A bill to be entitled

An act relating to tax on sales, use and other
transactions; amending ss. 212.05 and 212.06,
F.S.; providing a limitation on the tax on
charges for certain interstate
telecommunication services; providing for
direct pay permits and excepting persons who do
not hold such a permit from said limitation;
providing for application of the tax to
provision of services; amending s. 212.08,
F.S., and repealing paragraphs (7)(d) and (e)
thereof; removing the exemption for candy;
providing that chlorine used for treatment of
swimming pools is subject to tax; removing the
exemptions for newspapers, magazines, and
professional services; providing for a joint
select committee to consider sales tax
exemptions; providing for reports; providing
effective dates.

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

Section 1. Paragraph (e) of subsection (1) of section
212.05, Florida Statutes, is amended, and, effective July 1,
1987, paragraph (i) is added to said subsection, to read:

212.05 Sales, storage, use tax.—It is hereby declared
to be the legislative intent that every person is exercising a
taxable privilege who engages in the business of selling
tangible personal property at retail in this state, or who
rents or furnishes any of the things or services taxable under
this chapter, or who stores for use or consumption in this
customer, telephone number, or device located within this state are taxable under this paragraph.

3. Except for charges for services received by a person who is not the holder of a direct pay permit, the tax imposed by this paragraph on charges to any person for interstate telecommunication services described in s. 203.012(4) and (7)(b) shall not exceed $50,000 per calendar year. Upon application, the department may issue a direct pay permit to the purchaser of telecommunication services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing the telecommunication services described in this subparagraph to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such services. The department shall adopt reasonable rules governing the procedures and forms necessary for the application and issuance of the direct pay permits. The rules shall require monthly tax payments and returns from the holders of direct pay permits. For purposes of this subparagraph, the term “person” shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or of entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term “calendar year” means the last 6 months of 1986.

(i) At the rate of 5 percent of the consideration for performing or providing any service.

Section 2. Effective July 1, 1987, paragraph (k) is added to subsection (2) of section 212.06, Florida Statutes, to read:

2. Telegraph messages and telecommunication services which originate or terminate in this state and are billed to a

CODING: Words stricken are deletions; words underlined are additions.
212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.--

(2) "Dealers" also means any person who provides or performs a service for consideration.

Section 3. Effective July 1, 1987, subsection (1), paragraph (a) of subsection (2), and subsection (6) of section 212.08, Florida Statutes, are amended to read:

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

(1) EXEMPTIONS; GENERAL GROCERIES.--There are exempt from the tax imposed by this chapter food and drinks for human consumption except candy—such-candy-is-sold-is-25-cents-or-less. Unless the exemption provided by paragraph (7)(b) for school lunches, paragraph (7)(c) for meals to certain patients or inmates, or paragraph (7)(k) for meals provided by certain nonprofit organizations pertains, none of such items of food or drinks means:

(a) Food or drinks served, prepared, or sold in or by restaurants; drugstores; lunch counters; cafeterias; hotels; amusement parks; racetracks; taverns; concession stands at arenas, auditoriums, carnivals, fairs, stadiums, theaters, or other like places of business; or by any business or place required by law to be licensed by the Division of Hotels and Restaurants of the Department of Business Regulation, except

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bake products sold in or by pastry shops, doughnut shops, or like establishments for consumption off the premises;

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

(c) Soft drinks, which include, but are not limited to, any nonalcoholic beverage; any preparation or beverage commonly referred to as a "soft drink"; or any noncarbonated drink made from milk derivatives or tea, when sold in cans or similar containers. The term "soft drink" does not include:

natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit or vegetable juices, whether frozen or unfrozen, dehydrated, powdered, granulated, seasoned or unsweetened, seasoned with salt or spice, or unseasoned; coffee or coffee substitutes; tea except when sold in containers as provided herein; cocoa; products intended to be mixed with milk, or natural fluid milk;

(d) Foods or drinks cooked or prepared on the seller's premises and sold ready for immediate consumption either on or off the premises, excluding bakery products for off-premise consumption unless such foods are taxed under paragraph (a) or paragraph (b);

(e) Sandwiches sold ready for immediate consumption.

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

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(2) EXEMPTIONS; MEDICAL.--

(a) There shall be exempt from the tax imposed by this chapter any product, supply, or medicine dispensed in a retail establishment by a pharmacist licensed by the state, according to an individual prescription or prescriptions written by a practitioner of the healing arts licensed by the state; hypodermic needles; hypodermic syringes; chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury; and common household remedies recommended and generally sold for internal or external use, in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health and Rehabilitative Services, which list shall be certified to the Department of Revenue from time to time and included in the rules promulgated by the Department of Revenue. Also not exempt from the tax imposed by this part shall be chlorine when used for the treatment of water in swimming pools. There shall also be exempt from the tax imposed by this chapter artificial eyes and limbs; prescription eyeglasses and items incidental thereto or which become a part thereof; dentures; hearing aids; crutches; prosthetic and orthopedic appliances; feminine hygiene products, including, but not limited to, sanitary panties, sanitary belts, sanitary napkins, and tampons; and funeral personal property used by them in their business.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS, COMUNICATIONS.--There are also exempt from the tax imposed by this chapter sales made to the United States Government, the state, or any county, municipality, or political subdivision of this state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision thereof, except public works in progress or for which bonds or revenue certificates have been validated on or before August 1, 1959. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state except sales, rental, use, consumption, or storage for which bonds or revenue certificates are validated on or before January 1, 1973, for transmission or distribution expansion. Likewise exempt are newspapers; film rentals, when an admission is charged for viewing such films; charges for license fees; or license fees and charges for films; video-tapes; and transcriptions used in producing radio or television broadcasts.
Section 4. Effective July 1, 1987, paragraphs (d) and (e) of subsection (7) of section 212.08, Florida Statutes, are hereby repealed.

Section 5. (1) For the purposes of this section, the term "exemption" means transactions specifically exempted from the tax imposed in part I of chapter 212, Florida Statutes, and transactions not specifically taxed in that part.

(2) Before January 1, 1987, a joint select committee shall be established consisting of six members appointed by the President of the Senate and six members appointed by the Speaker of the House of Representatives to consider the public policy and fiscal impact of the exemptions from the sales tax. The joint select committee shall elect a chairman. The appointment, meetings, and powers of the committee shall be pursuant to ss. 11.141, 11.142, and 11.143, Florida Statutes.

(3)(a) The joint select committee shall report to the Legislature prior to the 1987 regular session on the exemptions for services, including advertising, and sales of newspapers and magazines. The report shall contain recommendations on retaining or modifying any of these exemptions, or allowing the repeal to remain effective. These exemptions shall be evaluated using the following criteria:

1. What is the economic impact of the exemption? Is there any evidence that:
   a. Additional jobs were created?
   b. Businesses moved to or expanded in Florida?
   c. The removal of the exemption would cause a loss in jobs or make the business uncompetitive?

2. Does the exemption support other statutory policy (e.g., environmental or growth management laws)?

3. Is the exemption consistent with state tax policy?
   a. Does it avoid double taxation?
   b. Does it make the sales tax more regressive?

4. Would the Legislature appropriate money to fund the exemption?

5. Is granting a sales tax exemption the most efficient way to provide a more favored status for an industry or group?

6. Are the reasons for granting an exemption still valid?

7. Should an exemption be subject to periodic review or repeal?

(b) Furthermore, the joint select committee shall examine the applicability of the use tax and the definition of the tax base of certain service industries, and shall include its recommendations in the report submitted pursuant to paragraph (a).

(4) Prior to the 1988 regular session of the Legislature, the joint select committee shall, using the criteria listed under paragraph (3)(a), evaluate all remaining exemptions from the tax imposed under part I of chapter 212, Florida Statutes, and submit a report to the Legislature containing its recommendations on retaining, modifying or repealing those sales tax exemptions not repealed by this act.

Section 6. Except as otherwise provided herein, this act shall take effect July 1, 1986, or upon becoming a law, whichever occurs later.
HOUSE SUMMARY

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certain interstate telecommunication services. Provides
for direct pay permits and excepts persons who do not
hold such a permit from said limitation. Provides for
application of the sales tax to provision of services.
Removes the exemption for candy. Provides that chlorine
used for treatment of swimming pools is subject to the
tax. Removes the exemptions for newspapers, magazines,
and professional services. Provides for a joint select
committee to consider sales tax exemptions.