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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 220.11, Florida Statutes, is amended to  
read:

220.11 Tax imposed.—

(1) A tax measured by net income is hereby imposed on every  
taxpayer for each taxable year commencing on or after January 1,  
1972, and for each taxable year which begins before and ends  
after January 1, 1972, for the privilege of conducting business,



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13 earning or receiving income in this state, or being a resident  
14 or citizen of this state. Such tax shall be in addition to all  
15 other occupation, excise, privilege, and property taxes imposed  
16 by this state or by any political subdivision thereof, including  
17 any municipality or other district, jurisdiction, or authority  
18 of this state.

19 (2) The tax imposed by this section shall be an amount  
20 equal to 4 1/2 ~~5-1/2~~ percent of the taxpayer's net income for  
21 the taxable year.

22 (3) The tax imposed by this section, for taxpayers  
23 determining taxable income under s. 220.13(2)(k), shall be an  
24 amount equal to 2.7 ~~3.3~~ percent of the taxpayer's net income for  
25 the taxable year.

26 (4) In the case of a taxpayer to which s. 55 of the  
27 Internal Revenue Code is applied for the taxable year, the  
28 amount of tax determined under this section shall be the greater  
29 of the tax determined under subsection (2) without the  
30 application of s. 55 of the Internal Revenue Code or the tax  
31 determined under subsection (3).

32 Section 2. Section 220.63, Florida Statutes, is amended to  
33 read:

34 220.63 Franchise tax imposed on banks and savings  
35 associations.—

36 (1) A franchise tax measured by net income is hereby  
37 imposed on every bank and savings association for each taxable  
38 year commencing on or after January 1, 1973, and for each  
39 taxable year which begins before and ends after January 1, 1973.  
40 The franchise tax base of any bank for a taxable year which  
41 begins before and ends after January 1, 1972, shall be prorated



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42 in the manner prescribed for the proration of net income under  
43 s. 220.12(2).

44 (2) The tax imposed by this section shall be an amount  
45 equal to 4 1/2 ~~5-1/2~~ percent of the franchise tax base of the  
46 bank or savings association for the taxable year.

47 (3) For purposes of this part, the franchise tax base shall  
48 be adjusted federal income, as defined in s. 220.13, apportioned  
49 to this state, plus nonbusiness income allocated to this state  
50 pursuant to s. 220.16, less the deduction allowed in subsection  
51 (5) and less \$5,000.

52 (4) Nothing contained in this part shall be construed to  
53 prohibit a savings association, in computing its franchise tax  
54 base, from claiming the maximum deduction allowed under s. 593  
55 of the Internal Revenue Code.

56 (5) There shall be allowed as a deduction from adjusted  
57 federal income, to the extent not deductible in determining  
58 federal taxable income or subtracted pursuant to s.  
59 220.13(1)(b)2., the eligible net income of an international  
60 banking facility determined as follows:

61 (a) The "eligible net income of an international banking  
62 facility" is the amount remaining after subtracting from the  
63 eligible gross income the applicable expenses.

64 (b) The "eligible gross income" is the gross income derived  
65 by an international banking facility from:

66 1. Making, arranging for, placing, or servicing loans to  
67 foreign persons, provided, however, that in the case of a  
68 foreign person which is an individual, a foreign branch of a  
69 domestic corporation (other than a bank or savings association),  
70 or a foreign corporation or a foreign partnership which is 80



71 percent or more owned or controlled, either directly or  
72 indirectly, by one or more domestic corporations (other than  
73 banks or savings associations), domestic partnerships, or  
74 resident individuals, substantially all the proceeds of the loan  
75 are for use outside the United States;

76 2. Making or placing deposits with foreign persons which  
77 are banks or savings associations or foreign branches of banks  
78 or savings associations, including foreign subsidiaries or  
79 foreign branches of the taxpayer, or with other international  
80 banking facilities; or

81 3. Entering into foreign exchange trading or hedging  
82 transactions in connection with the activities described in this  
83 paragraph.

84  
85 However, the term "eligible gross income" does not include any  
86 amount derived by an international banking facility from making,  
87 arranging for, placing, or servicing loans or making or placing  
88 deposits if the loans or deposits of funds are secured by  
89 mortgages, deeds of trust, or other liens upon real property  
90 located in this state.

91 (c) The "applicable expenses" are any expenses or other  
92 deductions attributable, directly or indirectly, to the eligible  
93 gross income described in paragraph (b).

94 Section 3. Reduction of corporate income tax and franchise  
95 tax rates.—

96 (1) As used in this section, the term "real growth in sales  
97 tax revenues" means collections in excess of the prior year's  
98 collections adjusted for changes in population and price level  
99 calculated as the percentage change in sales tax collections



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100 less:

101 (a) The annual percentage change in the Consumer Price  
102 Index - All Urban Consumers issued by the United State  
103 Department of Labor for the most recent 12-month period ending  
104 June 30; and

105 (b) The annual percentage change in the official estimate  
106 of the Florida resident population reported by the Office of  
107 Economic and Demographic Research on April 1.

108 (2) When the real growth in sales tax revenues distributed  
109 in any fiscal year pursuant to s. 212.20, Florida Statutes, to  
110 the General Revenue Fund exceeds the rate of 1.2 percent in per  
111 capita sales tax revenues over the previous fiscal year, for  
112 every 0.005 percent of excess, the tax rates in ss. 220.11(2)  
113 and 220.63(2), Florida Statutes, shall be reduced by 0.25  
114 percent and the tax rate in s. 220.11(3), Florida Statutes,  
115 shall be reduced 0.15 percent. The reduced rates shall apply to  
116 tax years beginning on or after January 1 following the fiscal  
117 years having the increase in sales tax revenues.

118 Section 4. Paragraph (u) of subsection (8) of section  
119 213.053, Florida Statutes, as amended by section 3 of chapter  
120 2010-280, Laws of Florida, is amended to read:

121 213.053 Confidentiality and information sharing.-

122 (8) Notwithstanding any other provision of this section,  
123 the department may provide:

124 (u) Information relative to section 6 of this act and ss.  
125 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, and 1002.395  
126 to the Department of Education and the Division of Alcoholic  
127 Beverages and Tobacco in the conduct of official business.

128 Section 5. Paragraphs (b) and (c) of subsection (5),



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129 paragraphs (b) and (c) of subsection (13), and subsection (15)  
130 of section 1002.395, Florida Statutes, are amended to read:

131 1002.395 Florida Tax Credit Scholarship Program.—

132 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

133 (b) A taxpayer may submit an application to the department  
134 for a tax credit or credits under one or more of section 6 of  
135 this act, s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or  
136 s. 624.51055. The taxpayer shall specify in the application each  
137 tax for which the taxpayer requests a credit and the applicable  
138 taxable year for a credit under s. 220.1875 or s. 624.51055 or  
139 the applicable state fiscal year for a credit under section 6 of  
140 this act, s. 211.0251, s. 212.1831, or s. 561.1211. The  
141 department shall approve tax credits on a first-come, first-  
142 served basis and must obtain the division's approval prior to  
143 approving a tax credit under section 6 of this act or s.  
144 561.1211.

145 (c) If a tax credit approved under paragraph (b) is not  
146 fully used within the specified state fiscal year for credits  
147 under section 6 of this act, s. 211.0251, s. 212.1831, or s.  
148 561.1211 or against taxes due for the specified taxable year for  
149 credits under s. 220.1875 or s. 624.51055 because of  
150 insufficient tax liability on the part of the taxpayer, the  
151 unused amount may be carried forward for a period not to exceed  
152 3 years. However, any taxpayer that seeks to carry forward an  
153 unused amount of tax credit must submit an application to the  
154 department for approval of the carryforward tax credit in the  
155 year that the taxpayer intends to use the carryforward. The  
156 department must obtain the division's approval prior to  
157 approving the carryforward of a tax credit under s. 561.1211.



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158 (13) ADMINISTRATION; RULES.—

159 (b) The department shall adopt rules necessary to  
160 administer this section, section 6 of this act, and ss.  
161 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including  
162 rules establishing application forms, procedures governing the  
163 approval of tax credits and carryforward tax credits under  
164 subsection (5), and procedures to be followed by taxpayers when  
165 claiming approved tax credits on their returns.

166 (c) The division shall adopt rules necessary to administer  
167 its responsibilities under this section, section 6 of this act,  
168 and s. 561.1211.

169 (15) PRESERVATION OF CREDIT.—If any provision or portion of  
170 this section, section 6 of this act, s. 211.0251, s. 212.1831,  
171 s. 220.1875, s. 561.1211, or s. 624.51055 or the application  
172 thereof to any person or circumstance is held unconstitutional  
173 by any court or is otherwise declared invalid, the  
174 unconstitutionality or invalidity shall not affect any credit  
175 earned under section 6 of this act, s. 211.0251, s. 212.1831, s.  
176 220.1875, s. 561.1211, or s. 624.51055 by any taxpayer with  
177 respect to any contribution paid to an eligible nonprofit  
178 scholarship-funding organization before the date of a  
179 determination of unconstitutionality or invalidity. Such credit  
180 shall be allowed at such time and in such a manner as if a  
181 determination of unconstitutionality or invalidity had not been  
182 made, provided that nothing in this subsection by itself or in  
183 combination with any other provision of law shall result in the  
184 allowance of any credit to any taxpayer in excess of one dollar  
185 of credit for each dollar paid to an eligible nonprofit  
186 scholarship-funding organization.



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187           Section 6. Credit for contributions to eligible nonprofit  
188 scholarship-funding organizations.—There is allowed a credit of  
189 100 percent of an eligible contribution made to an eligible  
190 nonprofit scholarship-funding organization under s. 1002.395,  
191 Florida Statutes, against any tax or surcharge due under chapter  
192 210, Florida Statutes. However, a credit allowed under this  
193 section may not exceed 90 percent of the tax due on the return  
194 on which the credit is taken. For purposes of determining the  
195 distribution of tax revenue under chapter 210, Florida Statutes,  
196 the Division of Alcoholic Beverages and Tobacco of the  
197 Department of Business and Professional Regulation shall  
198 disregard any tax credits allowed under this section to ensure  
199 that the distribution of tax revenues to the General Revenue  
200 Fund is the only distribution that is reduced as a result of the  
201 tax credits. The provisions of s. 1002.395, Florida Statutes,  
202 apply to the credits authorized under this section.

203           Section 7. (1) Notwithstanding the limitations in s.  
204 1002.395(5)(d), Florida Statutes, a taxpayer who has an unused  
205 amount of corporate income tax credits or franchise tax credits  
206 which will not be used by the taxpayer as a result of this act  
207 is entitled to:

208           (a) Exchange the unused amount of corporate income tax  
209 credits or franchise tax credits for credits against other taxes  
210 which were allowed by the statute allowing the credit against  
211 the corporate income tax; or

212           (b) Sell or transfer the unused amount of corporate income  
213 tax credits or franchise tax credits to one or more taxpayers  
214 who may then use or exchange the credits.

215           (2) This act does not alter the tax credit cap amount that





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216 would otherwise apply in a state fiscal year.

217 (3) The Department of Revenue is authorized, and all  
218 conditions are deemed met, to adopt emergency rules under ss.  
219 120.536(1) and 120.54(4), Florida Statutes, to administer this  
220 section. The emergency rules shall remain in effect for 6 months  
221 after adoption and may be renewed during the pendency of  
222 procedures to adopt rules addressing the subject of the  
223 emergency rules. Such rules may include, but are not limited to,  
224 rules establishing the process for exchanging, selling, or  
225 transferring unused credit amounts, including notice and  
226 tracking requirements.

227 Section 8. The Department of Revenue is authorized, and all  
228 conditions are deemed met, to adopt emergency rules pursuant to  
229 ss. 120.536(1) and 120.54, Florida Statutes, to administer this  
230 act. The emergency rules shall remain in effect for 6 months  
231 after adoption and may be renewed during the pendency of  
232 procedures to adopt permanent rules addressing the subject of  
233 the emergency rules.

234 Section 9. This act shall take effect January 1, 2012, and  
235 shall apply to tax years beginning on or after that date.

237 ===== T I T L E A M E N D M E N T =====

238 And the title is amended as follows:

239 Delete everything before the enacting clause  
240 and insert:

241 A bill to be entitled

242 An act relating to state revenues; amending s. 220.11,  
243 F.S.; reducing the corporate income tax rate; amending  
244 s. 220.63, F.S.; reducing the franchise tax rate;



245 providing for additional reductions in the corporate  
246 income tax rate and franchise tax rate contingent upon  
247 increases in the rate of growth of sales tax revenues;  
248 amending s. 213.053, F.S.; authorizing the Department  
249 of Revenue to provide the Department of Education and  
250 the Division of Alcoholic Beverages and Tobacco of the  
251 Department of Business and Professional Regulation  
252 with information relative to tax credits against taxes  
253 or surcharges on tobacco products for contributions to  
254 eligible nonprofit scholarship-funding organizations;  
255 amending s. 1002.395, F.S.; specifying additional  
256 taxes against which a taxpayer may claim a credit for  
257 an eligible contribution to an eligible nonprofit  
258 scholarship-funding organization to include taxes or  
259 surcharges on tobacco products; authorizing a taxpayer  
260 to receive a tax credit against taxes or surcharges on  
261 tobacco products for an eligible contribution to an  
262 eligible nonprofit scholarship-funding organization;  
263 limiting the amount of the tax credit to 90 percent of  
264 the taxpayer's tax liability for taxes or surcharges  
265 on tobacco products; providing that the distribution  
266 of tax revenues to the General Revenue Fund is the  
267 only distribution that is reduced as a result of the  
268 tax credits; authorizing a taxpayer to exchange unused  
269 corporate income tax credits or franchise tax credits  
270 for other tax credits under certain circumstances;  
271 authorizing a taxpayer to sell or transfer unused  
272 corporate income tax credits or franchise tax credits  
273 under certain circumstances; authorizing the



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274 Department of Revenue to adopt emergency rules  
275 relating to the exchange, sale, or transfer of  
276 corporate income tax credits or franchise tax credits;  
277 authorizing the Department of Revenue to adopt  
278 emergency rules to administer the act; providing for  
279 application of the act; providing an effective date.