

By Senator Deutch

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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:

27
28 Section 1. Legislative finding; intent.--The Legislature
29 finds that a separate accounting system for corporations is

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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 multistate
34 corporations. Corporate business is increasingly conducted
35 through groups of commonly owned corporations, it is the intent
36 of the Legislature to adopt a combined system of income tax
37 reporting for corporations to more accurately measure the
38 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 a
56 corporation having no individuals (including individuals employed
57 by an affiliate) receiving compensation in this state as defined
58 in s. 220.15 when the only property owned or leased by said

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59 corporation (including an affiliate) in this state is located at
60 the premises of a printer with which it has contracted for
61 printing, if such property consists of the final printed product,
62 property which becomes a part of the final printed product, or
63 property from which the printed product is produced.

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

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

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

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

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

86 5. Has created a tax regime which is favorable for tax
87 avoidance, based upon an overall assessment of relevant factors,

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88 including, but not limited to, whether the jurisdiction has a
89 significant untaxed offshore financial or other services sector
90 relative to its overall economy.

91
92 For purposes of this paragraph, the term "tax regime" means a set
93 or system of rules, laws, regulations, or practices by which
94 taxes are imposed on any person, corporation, or entity or on any
95 income, property, incident, indicia, or activity pursuant to
96 governmental authority.

97 (hh) "Water's edge group" means a group of corporations
98 related through common ownership the business activities of which
99 are integrated with, dependent upon, or contribute to a flow of
100 value among members of the group. When 50 percent or more of the
101 outstanding voting stock of a corporation is under direct or
102 indirect ownership or control of such a group, the corporation
103 shall be considered to be part of a water's edge group. A
104 corporation shall be considered unitary unless clearly shown by
105 the facts and circumstances of the individual case to not be a
106 member of a water's edge group. When direct or indirect ownership
107 or control is less than 50 percent of the outstanding voting
108 stock, all elements of the business activities shall be
109 considered in determining whether a corporation qualifies as a
110 member of a water's edge group. A water's edge group shall not
111 include the income of any corporation which conducts business
112 outside the United States if 80 percent or more of the
113 corporation's property and payroll, as determined by the
114 apportionment factors described in ss. 220.15 and 220.151, is
115 assignable to locations outside the United States. In determining
116 whether voting stock is owned indirectly, the attribution rules

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117 of s. 318 of the Internal Revenue Code of 1986, as amended, shall
118 be used. For purposes of this paragraph, the term "United States"
119 is restricted to the states of the United States, the District of
120 Columbia, and the Commonwealth of Puerto Rico. All income of a
121 water's edge group is presumed to be apportionable business
122 income. A taxpayer has the burden of proof regarding the issue of
123 whether or not a corporation is a member of a water's edge group
124 and whether or not such income is apportionable business income.

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

127 220.13 "Adjusted federal income" defined.--

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

132 (a) Additions.--There shall be added to such taxable
133 income:

134 1. The amount of any tax upon or measured by income,
135 excluding taxes based on gross receipts or revenues, paid or
136 accrued as a liability to the District of Columbia or any state
137 of the United States which is deductible from gross income in the
138 computation of taxable income for the taxable year.

139 2. The amount of interest which is excluded from taxable
140 income under s. 103(a) of the Internal Revenue Code or any other
141 federal law, less the associated expenses disallowed in the
142 computation of taxable income under s. 265 of the Internal
143 Revenue Code or any other law, excluding 60 percent of any
144 amounts included in alternative minimum taxable income, as

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145 defined in s. 55(b)(2) of the Internal Revenue Code, if the
146 taxpayer pays tax under s. 220.11(3).

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

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

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

161 6. The amount of emergency excise tax paid or accrued as a
162 liability to this state under chapter 221 which tax is deductible
163 from gross income in the computation of taxable income for the
164 taxable year.

165 7. That portion of assessments to fund a guaranty
166 association incurred for the taxable year which is equal to the
167 amount of the credit allowable for the taxable year.

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

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173 9. The amount taken as a credit for the taxable year under
174 s. 220.1895.

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

178 11. The amount taken as a credit for the taxable year under
179 s. 220.187.

180 12. The amount taken as a credit for the taxable year under
181 s. 220.192.

182 13. The amount taken as a credit for the taxable year under
183 s. 220.193.

184 (b) Subtractions.--

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

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

189 b. The net capital loss allowable for federal income tax
190 purposes under s. 1212 of the Internal Revenue Code for the
191 taxable year,

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

195 d. The excess contributions deductions allowable for
196 federal income tax purposes under s. 404 of the Internal Revenue
197 Code for the taxable year.

198

199 However, a net operating loss and a capital loss shall never be
200 carried back as a deduction to a prior taxable year, but all
201 deductions attributable to such losses shall be deemed net

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202 | operating loss carryovers and capital loss carryovers,
203 | respectively, and treated in the same manner, to the same extent,
204 | and for the same time periods as are prescribed for such
205 | carryovers in ss. 172 and 1212, respectively, of the Internal
206 | Revenue Code. A deductible may not be allowed for net operating
207 | losses, net capital losses, or excess contribution deductions
208 | under ss. 170(d)(2), 172, 1212, and 404 of the Internal Revenue
209 | Code of 1986, as amended, for a member of a water's edge group
210 | that is not a United States member.

211 | 2. There shall be subtracted from such taxable income any
212 | amount to the extent included therein the following:

213 | a. Dividends treated as received from sources without the
214 | United States, as determined under s. 862 of the Internal Revenue
215 | Code.

216 | b. All amounts included in taxable income under s. 78 or s.
217 | 951 of the Internal Revenue Code.

218 |
219 | However, as to any amount subtracted under this subparagraph,
220 | there shall be added to such taxable income all expenses deducted
221 | on the taxpayer's return for the taxable year which are
222 | attributable, directly or indirectly, to such subtracted amount.
223 | Further, no amount shall be subtracted with respect to dividends
224 | paid or deemed paid by a Domestic International Sales
225 | Corporation.

226 | 3. In computing "adjusted federal income" for taxable years
227 | beginning after December 31, 1976, there shall be allowed as a
228 | deduction the amount of wages and salaries paid or incurred
229 | within this state for the taxable year for which no deduction is

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230 | allowed pursuant to s. 280C(a) of the Internal Revenue Code
231 | (relating to credit for employment of certain new employees).

232 | 4. There shall be subtracted from such taxable income any
233 | amount of nonbusiness income included therein.

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

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

249 | ~~7.6.~~ Notwithstanding any other provision of this code,
250 | except with respect to amounts subtracted pursuant to
251 | subparagraphs 1. and 3., any increment of any apportionment
252 | factor which is directly related to an increment of gross
253 | receipts or income which is deducted, subtracted, or otherwise
254 | excluded in determining adjusted federal income shall be excluded
255 | from both the numerator and denominator of such apportionment
256 | factor. Further, all valuations made for apportionment factor
257 | purposes shall be made on a basis consistent with the taxpayer's
258 | method of accounting for federal income tax purposes.

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

260 1. In the case of any disposition made after October 19,
261 1980, the income from an installment sale shall be taken into
262 account for the purposes of this code in the same manner that
263 such income is taken into account for federal income tax
264 purposes.

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

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

277 Section 4. Section 220.136, Florida Statutes, is created to
278 read:

279 220.136 Water's edge groups; special reporting
280 requirements.--

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

287 (2) All members of a water's edge group shall use the

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288 water's edge group reporting method. Under the water's edge group
289 reporting method:

290 (a) Adjusted federal income for purposes of s. 220.12 means
291 the sum of adjusted federal income for all members of the group
292 determined for a concurrent taxable year.

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

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

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

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

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

325 (g) The income attributable to the activities in this state
326 of a corporation exempt from taxation because of Pub. L. No. 86-
327 272 is excluded from the sales factor numerator on a water's edge
328 group filing a combined water's edge group return even though an
329 affiliated corporation may have nexus with this state and is
330 subject to tax in this state.

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

344 (b) If the taxable years of the members of the water's edge
345 group differ, the filing member's taxable year must be used to

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346 determine the net income for this state of the water's edge
347 group. If the precise amount of a water's edge group member's
348 income can be readily determined from the books for the months
349 involved in the filing member's taxable year, those actual
350 amounts shall be used. In the absence of such a precise
351 determination, the income of a water's edge group member must be
352 converted to conform to the taxable year of the filing member on
353 the basis of the number of months falling within the applicable
354 taxable year. This method may be used only if the return can be
355 timely filed after the member's taxable year ends. As an
356 alternative, the water's edge group may include in its taxable
357 income all of the taxable income of a group member whose taxable
358 year ends within the taxable year of the water's edge group. Once
359 one of these methods is used for a water's edge group member,
360 that member must continue to use that method for succeeding years
361 for as long as the corporation remains a member of the water's
362 edge group. After the combined taxable income of the water's edge
363 group is determined based upon the filing member's taxable year,
364 the apportionment factor must be computed on the basis of the
365 same taxable year.

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

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375 (5) The department may adopt rules and forms by rule as may
376 be necessary or appropriate to administer and implement this
377 section. It is the intent of the Legislature, by this section, to
378 grant the department extensive authority to adopt rules and forms
379 describing and defining principles for determining the existence
380 of a water's edge group business, definitions of common control,
381 and methods of reporting and related forms, principles, and
382 definitions.

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

385 220.14 Exemption.--

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

389 Section 6. Paragraph (c) of subsection (5) of section
390 220.15, Florida Statutes, is amended to read:

391 220.15 Apportionment of adjusted federal income.--

392 (5) The sales factor is a fraction the numerator of which
393 is the total sales of the taxpayer in this state during the
394 taxable year or period and the denominator of which is the total
395 sales of the taxpayer everywhere during the taxable year or
396 period.

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

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

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

405 3. Interest received within this state, other than interest
406 from loans secured by mortgages, deeds of trust, or other liens
407 upon real or tangible personal property located without this
408 state, and dividends received within this state;

409 4. Interest charged to customers at places of business
410 maintained within this state for carrying debit balances of
411 margin accounts, without deduction of any costs incurred in
412 carrying such accounts;

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

419 6. Rents from real or tangible personal property located in
420 this state; or

421 7. Any other gross income, including other interest,
422 resulting from the operation as a financial organization within
423 this state.

424

425 ~~In computing the amounts under this paragraph, any amount~~
426 ~~received by a member of an affiliated group (determined under s.~~
427 ~~1504(a) of the Internal Revenue Code, but without reference to~~
428 ~~whether any such corporation is an "includable corporation" under~~
429 ~~s. 1504(b) of the Internal Revenue Code) from another member of~~
430 ~~such group shall be included only to the extent such amount~~
431 ~~exceeds expenses of the recipient directly related thereto.~~

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

434 220.183 Community contribution tax credit.--

435 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
436 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
437 SPENDING.--

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

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

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

446 220.1845 Contaminated site rehabilitation tax credit.--

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

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

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

454 2. A drycleaning-solvent-contaminated site at which cleanup
455 is undertaken by the real property owner pursuant to s.
456 376.3078(11), if the real property owner is not also, and has
457 never been, the owner or operator of the drycleaning facility
458 where the contamination exists; or

459 3. A brownfield site in a designated brownfield area under
460 s. 376.80.

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461 (b) A tax credit applicant, or multiple tax credit
462 applicants working jointly to clean up a single site, may not be
463 granted more than \$500,000 per year in tax credits for each site
464 voluntarily rehabilitated. Multiple tax credit applicants shall
465 be granted tax credits in the same proportion as their
466 contribution to payment of cleanup costs. Subject to the same
467 conditions and limitations as provided in this section, a
468 municipality, county, or other tax credit applicant which
469 voluntarily rehabilitates a site may receive not more than
470 \$500,000 per year in tax credits which it can subsequently
471 transfer subject to the provisions in paragraph (f) ~~(g)~~.

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

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

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489 (d)~~(e)~~ A tax credit applicant that receives state-funded
490 site rehabilitation under s. 376.3078(3) for rehabilitation of a
491 drycleaning-solvent-contaminated site is ineligible to receive
492 credit under this section for costs incurred by the tax credit
493 applicant in conjunction with the rehabilitation of that site
494 during the same time period that state-administered site
495 rehabilitation was underway.

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

498 (f)~~(g)~~1. Tax credits that may be available under this
499 section to an entity eligible under s. 376.30781 may be
500 transferred after a merger or acquisition to the surviving or
501 acquiring entity and used in the same manner and with the same
502 limitations.

503 2. The entity or its surviving or acquiring entity as
504 described in subparagraph 1., may transfer any unused credit in
505 whole or in units of no less than 25 percent of the remaining
506 credit. The entity acquiring such credit may use it in the same
507 manner and with the same limitation as described in this section.
508 Such transferred credits may not be transferred again although
509 they may succeed to a surviving or acquiring entity subject to
510 the same conditions and limitations as described in this section.

511 3. In the event the credit provided for under this section
512 is reduced either as a result of a determination by the
513 Department of Environmental Protection or an examination or audit
514 by the Department of Revenue, such tax deficiency shall be
515 recovered from the first entity, or the surviving or acquiring
516 entity, to have claimed such credit up to the amount of credit
517 taken. Any subsequent deficiencies shall be assessed against any

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518 entity acquiring and claiming such credit, or in the case of
519 multiple succeeding entities in the order of credit succession.

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

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

529 220.187 Credits for contributions to nonprofit scholarship-
530 funding organizations.--

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

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

538 (c) ~~(d)~~ Effective for tax years beginning January 1, 2006, a
539 taxpayer may rescind all or part of its allocated tax credit
540 under this section. The amount rescinded shall become available
541 for purposes of the cap for that state fiscal year under this
542 section to an eligible taxpayer as approved by the department if
543 the taxpayer receives notice from the department that the
544 rescindment has been accepted by the department and the taxpayer
545 has not previously rescinded any or all of its tax credit
546 allocation under this section more than once in the previous 3

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547 tax years. Any amount rescinded under this paragraph shall become
548 available to an eligible taxpayer on a first-come, first-served
549 basis based on tax credit applications received after the date
550 the rescindment is accepted by the department.

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

553 220.19 Child care tax credits.--

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

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

558 (g) ~~(h)~~ A taxpayer that is eligible to receive credit under
559 s. 624.5107 is ineligible to receive credit under this section.

560 Section 11. Paragraph (c) of subsection (3) of section
561 220.191, Florida Statutes, is amended to read:

562 220.191 Capital investment tax credit.--

563 (3)

564 (c) The credit granted under this subsection may be used in
565 whole or in part by the qualifying business ~~or any corporation~~
566 ~~that is either a member of that qualifying business's affiliated~~
567 ~~group of corporations, is a related entity taxable as a~~
568 ~~cooperative under subchapter T of the Internal Revenue Code, or,~~
569 ~~if the qualifying business is an entity taxable as a cooperative~~
570 ~~under subchapter T of the Internal Revenue Code, is related to~~
571 ~~the qualifying business. Any entity related to the qualifying~~
572 ~~business may continue to file as a member of a Florida nexus~~
573 ~~consolidated group pursuant to a prior election made under s.~~
574 ~~220.131(1), Florida Statutes (1985), even if the parent of the~~
575 ~~group changes due to a direct or indirect acquisition of the~~

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576 ~~former common parent of the group. Any credit can be used by any~~
577 ~~of the affiliated companies or related entities referenced in~~
578 ~~this paragraph to the same extent as it could have been used by~~
579 ~~the qualifying business. However, any such use shall not operate~~
580 ~~to increase the amount of the credit or extend the period within~~
581 ~~which the credit must be used.~~

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

584 220.192 Renewable energy technologies investment tax
585 credit.--

586 (2) TAX CREDIT.--For tax years beginning on or after
587 January 1, 2007, a credit against the tax imposed by this chapter
588 shall be granted in an amount equal to the eligible costs.
589 Credits may be used in tax years beginning January 1, 2007, and
590 ending December 31, 2010, after which the credit shall expire. If
591 the credit is not fully used in any one tax year because of
592 insufficient tax liability on the part of the corporation, the
593 unused amount may be carried forward and used in tax years
594 beginning January 1, 2007, and ending December 31, 2012, after
595 which the credit carryover expires and may not be used. ~~A~~
596 ~~taxpayer that files a consolidated return in this state as a~~
597 ~~member of an affiliated group under s. 220.131(1) may be allowed~~
598 ~~the credit on a consolidated return basis up to the amount of tax~~
599 ~~imposed upon the consolidated group. Any eligible cost for which~~
600 a credit is claimed and which is deducted or otherwise reduces
601 federal taxable income shall be added back in computing adjusted
602 federal income under s. 220.13.

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

606 220.193 Florida renewable energy production credit.--

607 (3) An annual credit against the tax imposed by this
608 section shall be allowed to a taxpayer, based on the taxpayer's
609 production and sale of electricity from a new or expanded Florida
610 renewable energy facility. For a new facility, the credit shall
611 be based on the taxpayer's sale of the facility's entire
612 electrical production. For an expanded facility, the credit shall
613 be based on the increases in the facility's electrical production
614 that are achieved after May 1, 2006.

615 ~~(c) A taxpayer that files a consolidated return in this~~
616 ~~state as a member of an affiliated group under s. 220.131(1) may~~
617 ~~be allowed the credit on a consolidated return basis up to the~~
618 ~~amount of tax imposed upon the consolidated group.~~

619 (e) ~~(f)~~1. Tax credits that may be available under this
620 section to an entity eligible under this section may be
621 transferred after a merger or acquisition to the surviving or
622 acquiring entity and used in the same manner with the same
623 limitations.

624 2. The entity or its surviving or acquiring entity as
625 described in subparagraph 1. may transfer any unused credit in
626 whole or in units of no less than 25 percent of the remaining
627 credit. The entity acquiring such credit may use it in the same
628 manner and with the same limitations under this section. Such
629 transferred credits may not be transferred again although they
630 may succeed to a surviving or acquiring entity subject to the
631 same conditions and limitations as described in this section.

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632 3. In the event the credit provided for under this section
633 is reduced as a result of an examination or audit by the
634 department, such tax deficiency shall be recovered from the first
635 entity or the surviving or acquiring entity to have claimed such
636 credit up to the amount of credit taken. Any subsequent
637 deficiencies shall be assessed against any entity acquiring and
638 claiming such credit, or in the case of multiple succeeding
639 entities in the order of credit succession.

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

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

651 (h)~~(i)~~ A taxpayer claiming credit under this section may
652 not claim a credit under s. 220.192. A taxpayer claiming credit
653 under s. 220.192 may not claim a credit under this section.

654 Section 14. Section 220.51, Florida Statutes, is amended to
655 read:

656 220.51 Promulgation of rules and regulations.--In
657 accordance with the Administrative Procedure Act, chapter 120,
658 the department is authorized to make, promulgate, and enforce
659 such reasonable rules and regulations, and to prescribe such

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660 forms relating to the administration and enforcement of the
661 provisions of this code, as it may deem appropriate, including:

662 (1) Rules for initial implementation of this code and for
663 taxpayers' transitional taxable years commencing before and
664 ending after January 1, 1972.~~†~~

665 (2) Rules or regulations to clarify whether certain groups,
666 organizations, or associations formed under the laws of this
667 state or any other state, country, or jurisdiction shall be
668 deemed "taxpayers" for the purposes of this code, in accordance
669 with the legislative declarations of intent in s. 220.02.~~†~~ and

670 ~~(3) Regulations relating to consolidated reporting for~~
671 ~~affiliated groups of corporations, in order to provide for an~~
672 ~~equitable and just administration of this code with respect to~~
673 ~~multicorporate taxpayers.~~

674 Section 15. Section 220.64, Florida Statutes, is amended to
675 read:

676 220.64 Other provisions applicable to franchise tax.--To
677 the extent that they are not manifestly incompatible with the
678 provisions of this part, parts I, III, IV, V, VI, VIII, IX, and X
679 of this code and ss. 220.12, 220.13, 220.136, 220.15, and 220.16
680 apply to the franchise tax imposed by this part. ~~Under rules~~
681 ~~prescribed in s. 220.131, a consolidated return may be filed by~~
682 ~~any affiliated group of corporations composed of one or more~~
683 ~~banks or savings associations, its or their Florida parent~~
684 ~~corporation, and any nonbank or nonsavings subsidiaries of such~~
685 ~~parent corporation.~~

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

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688 376.30781 Partial tax credits for rehabilitation of
689 drycleaning-solvent-contaminated sites and brownfield sites in
690 designated brownfield areas; application process; rulemaking
691 authority; revocation authority.--

692 (9) On or before March 31, the Department of Environmental
693 Protection shall inform each eligible tax credit applicant of the
694 amount of its partial tax credit and provide each eligible tax
695 credit applicant with a tax credit certificate that must be
696 submitted with its tax return to the Department of Revenue to
697 claim the tax credit or be transferred pursuant to s.
698 220.1845(1) (g) ~~(h)~~. Credits will not result in the payment of
699 refunds if total credits exceed the amount of tax owed.

700 Section 17. Transition rules.--

701 (1) For the first taxable year beginning on or after
702 January 1, 2009, a taxpayer that filed a Florida return for the
703 preceding taxable year and is a member of a water's edge group
704 shall compute its income together with all members of the water's
705 edge group and file a separate corporate income tax return or may
706 elect to combine its tax return with all members of the water's
707 edge group.

708 (2) An affiliated group of corporations that filed a
709 Florida consolidated return pursuant to an election provided in
710 former s. 220.131, Florida Statutes, shall cease filing a Florida
711 consolidated return for taxable years beginning on or after
712 January 1, 2009, and shall file water's edge group returns or may
713 elect to file a combined water's edge group return.

714 (3) An affiliated group of corporations that filed a
715 Florida consolidated return pursuant to the election provided in
716 s. 220.131(1), Florida Statutes (1985), that allowed the

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717 affiliated group to make an election with 90 days after December
718 20, 1984, or upon filing the taxpayer's first return after
719 December 20, 1984, whichever occurred later, shall cease filing a
720 Florida consolidated return using that method for taxable years
721 beginning on or after January 1, 2009, and shall file water's
722 edge group returns or may elect to file a combined water's edge
723 group return.

724 Section 18. Section 220.131, Florida Statutes, is repealed.

725 Section 19. Of the funds recaptured by this act, the sum of
726 \$50 million is appropriated from the General Revenue Fund to the
727 State University System for workforce education, to be allocated
728 by the Board of Governors; the sum of \$50 million is appropriated
729 from the General Revenue Fund to community colleges for workforce
730 education, to be allocated by the State Board of Education; and
731 the remainder of such funds, as determined by the Revenue
732 Estimating Conference, shall be appropriated from the General
733 Revenue Fund to the various school districts to reduce the
734 required local effort, to be allocated as provided in the General
735 Appropriations Act.

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