will be its fourth largest state and must equitably fund the costs of providing the infrastructure necessitated by such growth, and

WHEREAS, it is the intent of this Legislature to make the sales tax on services fair and equitable by reinstating the sales tax exemptions for essential services, NOW,

THEREFORE,

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

Section 1. Section 212.059, Florida Statutes, is created to read:

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

(l)(a) A tax is hereby imposed on the sale at retail of any service in this state at the rate of 5 percent of the sales price of the service. The tax shall be computed on each taxable sale of a service for the purpose of remitting the amount of tax due the state, and shall include each and every retail sale of a service.

(b) The sale of a service is in this state for purposes of this part if the service is performed wholly

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within this state, or if the service is performed partly
within and partly outside this state but the greater
proportion of the service is performed within this state,
based on costs of performance as defined in s. 212.02.

(2) A tax is hereby imposed on the use of any service
in this state when the sale of the service is at retail
outside this state, at the rate of 5 percent of the cost price
of the service. The use of a service is in this state for
purposes of this part if the benefit of the service is enjoyed
in this state. For purposes of determining where the benefit
of the services is enjoyed, s. 212.0591(9) shall apply.

(3)(a) The sales and use tax on services imposed by
this section shall be collected by the dealer as defined in
this part and remitted by him to the state at the time and in
the manner as provided in this part.

(b) If the seller of the service is a multistate
business and the sale is outside this state, any applicable
use tax shall be remitted by the purchaser of the service.
However, this paragraph shall not apply to interstate or
international transportation services.

(4)(a) The sales and use tax on services imposed by
this section shall be due and payable according to the
brackets set forth in s. 212.12 at the time of the sale or use
of the service unless the dealer elects to remit the tax
pursuant to paragraph (b).

(b) A dealer may register with the department as a
service provider and elect to remit the tax on a service at
the time consideration is paid for such service and on the
amount of consideration paid. If such election is made, it
shall be applicable to all transactions of such dealer taxed
under this section. Such election shall be made and may be

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changed by the dealer pursuant to procedures established by rule of the department.

(c) However, if a transaction involves both the sale or use of services and the sale or use of tangible personal property, and the tangible personal property is not an inconsequential element of the transaction, the sales and use tax on services shall be due and payable at the time of the sale or use regardless of the time consideration is paid for such services.

(5) Notwithstanding other provisions of this section to the contrary:

(a) Interstate and international transportation services shall be considered sold or used in this state to the extent that the sales price or cost price of the service is apportioned to this state pursuant to paragraph (b).

(b) The sales price of the sale of interstate or international transportation services, or the cost price of the use of interstate or international transportation services, shall be apportioned to the state as provided in this paragraph. There shall be included in the measure of the tax imposed by this part on the sale or use of interstate or international transportation services that proportion of the sales price or cost price of the Florida service provider which is equal to the proportion of mileage within Florida to the total United States mileage of the Florida service provider for the service transaction in question. For purposes of this paragraph, "Florida service provider" means the person providing transportation services in Florida regardless of the commercial domicile of such person.

Section 2. Section 212.0591, Florida Statutes, is created to read:

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212.0591 Rules of construction.--For purposes of the
sales and use tax on services, the following rules of
construction shall apply:

(1) Unless a provision of this part clearly provides
otherwise, references to the SIC Code are intended to describe
activities or services and not establishments. Such
references shall not be construed to tax or exempt a service
solely because it is performed by a person in a referenced
establishment. Neither shall such references be construed to
prerequisite taxation or an exemption for a service solely because
it is performed by a person not in a referenced establishment.

(2) If the entire sales price of the sale of a service
or if the entire cost price of the use of a service cannot be
included within the measure of the tax imposed by this part
under the Constitution or laws of the United States, there
shall be apportioned to the state and included in the measure
of the tax imposed by this part on the sale of services that
proportion of the sales price which the cost of performing the
services within the state bears to the total cost of
performing the services, or on the use of services that
proportion of the cost price that fairly reflects the benefit
of the services enjoyed within the state.

(3) The sales and use tax on services imposed by this
part is in addition to all other taxes, whether levied in the
form of excise, license, or privilege taxes, and shall be in
addition to all other fees and taxes levied.

(4) The sales and use tax on services imposed by this
part shall not be construed to impose an additional tax on
transactions to the extent that they are already taxed under
other provisions of this chapter.

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(5) No exemption from the sales and use tax on
services imposed by s. 212.059(1) or (2) shall be deemed to
exempt transactions that were subject to taxation pursuant to
other provisions of this part on January 1, 1987.

(6) If a transaction involves both the sale or use of
a service taxable under this part and the sale or use of
intangible or real property not taxable under this part, the
charges shall be separately identified and stated with respect
to the taxable and nontaxable portions of the transaction.
The tax imposed by this part shall apply to the transaction to
the extent that the consideration paid in connection with the
transaction is payment for the sale or use of services.
Failure to separately state the charges shall create a
presumption that the entire transaction is taxable.

(7) If a transaction involves both the sale or use of
a service taxable under this part and the sale or use of a
service exempt under this part, the consideration paid shall
be separately identified and stated with respect to the
taxable and exempt portions of the transaction as a condition
of the exemption.

(8) Neither the taxation of services nor the
assessment or collection of taxes under this part shall be
construed as making lawful the transaction or incident which
is the subject of the tax.

(9) For purposes of determining where a service is
used or consumed and where the benefit of the service is
enjoyed, the following provisions shall be applicable:

(a) If the purchaser is an individual, and:
1. If the service directly relates to real property,
the benefit of the service shall be presumed to be enjoyed in
the state where the real property is located; or

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2. If subparagraph 1. is not applicable, the benefit of the service shall be presumed to be enjoyed in the state where the greater proportion of the service is performed, based on costs of performance; or

3. Notwithstanding subparagraphs 1. and 2., if the purchaser can demonstrate to the satisfaction of the department that the benefit of the service was enjoyed in a state, the service shall be deemed used or consumed in that state.

(b) If the purchaser is a business, and:

1. If the service directly relates to real property, the benefit of the service shall be presumed to be enjoyed in the state where the real property is located; or

2. If the service directly relates to tangible personal property, the benefit of the service shall be presumed to be enjoyed in the state where the property has acquired a business situs if the property has acquired such situs; or

3. If the service directly involves sales to a local market, the benefit of the service shall be presumed to be enjoyed in the state where the purchaser's local market exists; or

4. If subparagraphs 1., 2., and 3. are not applicable, and the purchaser of the service is doing business in this state and in one or more other states, the service shall be presumed to be enjoyed in this state to the extent that the purchaser is doing business in this state. For purposes of determining the extent of the purchaser's business in this state, the apportionment formulas set forth in part IV of chapter 214, as modified by s. 220.15(4), shall be utilized. If the purchaser is a member of an affiliated group, the

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affiliated group, as defined in s. 212.02, shall be considered
the purchaser for purposes of this subparagraph; or

5. If the provisions of subparagraphs 1., 2., 3., and
4. are not applicable, the benefit of the service shall be
presumed to be enjoyed in the state where the purchaser is
exclusively doing business; or

6. Notwithstanding subparagraphs 1., 2., 3., 4. and,
5., if the purchaser can demonstrate to the satisfaction of
the department that the benefit of the service was enjoyed in
a state, the service shall be deemed used or consumed in that
state.

(c) Notwithstanding paragraphs (a) and (b), interstate
and international transportation services shall be presumed to
be enjoyed in this state to the extent that the sales price or
cost price of such services is apportioned to this state
pursuant to s. 212.059(5).

Section 3. Section 212.0592, Florida Statutes, is
created to read:

212.0592 Exemptions from sales or use tax on
services.--There shall be exempt from the tax on the sale or
use of services imposed by ss. 212.059(1) or (2), 212.0594,
and 212.0595 the following:

(1)(a) Services sold in this state for use outside of
this state.

(b) A service shall be deemed to be purchased for use
in the state where the benefit of the service is enjoyed. For
purposes of determining where the benefit of the service is
enjoyed, s. 212.0591(9) shall apply.

(c) In order to qualify for this exemption, the
provisions of s. 212.0593 shall be met.

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(2) Services by an employee to an employer measured by the compensation or remuneration paid to an employee and including retirement plans, insurance and annuity plans. This subsection shall not be construed to limit in any respect the scope of s. 212.06(1)(b).

(3) The occasional or isolated sale of services by a person who does not hold himself out as engaged in business or the use of services purchased in a transaction that is an isolated sale.

(4) Services that partners who are natural persons render to their partnerships, unless the partner renders his services to the partnership in the capacity of an independent contractor.

(5) Services between members of an affiliated group of corporations, as defined in s. 212.02. However, this exemption shall not apply to the sale or use of any service between any such members who are not included in the affiliated group for purposes of this part. If the exemption provided in this subsection is not applicable, the sales price or cost price of the service shall be based upon the fair market value of the service. The sale or use of services between divisions that may be separate taxpayers within the same corporation shall be exempt. Nothing herein shall be construed to require the filing of a consolidated return under chapter 220 in order to qualify for the exemption granted by this subsection.

(6) Agricultural services enumerated in SIC Major Group 07. However, this exemption shall not apply to animal specialty services (Industry Number 0752), unless the services relate to agricultural products as defined in s. 618.01(1), or to landscape and horticultural services (Group Number 078).
(7)(a) Transportation and warehousing services enumerated in SIC Major Groups 40, 42, 44, 45 and 47 for agricultural commodities that have retained their original identity, phosphate rock as defined in s. 211.30(9), potash as described in SIC Industry Number 1474, sulfur as described in SIC Industry Number 1477, nitrogenous fertilizers as enumerated in SIC Industry Number 2873, and phosphatic fertilizers as enumerated in SIC Industry Number 2874. For purposes of this paragraph, an agricultural commodity retains its original identity unless it is processed, packaged in cans, or frozen. However, produce which is processed but neither canned nor frozen shall be considered an agricultural commodity that has retained its original identity.

(b) Food or other agricultural broker services for agricultural commodities or agricultural products as defined in s. 618.01. For purposes of this paragraph, a food or other agricultural broker is a person who solicits, negotiates, or arranges for the transfer, transportation, purchase, or sale of agricultural commodities, including agricultural commodities in their processed state.

(8) Forestry services enumerated in SIC Group Number 085, and timber cutting, harvesting, estimating and transportation services related to those activities enumerated in SIC Group Numbers 241 and 242.

(9) Educational services enumerated in SIC Group Number 82. However, this exemption shall not apply to educational services enumerated in SIC Industry Number 8299, except those services provided by bible schools. Also included in this exemption shall be the sale of educational services by any nonprofit religious organization described in SIC Industry Number 866.
(10) Fees or other charges for services imposed by
governmental entities enumerated in SIC Major Groups 43, 91,
92, 93, 94, 95, 96, and 97, and fees or other charges by the
Federal Deposit Insurance Corporation and the Federal Savings
and Loan Insurance Corporation. However, this exemption shall
not apply to charges for utility or sanitary services.

(11)(a) Services of a financial nature, of a type
customarily performed by a financial institution.

(b) However, this exemption shall not apply to:
charges for use of safety deposit boxes; charges for use of
night deposit services; charges for issuing cashier's checks;
charges for issuing traveler's checks; charges for issuing
money orders; charges for preparation of individual tax
returns; charges for copies of documents; stop payment
charges; return check charges, unless due to insufficient
funds; charges for service as personal representative of
estates of decedents; credit information and reporting
services; overdraft charges; collection fees; hold mail fees;
guardianship fees; credit and charge card membership fees;
cash vault fees; or data processing services not otherwise
exempt, except check processing and check clearing services.

(c) The tax imposed under s. 212.059 shall not apply
to a service by a financial institution the charge for which
is waived or imputed.

(d) For purposes of this subsection, the term
"financial institution" means a financial institution as
defined in s. 655.005; any subsidiary thereof; any holding
company, other than a diversified savings and loan holding
company as defined in s. 408 of the National Housing Act,
which controls a financial institution; and any subsidiary of
such holding company.
(12) Health services enumerated in SIC Major Group 80
and health services provided by pharmacists licensed pursuant
to chapter 465, acupuncturists certified pursuant to chapter
457, respiratory therapists and respiratory therapy
technicians registered or certified pursuant to chapter 468,
audiologists and speech-language pathologists certified
pursuant to chapter 468, physical therapists and physical
therapist assistants licensed pursuant to chapter 486,
opticians licensed pursuant to chapter 484, hearing aid
specialists licensed pursuant to chapter 484, and home health
agencies and hospices licensed pursuant to chapter 400.

(13) Insurance services of agents and brokers as
enumerated in SIC Major Group 64, insurance service companies,
and consideration paid for insurance, including annuities, as
defined under the Florida Insurance Code and chapter 440.
However, consideration paid for title insurance that is in
excess of 110 percent of the risk premium rate promulgated
pursuant to s. 627.782 shall not be exempt as consideration
paid for insurance.

(14) Interest and "points" that constitute prepayment
of interest, paid as consideration for loans, including credit
card interest, and discount charges for the purchase of
accounts receivable.

(15) Coin-operated laundries and coin-operated dry
cleaning establishments enumerated in SIC Number 7215.

(16) Maintenance assessments or fees paid by an
association member to a homeowners association, residential
condominium owners association, residential property owners
association, residential mobile homeowners association, or
residential cooperative association.

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(17) Membership dues or membership fees paid to membership organizations enumerated in SIC Major Group 86, and to arts, historical, and science organizations, provided such organizations are not-for-profit corporations under chapter 617 or a comparable law of another state or are exempt organizations under the Internal Revenue Code, and membership dues or other fees paid to regulatory athletic associations.

(18) Qualified production services performed by any person for a person principally engaged in the business of producing qualified motion pictures or for a person who owns or leases property used primarily for the production of qualified motion pictures. For purposes of this subsection:

(a) "Qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:

1. Photography, recording, casting, shooting, creation of special effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support, wardrobe, acting, consulting, writing, directing, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing and distributing;

2. The design, planning, engineering, construction, alteration, repair and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in subparagraph 1.; and

3. Property management services directly related to property used in connection with the services described in subparagraphs 1. and 2.

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(b) "Qualified motion picture" means all or any part
of a series of related images, either on film, tape or other
embodiment, including, but not limited to, all items
comprising part of the original work and film-related products
derived therefrom as well as duplicates and prints thereof and
all sound recordings created to accompany a motion picture,
which is produced, adapted or altered for exploitation in, on
or through any medium or device and at any location, primarily
for entertainment, industrial or educational purposes.

(19) Local and long distance trucking and warehousing
services enumerated in SIC Major Group 42, except those
trucking services related to sanitary services, and except
those warehousing services already taxable pursuant to s.
212.031 or s. 212.05.

(20) Local and suburban passenger transportation
services enumerated in SIC Industry Number 4111, ambulance
services and hearse rental services enumerated in SIC Industry
Number 4119, and intercity and rural highway passenger
transportation services enumerated in SIC Group Number 413.

(21) Water transportation services described in SIC
Group Numbers 441 and 442, towing or tugboat services
described in SIC Industry Number 4454, marine cargo handling
services described in SIC Industry Number 4463, piloting
services, ship cleaning, steamship leasing, marine surveyors
and ship repair and maintenance services; storage of cargo at
port facilities; transportation services enumerated in SIC
Industry Numbers 4712 and 4723, lighterage services, described
in SIC Industry Number 4453, and services related to
processing and accessorizing of automobiles that are imported
through Florida ports. The exemption provided by this
subsection also applies to services provided in connection

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with cargo in international trade by any licensed customhouse
broker; any customs bonded warehouse, container freight and
examination station, or cartman; or freight consolidator or
deconsolidator.

(22) Sanitary services enumerated in SIC Group Number
495, garbage, refuse and debris transportation services
enumerated in SIC Industry Number 4212, and septic tank
cleaning services enumerated in SIC Industry Number 7699, if
such services are sold to residential households or owners of
residential models.

(23) Security and commodity brokerage services
enumerated in SIC Major Group 62 involving the transfer of
securities or commodities. However, this exemption shall not
be construed to exempt any financial service taxable under
subsection (11), or any accounting or investment services.

(24) Social services enumerated in SIC Major Group 83
and other social services rendered pursuant to any contract
between a social service provider and a governmental entity.

(25) Remuneration paid to athletes for services
related to their participation in athletic or sports events,
and remuneration paid to owners of greyhounds or racehorses
for participation in pari-mutuel events, and consideration
paid for the right to broadcast athletic or sports events at
which admission is charged.

(26) Real estate commissions when the property seller
affirmatively demonstrates to the realtor responsible for
collecting the tax that at the time of signing the listing
contract on the real estate offered for sale the property
seller resided thereon and was entitled to the homestead
exemption pursuant to s. 196.031.

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(27)(a) Legal services rendered by an attorney to a
client to the extent that the right to counsel guaranteed
pursuant to either the Sixth Amendment to the United States
Constitution or Article I, Section 16 of the Florida
Constitution is applicable to such legal services. However,
this exemption shall only be applicable if the criminal
charges brought in the case are dismissed or the client is
ultimately adjudicated not guilty by a court of competent
jurisdiction. This exemption shall only be granted pursuant
to a refund of taxes previously paid on such services.

(b) Legal services, provided to a natural person,
which relate to child support, child custody, adoption,
divorce, guardianship, juvenile cases, landlord/tenant
relations, mobile home rentals, enforcement of civil rights or
recovery of past or future medical expenses. However, this
exemption shall be limited to $500 in services per person per
calendar year.

(28) Services provided by a banking organization as
defined in s. 199.023(9) in the conduct of an international
banking transaction as defined in s. 199.023(11).

(29) Services provided by travel agents related to
arrangement of transportation and accommodations.

(30) Research and development services. For purposes
of this subsection, "research and development services" shall
mean those activities described in s. 212.052(1)(a).

(31) Religious services provided by religious
organizations, religious institutions, or religious leaders.

(32) Any service performed by or through interstate
telecommunications by a holder of direct pay permit issued
pursuant to s. 212.05(1)(e).

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(33) Taxicab services described in SIC Industry Number 4121.

(34) Payment by a franchisee, or receipt by a franchisor, of royalties for use of intangible property, or contributions to a marketing fund or account administered by such franchisor, pursuant to a franchise agreement, which contributions are used solely for the purchase of advertising benefiting franchisees or for the administration of such fund.

(35) Data processing services performed for a financial institution by a service corporation of a financial institution described in SIC Major Group 61, provided:

(a) The service corporation is organized pursuant to s. 545.74, Rules of the Federal Home Loan Bank Board;

(b) All capital stock of the service corporation may be purchased by only savings and loan associations having operations in this state;

(c) No savings and loan association or savings bank owns, or may own, more than 10 percent of such service corporation's outstanding capital stock;

(d) Every eligible savings and loan association or savings bank may own an equal amount of capital stock or may, on such uniform basis as the service corporation may determine, own an amount of such stock equal to a stated percentage of its assets or savings capital at the time the stock is purchased, or an amount of such stock equal to its pro-rata share of accounts serviced.

(36) Personal laundry services sold to residents of nursing home facilities licensed under part I of chapter 400.

(37) Services used directly and exclusively for maintenance, retrofitting, repair, or replacement of industrial machinery and equipment at fixed locations, which
machinery and equipment is used to manufacture, process, compound, produce, fabricate, or prepare for shipment items of tangible personal property for sale. However, this exemption shall only apply to the tax on such services in excess of $100,000 of tax per year. The restrictions contained in s. 212.08(5)(b)5. shall apply to this subsection. "Industrial machinery and equipment" shall have the same meaning as in s. 212.08(5)(b)6.a. This subsection shall not be construed to exempt the purchase of services for the maintenance, retrofitting, repair, or replacement related to such industrial machinery and equipment when such services are included as a part of the purchase of tangible personal property or were subject to tax prior to July 1, 1987. The exemptions for maintenance, retrofitting, repair, or replacement services used directly and exclusively for industrial machinery and equipment under this subsection shall not be construed to expand the exemptions provided in s. 212.08(5)(b)1. or 2. beyond their meaning prior to July 1, 1987.

(38) Oil and gas field services enumerated in SIC Group Number 138, and pipeline transportation services enumerated in SIC Group Numbers 461 and 492.

(39) Rail transportation services enumerated in SIC Major Group 40.

(40) Beauty and barber shop services enumerated in SIC Groups 723 and 724.

(41) Employee leasing services enumerated in SIC Industry Number 7369, to the extent that the charge for such services consists of payroll and related employment benefits paid or provided to the leased employees.

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Section 4. Section 212.0593, Florida Statutes, is created to read:

212.0593 Administration of s. 212.0592(1).--

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

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

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consent by the purchaser to be subject to the jurisdiction of
this state solely for the purpose of enforcement of the sales
tax on services. The affidavit shall also contain such other
information as the department may prescribe. Acceptance of a
valid exempt purchase permit or affidavit shall absolve the
selling dealer from the responsibility of collecting any sales
tax which may be due on the service.

(3) Each dealer shall maintain a monthly log showing
each transaction for which sales tax was not collected because
of the presentation of an exempt purchase permit or exempt
purchase affidavit under this section. The log shall identify
the purchaser, the exempt purchase permit number if
applicable, the service sold, the price of the service and
such other information as the department may prescribe. The
logs and all affidavits accepted by the dealer shall be
retained by the dealer for 3 years and made available to the
department upon request. Failure to maintain these records or
to make them available to the department shall subject the
dealer to the penalties provided in s. 212.13.

(4) If a purchaser fails to obtain an exempt purchase
permit or execute an exempt purchase affidavit, but otherwise
qualifies for an exemption pursuant to s. 212.0592(1), the
purchaser may apply to the department for a refund of taxes
paid on the exempt amount of the purchase. The application
for refund shall be accompanied by an exempt purchase
affidavit and shall be submitted within 1 year of the
purchaser's payment of the tax. A refund recommended by the
department pursuant to this subsection shall be reduced by the
amount of any applicable dealer collection allowance
previously allowed on the transaction.

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Section 5. Section 212.0594, Florida Statutes, is created to read:

212.0594 Construction services; special provisions.-- Notwithstanding other provisions of this part to the contrary:

(1) Subcontractors shall not be required to collect the tax on construction services.

(2) The tax on construction services purchased by prime contractors shall be due and payable by the prime contractor at the time consideration is paid for such services, subject to the provisions of subsection (6).

(3) Prime contractors for new construction shall be considered the final consumer of construction services consumed in improving realty. The owner of the affected real property shall be considered the final consumer of construction services other than those related to new construction. The prime contractor or subcontractor who purchases or uses building materials shall be considered the final consumer thereof.

(4) The provisions of s. 212.0592(3) shall not apply to construction services.

(5) The provisions of s. 212.02 relating to the sale of a service for resale shall not apply to construction services.

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

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tax shall be based on the total consideration less the price
of said building materials.

(7) The tax on the purchase of construction services,
other than new construction, shall be based on the total
consideration paid to the prime contractor less any
consideration paid by the prime contractor to subcontractors
with respect to the project in question. However, if the
contract between the owner of the real estate and the prime
contractor specifically describes and itemizes the building
materials purchased by the prime contractor and incorporated
into the realty in fulfillment of his responsibilities under
the contract, at the regular retail price thereof, the tax
shall be based on the taxable consideration further reduced by
the price of said building materials.

(8) There is hereby imposed a tax on the construction
services any prime contractor provides with respect to new
construction for himself or others. The tax shall be based
upon the cost price to the prime contractor of the services he
provides, without any deduction therefrom on account of the
cost of materials or supplies used, labor costs, service
costs, or transportation charges, notwithstanding the
provisions of s. 212.02 defining "cost price." However, the
cost of building materials purchased by the prime contractor
and incorporated into the new construction, and amounts paid
to subcontractors upon which a sales tax has been paid, shall
not be included in the cost price. The tax shall be due and
payable as otherwise provided in this part at the time the
contract for new construction is fulfilled or within 30 days
after the certificate of occupancy is issued, whichever is
sooner. The retail sale of new construction for which the
prime contractor has paid tax pursuant to this subsection
shall be exempt from the tax imposed by this section.

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

(10) For purposes of this section:

(a) "Prime contractor" means a person entering into a
contract for the improvement of realty with the person for
whose benefit the realty is being improved, and means any
person who manufactures factory-built buildings. When new
construction is undertaken on speculation or for one's own
use, the person responsible for the undertaking shall be
considered the prime contractor.

(b) "Subcontractor" means a person entering into a
contract for the improvement of realty with a prime contractor
or with another subcontractor.

(c) "New construction" means factory-built buildings
and any improvement to realty, but does not include any
addition or further improvement to existing improvements to
realty unless a building permit is required for such addition
or further improvements.

(d) "Building materials" means tangible personal
property physically incorporated into improvements to realty
whether through new construction or addition or repair.

(e) "Construction services" means activity involving
the physical fabrication, physical modification, or physical

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repair of improvements to realty and those services enumerated
in SIC Industry Number 8911, land planning services enumerated
in SIC Industry Number 7392, and drafting and interior design
services enumerated in SIC Industry Number 7399, when such
services directly relate to improvements to realty.

Section 6. Section 212.0595, Florida Statutes, is
created to read:

212.0595 Advertising; special provisions.--
Notwithstanding the provisions of ss. 212.059-212.0593, the
following special provisions shall be applicable to the sales
and use tax on advertising:

(1) A tax is hereby imposed on advertising sold or
used in this state. The tax shall be at the rate of 5 percent
of the sales price or cost price of the advertising.

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

(3) Advertising shall be deemed to have been used in
this state if it was sold outside this state for consumption
in this state. Advertising shall be presumed to be consumed
in this state to the extent the cost price is apportioned to
this state pursuant to subsection (4).

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

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

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

(5) If advertising is sold in this state, the sales
tax imposed by this section shall be collected and remitted by
the advertising media provider.

(6) If advertising is not sold in this state, but is
used in this state, the advertiser shall self-accrue the use
tax imposed by this section and remit the tax directly to the
department.

(7) When advertising is purchased and resold, the
person reselling the advertising may deduct the consideration
paid for the advertising from his charges for purposes of
calculating any tax due under this part.

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

(9) Consideration paid pursuant to a written contract
for a term in excess of two years, entered into prior to April
1, 1987, and which involves a transaction taxable under this
section, shall be exempt from the tax imposed by this section
until the expiration of such contract. This exemption shall

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not apply to advertising provided pursuant to any extension or
renewal of such contract.

Section 7. Section 212.02, Florida Statutes, 1986
Supplement, as amended by chapters 86-152 and 86-166, Laws of
Florida, is amended to read:

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

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

(2) "Affiliated group" means an affiliated group of
corporations, as defined in s. 1504(a) of the Internal Revenue
Code, whose members are includable under s. 1504(b) of the
Internal Revenue Code, and are eligible to file a consolidated
tax return for Federal corporate income tax purposes.
"Business" means any activity engaged in by any person, or caused to be engaged in by him, with the object of private or public gain, benefit, or advantage, either direct or indirect. Except for the sales of any aircraft, boat, mobile home, or motor vehicle, the term "business" shall not be construed in this chapter to include occasional or isolated sales or transactions involving tangible personal property or services by a person who does not hold himself out as engaged in business, but includes other charges for the sale or rental of tangible personal property, sales of services taxable under this part, sales of or charges of admission, communication services, all rentals and leases of living quarters, other than low-rent housing operated under chapter 421, sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, and all rentals of or licenses in real property, other than low-rent housing operated under chapter 421, all leases or rentals of or licenses in parking lots or garages for motor vehicles, docking or storage spaces for boats in boat docks or marinas as defined in this chapter and made subject to a tax imposed by this chapter. Any tax on such sales, charges, rentals, admissions, or other transactions made subject to the tax imposed by this chapter shall be collected by the state, county, municipality, any political subdivision, agency, bureau, or department, or other state or local governmental instrumentality in the same manner as other dealers, unless specifically exempted by this chapter.

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

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(5) "Cost price" means the actual cost of articles of tangible personal property or services without any deductions therefrom-on-account-of-the-cost-of-materials-used-labor-or service-costs-transportation-charges-or-any-expenses whatsoever.

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

The term "department" means the Department of Revenue.

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

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

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

(11) "Factory-built building" means a structure manufactured in a manufacturing facility for installation or erection as a finished building; "factory-built building"

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includes, but is not limited to, residential, commercial, institutional, storage, and industrial structures.

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

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

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

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

(b) Any building, or part thereof, where separate accommodations for two or more families living independently of each other are supplied to transient or permanent guests or

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tenants shall for the purpose of this chapter be deemed an
apartment house.

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

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

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

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

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

(h) "Real property" means any interest in the surface of real property unless the property is:

1. Assessed as agricultural property under s. 193.461.
2. Used exclusively as dwelling units.
3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).
4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way occupied or used by a utility for utility purposes.
6. A public street or road which is used for transportation purposes.

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7.6. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.7. Property used at a port authority as defined in s. 315.02(2) exclusively for the purpose of ocean-going vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels.

9. Property used as an integral part of the performance of qualified production services as defined in s. 212.0592(18)(a).

10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of an airport, a movie theater, a business operated under a permit issued pursuant to chapter 550 or chapter 551, or any publicly owned arena, sports stadium, convention hall, or exhibition hall.

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

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

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

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