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1 A bill to be entitled

2 An act relating to the corporate income tax; providing  
3 legislative findings and intent; amending s. 220.03, F.S.;  
4 revising definitions; providing additional definitions;  
5 amending s. 220.13, F.S.; revising the definition of the  
6 term "adjusted federal income"; prohibiting certain  
7 deductibles for certain water's edge group members;  
8 providing an additional subtraction from adjusted federal  
9 income; creating s. 220.136, F.S.; defining the term  
10 "water's edge group reporting method"; requiring water's  
11 edge group members to use a certain group income reporting  
12 method; providing methodology requirements; providing  
13 return filing requirements; requiring domestic disclosure  
14 spreadsheet filing requirements; providing a definition;  
15 authorizing the Department of Revenue to adopt rules and  
16 forms; amending ss. 220.14, 220.15, 220.183, 220.1845,  
17 220.187, 220.19, 220.191, 220.192, 220.193, 220.51, and  
18 220.64, F.S.; replacing or deleting provisions relating to  
19 consolidated returns for affiliated groups to conform to  
20 water's edge group requirements; amending s. 376.30781,  
21 F.S.; conforming a cross-reference; providing for  
22 transitional rules; repealing s. 220.131, F.S., relating  
23 to consolidated returns for affiliated groups; providing  
24 appropriations; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:  
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28           Section 1. Legislative finding; intent.--The Legislature  
29 finds that a separate accounting system for corporations is  
30 sometimes inadequate to accurately measure the income of  
31 multinational and multistate corporations doing business in this  
32 state and this may create tax disadvantages for corporations in  
33 this state in competition with those multinational and  
34 multistate corporations. Corporate business is increasingly  
35 conducted through groups of commonly owned corporations, it is  
36 the intent of the Legislature to adopt a combined system of  
37 income tax reporting for corporations to more accurately measure  
38 the business activities of corporations.

39           Section 2. Paragraphs (y) and (z) of subsection (1) of  
40 section 220.03, Florida Statutes, are amended, and paragraphs  
41 (gg) and (hh) are added to that subsection, to read:

42           220.03 Definitions.--

43           (1) SPECIFIC TERMS.--When used in this code, and when not  
44 otherwise distinctly expressed or manifestly incompatible with  
45 the intent thereof, the following terms shall have the following  
46 meanings:

47           (y) "Taxable year" or "tax year" means the calendar or  
48 fiscal year upon the basis of which net income is computed under  
49 this code, including, in the case of a return made for a  
50 fractional part of a year, the period for which such return is  
51 made.

52           (z) "Taxpayer" means any corporation subject to the tax  
53 imposed by this code, and includes all corporations that are  
54 members of a water's edge group ~~for which a consolidated return~~  
55 ~~is filed under s. 220.131.~~ However, "taxpayer" does not include

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56 a corporation having no individuals (including individuals  
57 employed by an affiliate) receiving compensation in this state  
58 as defined in s. 220.15 when the only property owned or leased  
59 by said corporation (including an affiliate) in this state is  
60 located at the premises of a printer with which it has  
61 contracted for printing, if such property consists of the final  
62 printed product, property which becomes a part of the final  
63 printed product, or property from which the printed product is  
64 produced.

65 (gg) "Tax haven" means a jurisdiction that, for a  
66 particular tax year in question, is identified by the  
67 Organization for Economic Co-operation and Development as a tax  
68 haven or as having a harmful preferential tax regime or a  
69 jurisdiction that has no, or a nominal, effective tax on  
70 relevant income and:

71 1. Has laws or practices that prevent effective exchange  
72 of information for tax purposes with other governments regarding  
73 taxpayers subject to, or benefiting from, the tax regime;

74 2. Lacks transparency. For purposes of this subparagraph,  
75 a tax regime lacks transparency if the details of legislative,  
76 legal, or administrative provisions are not open to public  
77 scrutiny and apparent, or are not consistently applied among  
78 similarly situated taxpayers;

79 3. Facilitates the establishment of foreign-owned entities  
80 without the need for a local substantive presence or prohibits  
81 these entities from having any commercial impact on the local  
82 economy;

83 4. Explicitly or implicitly excludes the jurisdiction's  
 84 resident taxpayers from taking advantage of the tax regime's  
 85 benefits or prohibits enterprises that benefit from the regime  
 86 from operating in the jurisdiction's domestic market; or

87 5. Has created a tax regime which is favorable for tax  
 88 avoidance, based upon an overall assessment of relevant factors,  
 89 including, but not limited to, whether the jurisdiction has a  
 90 significant untaxed offshore financial or other services sector  
 91 relative to its overall economy.

92  
 93 For purposes of this paragraph, the term "tax regime" means a  
 94 set or system of rules, laws, regulations, or practices by which  
 95 taxes are imposed on any person, corporation, or entity or on  
 96 any income, property, incident, indicia, or activity pursuant to  
 97 governmental authority.

98 (hh) "Water's edge group" means a group of corporations  
 99 related through common ownership the business activities of  
 100 which are integrated with, dependent upon, or contribute to a  
 101 flow of value among members of the group. When 50 percent or  
 102 more of the outstanding voting stock of a corporation is under  
 103 direct or indirect ownership or control of such a group, the  
 104 corporation shall be considered to be part of a water's edge  
 105 group. A corporation shall be considered unitary unless clearly  
 106 shown by the facts and circumstances of the individual case to  
 107 not be a member of a water's edge group. When direct or indirect  
 108 ownership or control is less than 50 percent of the outstanding  
 109 voting stock, all elements of the business activities shall be  
 110 considered in determining whether a corporation qualifies as a

111 member of a water's edge group. A water's edge group shall not  
 112 include the income of any corporation which conducts business  
 113 outside the United States if 80 percent or more of the  
 114 corporation's property and payroll, as determined by the  
 115 apportionment factors described in ss. 220.15 and 220.151, is  
 116 assignable to locations outside the United States. In  
 117 determining whether voting stock is owned indirectly, the  
 118 attribution rules of s. 318 of the Internal Revenue Code of  
 119 1986, as amended, shall be used. For purposes of this paragraph,  
 120 the term "United States" is restricted to the states of the  
 121 United States, the District of Columbia, and the Commonwealth of  
 122 Puerto Rico. All income of a water's edge group is presumed to  
 123 be apportionable business income. A taxpayer has the burden of  
 124 proof regarding the issue of whether or not a corporation is a  
 125 member of a water's edge group and whether or not such income is  
 126 apportionable business income.

127 Section 3. Subsection (1) of section 220.13, Florida  
 128 Statutes, is amended to read:

129 220.13 "Adjusted federal income" defined.--

130 (1) The term "adjusted federal income" means an amount  
 131 equal to the taxpayer's taxable income as defined in subsection  
 132 (2), or such taxable income of more than one taxpayer as  
 133 provided in s. 220.136 ~~220.131~~, for the taxable year, adjusted  
 134 as follows:

135 (a) Additions.--There shall be added to such taxable  
 136 income:

137 1. The amount of any tax upon or measured by income,  
 138 excluding taxes based on gross receipts or revenues, paid or

139 accrued as a liability to the District of Columbia or any state  
140 of the United States which is deductible from gross income in  
141 the computation of taxable income for the taxable year.

142 2. The amount of interest which is excluded from taxable  
143 income under s. 103(a) of the Internal Revenue Code or any other  
144 federal law, less the associated expenses disallowed in the  
145 computation of taxable income under s. 265 of the Internal  
146 Revenue Code or any other law, excluding 60 percent of any  
147 amounts included in alternative minimum taxable income, as  
148 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
149 taxpayer pays tax under s. 220.11(3).

150 3. In the case of a regulated investment company or real  
151 estate investment trust, an amount equal to the excess of the  
152 net long-term capital gain for the taxable year over the amount  
153 of the capital gain dividends attributable to the taxable year.

154 4. That portion of the wages or salaries paid or incurred  
155 for the taxable year which is equal to the amount of the credit  
156 allowable for the taxable year under s. 220.181. This  
157 subparagraph shall expire on the date specified in s. 290.016  
158 for the expiration of the Florida Enterprise Zone Act.

159 5. That portion of the ad valorem school taxes paid or  
160 incurred for the taxable year which is equal to the amount of  
161 the credit allowable for the taxable year under s. 220.182. This  
162 subparagraph shall expire on the date specified in s. 290.016  
163 for the expiration of the Florida Enterprise Zone Act.

164 6. The amount of emergency excise tax paid or accrued as a  
165 liability to this state under chapter 221 which tax is

166 deductible from gross income in the computation of taxable  
 167 income for the taxable year.

168 7. That portion of assessments to fund a guaranty  
 169 association incurred for the taxable year which is equal to the  
 170 amount of the credit allowable for the taxable year.

171 8. In the case of a nonprofit corporation which holds a  
 172 pari-mutuel permit and which is exempt from federal income tax  
 173 as a farmers' cooperative, an amount equal to the excess of the  
 174 gross income attributable to the pari-mutuel operations over the  
 175 attributable expenses for the taxable year.

176 9. The amount taken as a credit for the taxable year under  
 177 s. 220.1895.

178 10. Up to nine percent of the eligible basis of any  
 179 designated project which is equal to the credit allowable for  
 180 the taxable year under s. 220.185.

181 11. The amount taken as a credit for the taxable year  
 182 under s. 220.187.

183 12. The amount taken as a credit for the taxable year  
 184 under s. 220.192.

185 13. The amount taken as a credit for the taxable year  
 186 under s. 220.193.

187 (b) Subtractions.--

188 1. There shall be subtracted from such taxable income:

189 a. The net operating loss deduction allowable for federal  
 190 income tax purposes under s. 172 of the Internal Revenue Code  
 191 for the taxable year,

192           b. The net capital loss allowable for federal income tax  
 193 purposes under s. 1212 of the Internal Revenue Code for the  
 194 taxable year,

195           c. The excess charitable contribution deduction allowable  
 196 for federal income tax purposes under s. 170(d)(2) of the  
 197 Internal Revenue Code for the taxable year, and

198           d. The excess contributions deductions allowable for  
 199 federal income tax purposes under s. 404 of the Internal Revenue  
 200 Code for the taxable year.

201  
 202 However, a net operating loss and a capital loss shall never be  
 203 carried back as a deduction to a prior taxable year, but all  
 204 deductions attributable to such losses shall be deemed net  
 205 operating loss carryovers and capital loss carryovers,  
 206 respectively, and treated in the same manner, to the same  
 207 extent, and for the same time periods as are prescribed for such  
 208 carryovers in ss. 172 and 1212, respectively, of the Internal  
 209 Revenue Code. A deductible may not be allowed for net operating  
 210 losses, net capital losses, or excess contribution deductions  
 211 under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue  
 212 Code of 1986, as amended, for a member of a water's edge group  
 213 that is not United States member.

214           2. There shall be subtracted from such taxable income any  
 215 amount to the extent included therein the following:

216           a. Dividends treated as received from sources without the  
 217 United States, as determined under s. 862 of the Internal  
 218 Revenue Code.

219           b. All amounts included in taxable income under s. 78 or  
 220 s. 951 of the Internal Revenue Code.

221  
 222 However, as to any amount subtracted under this subparagraph,  
 223 there shall be added to such taxable income all expenses  
 224 deducted on the taxpayer's return for the taxable year which are  
 225 attributable, directly or indirectly, to such subtracted amount.  
 226 Further, no amount shall be subtracted with respect to dividends  
 227 paid or deemed paid by a Domestic International Sales  
 228 Corporation.

229           3. In computing "adjusted federal income" for taxable  
 230 years beginning after December 31, 1976, there shall be allowed  
 231 as a deduction the amount of wages and salaries paid or incurred  
 232 within this state for the taxable year for which no deduction is  
 233 allowed pursuant to s. 280C(a) of the Internal Revenue Code  
 234 (relating to credit for employment of certain new employees).

235           4. There shall be subtracted from such taxable income any  
 236 amount of nonbusiness income included therein.

237           5. There shall be subtracted any amount of taxes of  
 238 foreign countries allowable as credits for taxable years  
 239 beginning on or after September 1, 1985, under s. 901 of the  
 240 Internal Revenue Code to any corporation which derived less than  
 241 20 percent of its gross income or loss for its taxable year  
 242 ended in 1984 from sources within the United States, as  
 243 described in s. 861(a)(2)(A) of the Internal Revenue Code, not  
 244 including credits allowed under ss. 902 and 960 of the Internal  
 245 Revenue Code, withholding taxes on dividends within the meaning

246 of sub-subparagraph 2.a., and withholding taxes on royalties,  
 247 interest, technical service fees, and capital gains.

248 6. There shall be subtracted from such taxable income, to  
 249 the extent included in such taxable income, amounts received by  
 250 a member of a water's edge group that was a dividend paid by  
 251 another member of the same water's edge group.

252 ~~7.6.~~ Notwithstanding any other provision of this code,  
 253 except with respect to amounts subtracted pursuant to  
 254 subparagraphs 1. and 3., any increment of any apportionment  
 255 factor which is directly related to an increment of gross  
 256 receipts or income which is deducted, subtracted, or otherwise  
 257 excluded in determining adjusted federal income shall be  
 258 excluded from both the numerator and denominator of such  
 259 apportionment factor. Further, all valuations made for  
 260 apportionment factor purposes shall be made on a basis  
 261 consistent with the taxpayer's method of accounting for federal  
 262 income tax purposes.

263 (c) Installment sales occurring after October 19, 1980.--

264 1. In the case of any disposition made after October 19,  
 265 1980, the income from an installment sale shall be taken into  
 266 account for the purposes of this code in the same manner that  
 267 such income is taken into account for federal income tax  
 268 purposes.

269 2. Any taxpayer who regularly sells or otherwise disposes  
 270 of personal property on the installment plan and reports the  
 271 income therefrom on the installment method for federal income  
 272 tax purposes under s. 453(a) of the Internal Revenue Code shall  
 273 report such income in the same manner under this code.

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274 (d) Nonallowable deductions.--A deduction for net  
275 operating losses, net capital losses, or excess contributions  
276 deductions under ss. 170(d)(2), 172, 1212, and 404 of the  
277 Internal Revenue Code which has been allowed in a prior taxable  
278 year for Florida tax purposes shall not be allowed for Florida  
279 tax purposes, notwithstanding the fact that such deduction has  
280 not been fully utilized for federal tax purposes.

281 Section 4. Section 220.136, Florida Statutes, is created  
282 to read:

283 220.136 Water's edge groups; special reporting  
284 requirements.--

285 (1) For purposes of this section, the term "water's edge  
286 group reporting method" means the determination of taxable  
287 business profits for a group of entities conducting a unitary  
288 business by adding combined net income and the additions and  
289 deductions provided in s. 220.13 for members of the group and  
290 apportioning the results as provided in ss. 220.15 and 220.151.

291 (2) All members of a water's edge group shall use the  
292 water's edge group reporting method. Under the water's edge  
293 group reporting method:

294 (a) Adjusted federal income for purposes of s. 220.12  
295 means the sum of adjusted federal income for all members of the  
296 group determined for a concurrent taxable year.

297 (b) The denominators of the apportionment factors shall be  
298 calculated for all members of the water's edge group combined.

299 (c) The statutory apportionment formula shall be used for  
300 all members of the water's edge group, unless an alternate  
301 method is determined to be more appropriate by the department.

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302        (d) Intercompany sales transactions made between members  
303 of the water's edge group shall be eliminated in the computation  
304 of the sales factor pursuant to ss. 220.15 and 220.151. As used  
305 in this subsection, the term "sales" includes, but is not  
306 limited to, loans, payments for the use of intangibles,  
307 dividends, and management fees.

308        (e) Each taxpayer shall apportion adjusted federal income  
309 under s. 220.15 as a member of a water's edge group that files a  
310 water's edge group return under this section based upon the  
311 apportionment factors described in s. 220.15. For purposes of  
312 this subsection, each special industry member included in a  
313 water's edge group filing a water's edge group return under this  
314 section, which would otherwise be permitted to use a special  
315 method of apportionment under s. 220.151, shall construct the  
316 numerator of its sales, property, and payroll factors,  
317 respectively, by multiplying the denominator of each such factor  
318 by the premiums or revenue miles factor ratio otherwise  
319 applicable pursuant to s. 220.151 in the manner prescribed by  
320 the department by rule.

321        (f) For purposes of this subsection, each special industry  
322 member included in a water's edge group return, which member  
323 would otherwise be permitted to use a special method of  
324 apportionment under s. 220.151, shall construct the numerator of  
325 its sales, property, and payroll factors, respectively, by  
326 multiplying the denominator of each such factor by the premiums  
327 or revenue miles factor ratio otherwise applicable pursuant to  
328 s. 220.151 in the manner prescribed by the department by rule.

329        (g) The income attributable to the activities in this

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330 state of a corporation exempt from taxation because of Pub. L.  
331 No. 86-272 is excluded from the sales factor numerator on a  
332 water's edge group filing a combined water's edge group return  
333 even though an affiliated corporation may have nexus with this  
334 state and is subject to tax in this state.

335 (3) (a) The single water's edge group return must be filed  
336 in the name and with the federal employer identification number  
337 of the parent corporation if the parent is a member of a water's  
338 edge group and has nexus with this state. If there is no parent  
339 corporation, if the parent is not a water's edge group member,  
340 or if the parent does not have nexus with this state, the  
341 members of the water's edge group shall choose a Florida  
342 taxpayer member to file the return. After such a filing member  
343 has been selected, such member must remain the same in  
344 subsequent years unless an ownership change occurs or the filing  
345 member no longer has nexus with this state. The return must be  
346 signed by a responsible officer of the filing member as the  
347 agent of all members of the water's edge group subject to tax by  
348 this state.

349 (b) If the taxable years of the members of the water's  
350 edge group differ, the filing member's taxable year must be used  
351 to determine the net income for this state of the water's edge  
352 group. If the precise amount of a water's edge group member's  
353 income can be readily determined from the books for the months  
354 involved in the filing member's taxable year, those actual  
355 amounts shall be used. In the absence of such a precise  
356 determination, the income of a water's edge group member must be  
357 converted to conform to the taxable year of the filing member on

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358 the basis of the number of months falling within the applicable  
359 taxable year. This method may be used only if the return can be  
360 timely filed after the member's taxable year ends. As an  
361 alternative, the water's edge group may include in its taxable  
362 income all of the taxable income of a group member whose taxable  
363 year ends within the taxable year of the water's edge group.  
364 Once one of these methods is used for a water's edge group  
365 member, that member must continue to use that method for  
366 succeeding years for as long as the corporation remains a member  
367 of the water's edge group. After the combined taxable income of  
368 the water's edge group is determined based upon the filing  
369 member's taxable year, the apportionment factor must be computed  
370 on the basis of the same taxable year.

371 (4) A water's edge group shall file a domestic disclosure  
372 spreadsheet in the manner and form prescribed by rule by the  
373 department. The term "domestic disclosure spreadsheet" means a  
374 spreadsheet that fully discloses the income reported to each  
375 state, the state tax liability, the method used for apportioning  
376 or allocating income to the various states, and other  
377 information provided for by rule as may be necessary to  
378 determine the proper amount of tax due to each state and to  
379 identify the water's edge group.

380 (5) The department may adopt rules and forms by rule as  
381 may be necessary or appropriate to administer and implement this  
382 section. It is the intent of the Legislature, by this section,  
383 to grant the department extensive authority to adopt rules and  
384 forms describing and defining principles for determining the  
385 existence of a water's edge group business, definitions of

386 common control, and methods of reporting and related forms,  
 387 principles, and definitions.

388 Section 5. Subsection (3) of section 220.14, Florida  
 389 Statutes, is amended to read:

390 220.14 Exemption.--

391 (3) Only one exemption shall be allowed to taxpayers  
 392 filing a combined water's edge group ~~consolidated~~ return under  
 393 this code.

394 Section 6. Paragraph (c) of subsection (5) of section  
 395 220.15, Florida Statutes, is amended to read:

396 220.15 Apportionment of adjusted federal income.--

397 (5) The sales factor is a fraction the numerator of which  
 398 is the total sales of the taxpayer in this state during the  
 399 taxable year or period and the denominator of which is the total  
 400 sales of the taxpayer everywhere during the taxable year or  
 401 period.

402 (c) Sales of a financial organization, including, but not  
 403 limited to, banking and savings institutions, investment  
 404 companies, real estate investment trusts, and brokerage  
 405 companies, occur in this state if derived from:

406 1. Fees, commissions, or other compensation for financial  
 407 services rendered within this state;

408 2. Gross profits from trading in stocks, bonds, or other  
 409 securities managed within this state;

410 3. Interest received within this state, other than  
 411 interest from loans secured by mortgages, deeds of trust, or  
 412 other liens upon real or tangible personal property located  
 413 without this state, and dividends received within this state;

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414           4. Interest charged to customers at places of business  
 415 maintained within this state for carrying debit balances of  
 416 margin accounts, without deduction of any costs incurred in  
 417 carrying such accounts;

418           5. Interest, fees, commissions, or other charges or gains  
 419 from loans secured by mortgages, deeds of trust, or other liens  
 420 upon real or tangible personal property located in this state or  
 421 from installment sale agreements originally executed by a  
 422 taxpayer or the taxpayer's agent to sell real or tangible  
 423 personal property located in this state;

424           6. Rents from real or tangible personal property located  
 425 in this state; or

426           7. Any other gross income, including other interest,  
 427 resulting from the operation as a financial organization within  
 428 this state.

429  
 430 ~~In computing the amounts under this paragraph, any amount~~  
 431 ~~received by a member of an affiliated group (determined under s.~~  
 432 ~~1504(a) of the Internal Revenue Code, but without reference to~~  
 433 ~~whether any such corporation is an "includable corporation"~~  
 434 ~~under s. 1504(b) of the Internal Revenue Code) from another~~  
 435 ~~member of such group shall be included only to the extent such~~  
 436 ~~amount exceeds expenses of the recipient directly related~~  
 437 ~~thereto.~~

438           Section 7. Paragraphs (f) and (g) of subsection (1) of  
 439 section 220.183, Florida Statutes, are amended to read:

440           220.183 Community contribution tax credit.--

441 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX  
 442 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM  
 443 SPENDING.--

444 ~~(f) A taxpayer who files a Florida consolidated return as~~  
 445 ~~a member of an affiliated group pursuant to s. 220.131(1) may be~~  
 446 ~~allowed the credit on a consolidated return basis.~~

447 (f)~~(g)~~ A taxpayer who is eligible to receive the credit  
 448 provided for in s. 624.5105 is not eligible to receive the  
 449 credit provided by this section.

450 Section 8. Subsection (1) of section 220.1845, Florida  
 451 Statutes, is amended to read:

452 220.1845 Contaminated site rehabilitation tax credit.--

453 (1) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.--

454 (a) A credit in the amount of 50 percent of the costs of  
 455 voluntary cleanup activity that is integral to site  
 456 rehabilitation at the following sites is available against any  
 457 tax due for a taxable year under this chapter:

458 1. A drycleaning-solvent-contaminated site eligible for  
 459 state-funded site rehabilitation under s. 376.3078(3);

460 2. A drycleaning-solvent-contaminated site at which  
 461 cleanup is undertaken by the real property owner pursuant to s.  
 462 376.3078(11), if the real property owner is not also, and has  
 463 never been, the owner or operator of the drycleaning facility  
 464 where the contamination exists; or

465 3. A brownfield site in a designated brownfield area under  
 466 s. 376.80.

467 (b) A tax credit applicant, or multiple tax credit  
 468 applicants working jointly to clean up a single site, may not be

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469 granted more than \$500,000 per year in tax credits for each site  
470 voluntarily rehabilitated. Multiple tax credit applicants shall  
471 be granted tax credits in the same proportion as their  
472 contribution to payment of cleanup costs. Subject to the same  
473 conditions and limitations as provided in this section, a  
474 municipality, county, or other tax credit applicant which  
475 voluntarily rehabilitates a site may receive not more than  
476 \$500,000 per year in tax credits which it can subsequently  
477 transfer subject to the provisions in paragraph (f) ~~(g)~~.

478 (c) If the credit granted under this section is not fully  
479 used in any one year because of insufficient tax liability on  
480 the part of the corporation, the unused amount may be carried  
481 forward for a period not to exceed 5 years. The carryover credit  
482 may be used in a subsequent year when the tax imposed by this  
483 chapter for that year exceeds the credit for which the  
484 corporation is eligible in that year under this section after  
485 applying the other credits and unused carryovers in the order  
486 provided by s. 220.02(8). Five years after the date a credit is  
487 granted under this section, such credit expires and may not be  
488 used. However, if during the 5-year period the credit is  
489 transferred, in whole or in part, pursuant to paragraph (f) ~~(g)~~,  
490 each transferee has 5 years after the date of transfer to use  
491 its credit.

492 ~~(d) A taxpayer that files a consolidated return in this~~  
493 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
494 ~~be allowed the credit on a consolidated return basis up to the~~  
495 ~~amount of tax imposed upon the consolidated group.~~

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496        (d)~~(e)~~ A tax credit applicant that receives state-funded  
497 site rehabilitation under s. 376.3078(3) for rehabilitation of a  
498 drycleaning-solvent-contaminated site is ineligible to receive  
499 credit under this section for costs incurred by the tax credit  
500 applicant in conjunction with the rehabilitation of that site  
501 during the same time period that state-administered site  
502 rehabilitation was underway.

503        (e)~~(f)~~ The total amount of the tax credits which may be  
504 granted under this section is \$2 million annually.

505        (f)~~(g)~~1. Tax credits that may be available under this  
506 section to an entity eligible under s. 376.30781 may be  
507 transferred after a merger or acquisition to the surviving or  
508 acquiring entity and used in the same manner and with the same  
509 limitations.

510        2. The entity or its surviving or acquiring entity as  
511 described in subparagraph 1., may transfer any unused credit in  
512 whole or in units of no less than 25 percent of the remaining  
513 credit. The entity acquiring such credit may use it in the same  
514 manner and with the same limitation as described in this  
515 section. Such transferred credits may not be transferred again  
516 although they may succeed to a surviving or acquiring entity  
517 subject to the same conditions and limitations as described in  
518 this section.

519        3. In the event the credit provided for under this section  
520 is reduced either as a result of a determination by the  
521 Department of Environmental Protection or an examination or  
522 audit by the Department of Revenue, such tax deficiency shall be  
523 recovered from the first entity, or the surviving or acquiring

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524 entity, to have claimed such credit up to the amount of credit  
525 taken. Any subsequent deficiencies shall be assessed against any  
526 entity acquiring and claiming such credit, or in the case of  
527 multiple succeeding entities in the order of credit succession.

528 (g)~~(h)~~ In order to encourage completion of site  
529 rehabilitation at contaminated sites being voluntarily cleaned  
530 up and eligible for a tax credit under this section, the tax  
531 credit applicant may claim an additional 25 percent of the total  
532 cleanup costs, not to exceed \$500,000, in the final year of  
533 cleanup as evidenced by the Department of Environmental  
534 Protection issuing a "No Further Action" order for that site.

535 Section 9. Paragraphs (c) and (d) of subsection (5) of  
536 section 220.187, Florida Statutes, are amended to read:

537 220.187 Credits for contributions to nonprofit  
538 scholarship-funding organizations.--

539 (5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX  
540 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

541 ~~(c) A taxpayer who files a Florida consolidated return as  
542 a member of an affiliated group pursuant to s. 220.131(1) may be  
543 allowed the credit on a consolidated return basis; however, the  
544 total credit taken by the affiliated group is subject to the  
545 limitation established under paragraph (a).~~

546 (c)~~(d)~~ Effective for tax years beginning January 1, 2006,  
547 a taxpayer may rescind all or part of its allocated tax credit  
548 under this section. The amount rescinded shall become available  
549 for purposes of the cap for that state fiscal year under this  
550 section to an eligible taxpayer as approved by the department if  
551 the taxpayer receives notice from the department that the

552 rescindment has been accepted by the department and the taxpayer  
 553 has not previously rescinded any or all of its tax credit  
 554 allocation under this section more than once in the previous 3  
 555 tax years. Any amount rescinded under this paragraph shall  
 556 become available to an eligible taxpayer on a first-come, first-  
 557 served basis based on tax credit applications received after the  
 558 date the rescindment is accepted by the department.

559 Section 10. Paragraphs (g) and (h) of subsection (1) of  
 560 section 220.19, Florida Statutes, are amended to read:

561 220.19 Child care tax credits.--

562 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

563 ~~(g) A taxpayer that files a consolidated return in this~~  
 564 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
 565 ~~be allowed the credit on a consolidated return basis.~~

566 (g)(h) A taxpayer that is eligible to receive credit under  
 567 s. 624.5107 is ineligible to receive credit under this section.

568 Section 11. Paragraph (c) of subsection (3) of section  
 569 220.191, Florida Statutes, is amended to read:

570 220.191 Capital investment tax credit.--

571 (3)

572 (c) The credit granted under this subsection may be used  
 573 in whole or in part by the qualifying business ~~or any~~  
 574 ~~corporation that is either a member of that qualifying~~  
 575 ~~business's affiliated group of corporations, is a related entity~~  
 576 ~~taxable as a cooperative under subchapter T of the Internal~~  
 577 ~~Revenue Code, or, if the qualifying business is an entity~~  
 578 ~~taxable as a cooperative under subchapter T of the Internal~~  
 579 ~~Revenue Code, is related to the qualifying business. Any entity~~

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580 ~~related to the qualifying business may continue to file as a~~  
581 ~~member of a Florida nexus consolidated group pursuant to a prior~~  
582 ~~election made under s. 220.131(1), Florida Statutes (1985), even~~  
583 ~~if the parent of the group changes due to a direct or indirect~~  
584 ~~acquisition of the former common parent of the group. Any credit~~  
585 ~~can be used by any of the affiliated companies or related~~  
586 ~~entities referenced in this paragraph to the same extent as it~~  
587 ~~could have been used by the qualifying business. However, any~~  
588 ~~such use shall not operate to increase the amount of the credit~~  
589 ~~or extend the period within which the credit must be used.~~

590 Section 12. Subsection (2) of section 220.192, Florida  
591 Statutes, is amended to read:

592 220.192 Renewable energy technologies investment tax  
593 credit.--

594 (2) TAX CREDIT.--For tax years beginning on or after  
595 January 1, 2007, a credit against the tax imposed by this  
596 chapter shall be granted in an amount equal to the eligible  
597 costs. Credits may be used in tax years beginning January 1,  
598 2007, and ending December 31, 2010, after which the credit shall  
599 expire. If the credit is not fully used in any one tax year  
600 because of insufficient tax liability on the part of the  
601 corporation, the unused amount may be carried forward and used  
602 in tax years beginning January 1, 2007, and ending December 31,  
603 2012, after which the credit carryover expires and may not be  
604 used. ~~A taxpayer that files a consolidated return in this state~~  
605 ~~as a member of an affiliated group under s. 220.131(1) may be~~  
606 ~~allowed the credit on a consolidated return basis up to the~~  
607 ~~amount of tax imposed upon the consolidated group. Any eligible~~

608 cost for which a credit is claimed and which is deducted or  
 609 otherwise reduces federal taxable income shall be added back in  
 610 computing adjusted federal income under s. 220.13.

611 Section 13. Paragraphs (e), (f), (g), (h), and (i) of  
 612 subsection (3) of section 220.193, Florida Statutes, are amended  
 613 to read:

614 220.193 Florida renewable energy production credit.--

615 (3) An annual credit against the tax imposed by this  
 616 section shall be allowed to a taxpayer, based on the taxpayer's  
 617 production and sale of electricity from a new or expanded  
 618 Florida renewable energy facility. For a new facility, the  
 619 credit shall be based on the taxpayer's sale of the facility's  
 620 entire electrical production. For an expanded facility, the  
 621 credit shall be based on the increases in the facility's  
 622 electrical production that are achieved after May 1, 2006.

623 ~~(e) A taxpayer that files a consolidated return in this~~  
 624 ~~state as a member of an affiliated group under s. 220.131(1) may~~  
 625 ~~be allowed the credit on a consolidated return basis up to the~~  
 626 ~~amount of tax imposed upon the consolidated group.~~

627 (e)~~(f)~~1. Tax credits that may be available under this  
 628 section to an entity eligible under this section may be  
 629 transferred after a merger or acquisition to the surviving or  
 630 acquiring entity and used in the same manner with the same  
 631 limitations.

632 2. The entity or its surviving or acquiring entity as  
 633 described in subparagraph 1. may transfer any unused credit in  
 634 whole or in units of no less than 25 percent of the remaining  
 635 credit. The entity acquiring such credit may use it in the same

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636 manner and with the same limitations under this section. Such  
637 transferred credits may not be transferred again although they  
638 may succeed to a surviving or acquiring entity subject to the  
639 same conditions and limitations as described in this section.

640 3. In the event the credit provided for under this section  
641 is reduced as a result of an examination or audit by the  
642 department, such tax deficiency shall be recovered from the  
643 first entity or the surviving or acquiring entity to have  
644 claimed such credit up to the amount of credit taken. Any  
645 subsequent deficiencies shall be assessed against any entity  
646 acquiring and claiming such credit, or in the case of multiple  
647 succeeding entities in the order of credit succession.

648 (f)~~(g)~~ Notwithstanding any other provision of this  
649 section, credits for the production and sale of electricity from  
650 a new or expanded Florida renewable energy facility may be  
651 earned between January 1, 2007 and June 30, 2010. The combined  
652 total amount of tax credits which may be granted for all  
653 taxpayers under this section is limited to \$5 million per state  
654 fiscal year.

655 (g)~~(h)~~ A taxpayer claiming a credit under this section  
656 shall be required to add back to net income that portion of its  
657 business deductions claimed on its federal return paid or  
658 incurred for the taxable year which is equal to the amount of  
659 the credit allowable for the taxable year under this section.

660 (h)~~(i)~~ A taxpayer claiming credit under this section may  
661 not claim a credit under s. 220.192. A taxpayer claiming credit  
662 under s. 220.192 may not claim a credit under this section.

663 Section 14. Section 220.51, Florida Statutes, is amended  
 664 to read:

665 220.51 Promulgation of rules and regulations.--In  
 666 accordance with the Administrative Procedure Act, chapter 120,  
 667 the department is authorized to make, promulgate, and enforce  
 668 such reasonable rules and regulations, and to prescribe such  
 669 forms relating to the administration and enforcement of the  
 670 provisions of this code, as it may deem appropriate, including:

671 (1) Rules for initial implementation of this code and for  
 672 taxpayers' transitional taxable years commencing before and  
 673 ending after January 1, 1972.+

674 (2) Rules or regulations to clarify whether certain  
 675 groups, organizations, or associations formed under the laws of  
 676 this state or any other state, country, or jurisdiction shall be  
 677 deemed "taxpayers" for the purposes of this code, in accordance  
 678 with the legislative declarations of intent in s. 220.02.+~~and~~

679 ~~(3) Regulations relating to consolidated reporting for~~  
 680 ~~affiliated groups of corporations, in order to provide for an~~  
 681 ~~equitable and just administration of this code with respect to~~  
 682 ~~multicorporate taxpayers.~~

683 Section 15. Section 220.64, Florida Statutes, is amended  
 684 to read:

685 220.64 Other provisions applicable to franchise tax.--To  
 686 the extent that they are not manifestly incompatible with the  
 687 provisions of this part, parts I, III, IV, V, VI, VIII, IX, and  
 688 X of this code and ss. 220.12, 220.13, 220.136, 220.15, and  
 689 220.16 apply to the franchise tax imposed by this part. ~~Under~~  
 690 ~~rules prescribed in s. 220.131, a consolidated return may be~~

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691 ~~filed by any affiliated group of corporations composed of one or~~  
 692 ~~more banks or savings associations, its or their Florida parent~~  
 693 ~~corporation, and any nonbank or nonsavings subsidiaries of such~~  
 694 ~~parent corporation.~~

695 Section 16. Subsection (9) of section 376.30781, Florida  
 696 Statutes, is amended to read:

697 376.30781 Partial tax credits for rehabilitation of  
 698 drycleaning-solvent-contaminated sites and brownfield sites in  
 699 designated brownfield areas; application process; rulemaking  
 700 authority; revocation authority.--

701 (9) On or before March 31, the Department of Environmental  
 702 Protection shall inform each eligible tax credit applicant of  
 703 the amount of its partial tax credit and provide each eligible  
 704 tax credit applicant with a tax credit certificate that must be  
 705 submitted with its tax return to the Department of Revenue to  
 706 claim the tax credit or be transferred pursuant to s.  
 707 220.1845(1) (g) ~~(h)~~. Credits will not result in the payment of  
 708 refunds if total credits exceed the amount of tax owed.

709 Section 17. Transition rules.--

710 (1) For the first taxable year beginning on or after  
 711 January 1, 2009, a taxpayer that filed a Florida return for the  
 712 preceding taxable year and is a member of a water's edge group  
 713 shall compute its income together with all members of the  
 714 water's edge group and file a separate corporate income tax  
 715 return or may elect to combine its tax return with all members  
 716 of the water's edge group.

717 (2) An affiliated group of corporations that filed a  
 718 Florida consolidated return pursuant to an election provided in

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719 former s. 220.131, Florida Statutes, shall cease filing a  
720 Florida consolidated return for taxable years beginning on or  
721 after January 1, 2009, and shall file water's edge group returns  
722 or may elect to file a combined water's edge group return.

723 (3) An affiliated group of corporations that filed a  
724 Florida consolidated return pursuant to the election provided in  
725 s. 220.131(1), Florida Statutes (1985), that allowed the  
726 affiliated group to make an election with 90 days after December  
727 20, 1984, or upon filing the taxpayer's first return after  
728 December 20, 1984, whichever occurred later, shall cease filing  
729 a Florida consolidated return using that method for taxable  
730 years beginning on or after January 1, 2009, and shall file  
731 water's edge group returns or may elect to file a combined  
732 water's edge group return.

733 Section 18. Section 220.131, Florida Statutes, is  
734 repealed.

735 Section 19. Of the funds recaptured by this act, the sum  
736 of \$50 million is appropriated from the General Revenue Fund to  
737 the State University System for workforce education, to be  
738 allocated by the Board of Governors; the sum of \$50 million is  
739 appropriated from the General Revenue Fund to community colleges  
740 for workforce education, to be allocated by the State Board of  
741 Education; and the remainder of such funds, as determined by the  
742 Revenue Estimating Conference, shall be appropriated from the  
743 General Revenue Fund to the various school districts to reduce  
744 the required local effort, to be allocated as provided in the  
745 General Appropriations Act.

746 Section 20. This act shall take effect July 1, 2008.