A bill to be entitled

An act relating to taxation; providing legislative findings and intent; creating s. 11.95, F.S.; providing a short title; creating the Joint Legislative Sales and Use Tax Review Committee; providing for membership and staff; providing meeting procedures; providing for rulemaking; providing definitions; providing powers and duties of the committee; requiring the committee to report certain findings and recommendations within specified timeframes; providing exemptions from certain reviews by the committee; requiring the committee to submit certain legislation within a specified timeframe; providing for automatic repeal of certain tax exemptions under certain circumstances; providing for construction; amending s. 220.03, F.S.; revising and providing definitions; amending s. 220.13, F.S.; conforming cross-references; redefining the term "adjusted federal income" to limit the subtraction of certain deductions and certain carryovers; requiring the subtraction of certain dividends from taxable income; creating s. 220.136, F.S.; providing rules and criteria to determine whether a corporation is a member of a water's edge group; creating s. 220.1363, F.S.; providing a reporting method for a water's edge group; providing for the apportionment of income to

the state; requiring a member of a water's edge group having nexus with this state to file a single return for the water's edge group; providing for the determination of income for a member of a water's edge group having a different tax year than the water's edge group; requiring a water's edge group return to include a computational schedule; requiring a water's edge group to file a domestic disclosure spreadsheet along with its return; authorizing the Department of Revenue to adopt rules; amending s. 220.14, F.S.; providing for the proration of an exemption during a leap year; limiting a water's edge group to a single claim of a specified exemption; amending s. 220.15, F.S.; deleting provisions relating to affiliated groups with respect to certain sales of a financial institution; amending s. 220.183, F.S.; deleting provisions relating to affiliated groups with respect to community contribution tax credits; amending s. 220.1845, F.S.; deleting provisions relating to affiliated groups with respect to the contaminated site rehabilitation tax credit; amending s. 220.1875, F.S.; deleting provisions relating to affiliated groups with respect to the tax credit for contributions to nonprofit scholarship-funding organizations; amending s. 220.191, F.S.; deleting provisions relating to affiliated groups with respect

to the capital investment tax credit; amending s. 220.192, F.S.; deleting provisions relating to affiliated groups with respect to the renewable energy technologies investment tax credit; amending s. 220.193, F.S.; deleting provisions relating to affiliated groups with respect to the Florida renewable energy production tax credit; amending s. 220.51, F.S.; deleting provisions relating to the rulemaking authority of the Department of Revenue with respect to consolidated reporting for affiliated groups; amending s. 220.64, F.S.; conforming cross-references; amending s. 288.1254, F.S.; deleting provisions relating to affiliated groups with respect to the entertainment industry financial incentive program; amending s. 376.30781, F.S.; conforming cross-references; providing transitional rules for corporate income tax returns filed by water's edge groups and affiliated groups of corporations; specifying the allocation of funds that are recaptured under the act; repealing s. 220.131, F.S., relating to adjusted federal income for affiliated groups; providing an effective date.

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

Section 1. Legislative findings and intent.—

(1) The Legislature finds that a tax exemption or exclusion that does not apply uniformly and that benefits only one group effectively increases the tax burden on taxpayers who do not enjoy the exemption. Therefore, the Legislature intends that each sales and use tax exemption and exclusion be evaluated with the goal of phasing out exemptions or exclusions that do not sufficiently serve the public interest.

(2) The Legislature finds that the separate accounting system used to measure the income of multistate and multinational corporations for tax purposes often places Florida corporations at a competitive disadvantage. Moreover, corporate business is increasingly conducted through groups of commonly owned corporations. Therefore, the Legislature intends to more accurately measure the business activities of corporations by adopting a combined system of income tax reporting.

Section 2. Section 11.95, Florida Statutes, is created to read:

11.95 Joint Legislative Sales and Use Tax Review Committee.—

(1) SHORT TITLE.—This section may be cited as the "Florida Sales Tax Fairness Restoration Act."

(2) JOINT LEGISLATIVE SALES AND USE TAX REVIEW COMMITTEE.—

(a) There is created a joint standing committee of the Legislature designated the Joint Legislative Sales and Use Tax Review Committee, composed of 10 members as follows: 5 members of the Senate, to be appointed by the President of the Senate,

and 5 members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. The terms of members shall be for 2 years and shall run from the organization of one Legislature to the organization of the next Legislature. Vacancies occurring during the interim period shall be filled in the same manner as the original appointments. The members of the committee shall elect a chair and vice chair. During the 2-year term, a member of each house shall serve as chair for 1 year.

(b) The Senate and the House of Representatives may each employ staff to work for the committee on matters related to committee activities.

(3) MEETINGS.—The committee for each review cycle shall have its initial meeting no later than September 1, 2015, and thereafter as necessary, at the call of the chair at the time and place designated by the chair. A quorum shall consist of a majority of the committee members from each house. During the interim period, the committee may conduct its meetings through teleconferences or other similar means.

(4) RULES.—The committee shall be governed by joint rules of the Senate and House of Representatives, which shall remain in effect until repealed or amended by concurrent resolution.

(5) DEFINITIONS.—As used in this section, the term:

(a) "General state sales and use tax" means the sales and use tax imposed under chapter 212.

(b) "Service" means a service within any of the following service categories under the North American Industry

Classification System (NAICS):

1. Personal services.

2. Professional services.

3. Business services.

4. Financial services.

5. Media services.

6. Entertainment and sports services.

7. Construction services.

8. Institutional services.

9. Transportation services.

10. Health services.

(6) POWERS AND DUTIES.—The committee shall conduct a comprehensive review of all current and future exemptions from the general state sales and use tax and the exclusion of sales of services from such taxation. The committee shall establish criteria by which each exemption or exclusion shall be evaluated. In developing the evaluation criteria, the committee shall consider the following principles of taxation:

(a) Equity.—The tax system should treat individuals equitably. It should impose similar tax burdens on people in similar circumstances and should minimize regressivity.

(b) Simplicity, transparency, and compliance.—The tax system should facilitate taxpayer compliance. It should be simple and easy to understand and should provide visibility and awareness of the taxes being paid.

(c) Neutrality.—The tax system should affect taxpayers

uniformly and consistently. The primary purpose of any tax should be to raise revenue for appropriate governmental functions rather than to influence business and personal decisions.

(d) Stability.—The tax system should produce revenues in a stable and reliable manner that is sufficient to fund appropriate governmental functions and expenditures.

(e) Integration.—The tax system should balance the need for integration of federal, state, and local taxation.

(f) Public purpose.—Any sales and use tax exemption or exclusion under the tax system should be based on a determination that the exemption or exclusion promotes an important state interest and should benefit citizens as equally as possible.

(7) FINDINGS AND RECOMMENDATIONS.—In conducting its review of each exemption from the general state sales and use tax or the exclusion of the sale of a service from such taxation, the committee shall make findings of fact and recommend whether the exemption should be retained, modified, or repealed or whether the exclusion should be retained or eliminated. Each recommendation must be made by majority vote of the committee members from each house. If a majority vote of the committee members from each house cannot be achieved, the committee must recommend that the exemption or exclusion be repealed. The findings of fact and recommendations of the committee shall be made by reports to the President of the Senate and the Speaker

of the House of Representatives.

(8) EXEMPTIONS AND EXCLUSIONS REVIEW.—

(a) The committee may use its discretion in determining the order in which it reviews the exemptions and exclusions. For the initial review, the committee shall submit to the President of the Senate and the Speaker of the House of Representatives its initial report on one-third of the exemptions and exclusions by November 1, 2015, its report on the second one-third of the exemptions and exclusions by March 1, 2016, and its report on the final one-third of the exemptions and exclusions by July 1, 2016, with no duplication of exemptions or exclusions from one report to the next. Thereafter, the committee shall review every 3 years approximately one-third of the exemptions and exclusions, with no duplication of exemptions or exclusions reviewed from one 3-year period to the next 3-year period. The committee shall submit its 3-year period review reports no later than December 1 of the year before the next regular session after the expiration of the third year of each 3-year review cycle. The committee shall begin a new 9-year review cycle of all exemptions from the general state sales and use tax and all exclusions of sales of services from such taxation every 9 years after the termination of the previous review cycle.

(b) Notwithstanding this section, exemptions and exclusions for necessities, including, but not limited to, exemptions for general groceries as described in s. 212.08(1), medical products or supplies as described in s. 212.08(2),

health services, residential housing, residential electricity, and home heating fuel, and sales of property or services that the state is prohibited from taxing under the State Constitution or laws of the United States, are not subject to review by the committee or repeal in legislation proposed by the committee.

(9) LEGISLATION.—At the regular session after submission of each annual report to the President of the Senate and the Speaker of the House of Representatives, the committee shall introduce in both houses of the Legislature bills presenting for reenactment, modification, or repeal those exemptions from the general state sales and use tax or any imposition of such taxation on sales of services which were recommended by the committee in the report submitted immediately before the session in which introduced. Each bill introduced must be restricted to a single exemption or the imposition of the tax on a single service and must be submitted to a vote of the members of each house of the Legislature no later than the 8th week of the session in which it is introduced, unless the substance of the bill has already been voted on by the members of that house of the Legislature in another bill during that session, regardless of the outcome of that vote, or the bill has already been submitted to the members of the other house and has been defeated.

(10) REPEAL.—Any exemption from the state general sales and use tax or exclusion from imposition of such tax on sales of services which is not prohibited from review by the committee

under paragraph (8)(b) and is not modified or reenacted by the end of the regular session after any 9-year review period is repealed on July 1 after the end of the regular session immediately after the 9-year review period.

(11) CONSTRUCTION.—This section does not preclude a legislator from filing for consideration during any legislative session a bill proposing to modify, repeal, or enact any exemption from the general state sales and use tax or the exclusion from imposition of such taxation on the sale of any service.

Section 3. Paragraph (z) of subsection (1) of section 220.03, Florida Statutes, is amended, and paragraphs (gg) and (hh) are added to that subsection, to read:

220.03 Definitions.—

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

(z) "Taxpayer" means any corporation subject to the tax imposed by this code~~,~~ and includes all corporations that are members of a water's edge group ~~for which a consolidated return is filed under s. 220.131~~. However, "taxpayer" does not include a corporation having no individuals, ~~(~~including individuals employed by an affiliate,~~)~~ receiving compensation in this state as defined in s. 220.15 when the only property owned or leased by said corporation, ~~(~~including an affiliate,~~)~~ in this state is

located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced.

(gg) "Tax haven" means a jurisdiction that, for a particular tax year:

1. Is identified by the Organization for Economic Co-operation and Development as a tax haven or as having a harmful preferential tax regime; or

2.a. Is a jurisdiction that does not impose or imposes only a nominal, effective tax on relevant income;

b. Has laws or practices that prevent the effective exchange of information for tax purposes with other governments regarding taxpayers who are subject to, or benefiting from, the tax regime;

c. Lacks transparency;

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

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

f. Has created a tax regime that is favorable for tax

avoidance, based on an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

For purposes of this paragraph, a tax regime lacks transparency if the details of legislative, legal, or administrative requirements are not open to public scrutiny and apparent or are not consistently applied among similarly situated taxpayers. As used in this paragraph, the term "tax regime" means a set or system of rules, laws, regulations, or practices by which taxes are imposed on any person, corporation, or entity, or on any income, property, incident, indicia, or activity pursuant to government authority.

(hh) "Water's edge group" means a group of corporations related through common ownership whose business activities are integrated with, dependent upon, or contribute to a flow of value among members of the group.

Section 4. Subsections (1) and (2) of section 220.13, Florida Statutes, are amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.1363 ~~220.131~~, for the taxable year, adjusted as follows:

(a) Additions.—There shall be added to such taxable

income:

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

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

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

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

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. This

subparagraph shall expire on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

6. The amount taken as a credit under s. 220.195 which is deductible from gross income in the computation of taxable income for the taxable year.

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

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

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

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

11. The amount taken as a credit for the taxable year under s. 220.1875. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. This addition is not intended to result in adding the same expense back to income more than once.

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

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

14. Any portion of a qualified investment, as defined in s. 288.9913, which is claimed as a deduction by the taxpayer and taken as a credit against income tax pursuant to s. 288.9916.

15. The costs to acquire a tax credit pursuant to s. 288.1254(5) that are deducted from or otherwise reduce federal taxable income for the taxable year.

16. The amount taken as a credit for the taxable year pursuant to s. 220.194.

17. The amount taken as a credit for the taxable year under s. 220.196. The addition in this subparagraph is intended to ensure that the same amount is not allowed for the tax purposes of this state as both a deduction from income and a credit against the tax. The addition is not intended to result in adding the same expense back to income more than once.

(b) Subtractions.—

1. There shall be subtracted from such taxable income:

a. The net operating loss deduction allowable for federal income tax purposes under s. 172 of the Internal Revenue Code for the taxable year, except that any net operating loss that is transferred pursuant to s. 220.194(6) may not be deducted by the seller,

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

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

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

However, a net operating loss and a capital loss shall never be carried back as a deduction to a prior taxable year, but all deductions attributable to such losses shall be deemed net operating loss carryovers and capital loss carryovers, respectively, and treated in the same manner, to the same extent, and for the same time periods as are prescribed for such carryovers in ss. 172 and 1212, respectively, of the Internal Revenue Code. A deduction is not allowed for net operating losses, net capital losses, or excess contribution deductions under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 for a member of a water's edge group that is not a United States member. Carryovers of net operating losses, net capital losses, or excess contribution deductions under 26 U.S.C. ss. 170(d)(2), 172, 1212, and 404 may be subtracted only by the member of the water's edge group that generates a carryover.

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

a. Dividends treated as received from sources without the United States, as determined under s. 862 of the Internal

Revenue Code.

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

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

3. Amounts received by a member of a water's edge group as dividends paid by another member of the water's edge group shall be subtracted from the taxable income to the extent that the dividends are included in the taxable income.

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

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

6.~~5.~~ There shall be subtracted any amount of taxes of foreign countries allowable as credits for taxable years beginning on or after September 1, 1985, under s. 901 of the

Internal Revenue Code to any corporation which derived less than 20 percent of its gross income or loss for its taxable year ended in 1984 from sources within the United States, as described in s. 861(a)(2)(A) of the Internal Revenue Code, not including credits allowed under ss. 902 and 960 of the Internal Revenue Code, withholding taxes on dividends within the meaning of sub-subparagraph 2.a., and withholding taxes on royalties, interest, technical service fees, and capital gains.

7.~~6.~~ Notwithstanding any other provision of this code, except with respect to amounts subtracted pursuant to subparagraphs 1. and 4. ~~3.~~, any increment of any apportionment factor which is directly related to an increment of gross receipts or income which is deducted, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor. Further, all valuations made for apportionment factor purposes shall be made on a basis consistent with the taxpayer's method of accounting for federal income tax purposes.

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

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

2. Any taxpayer who regularly sells or otherwise disposes

of personal property on the installment plan and reports the income therefrom on the installment method for federal income tax purposes under s. 453(a) of the Internal Revenue Code shall report such income in the same manner under this code.

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

(e) Adjustments related to federal acts.—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, and s. 331 of Pub. L. No. 112-240, for property placed

in service after December 31, 2007, and before January 1, 2014. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, and s. 315 of Pub. L. No. 112-240, for taxable years beginning after December 31, 2007, and before January 1, 2014. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue

Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

(2) For purposes of this section, a taxpayer's taxable income for the taxable year means taxable income as defined in s. 63 of the Internal Revenue Code and properly reportable for federal income tax purposes for the taxable year, but subject to the limitations set forth in paragraph (1)(b) with respect to the deductions provided by ss. 172 (relating to net operating losses), 170(d)(2) (relating to excess charitable contributions), 404(a)(1)(D) (relating to excess pension trust contributions), 404(a)(3)(A) and (B) (to the extent relating to excess stock bonus and profit-sharing trust contributions), and 1212 (relating to capital losses) of the Internal Revenue Code, except that, subject to the same limitations, the term:

(a) "Taxable income," in the case of a life insurance company subject to the tax imposed by s. 801 of the Internal Revenue Code, means life insurance company taxable income; however, for purposes of this code, the total of any amounts subject to tax under s. 815(a)(2) of the Internal Revenue Code pursuant to s. 801(c) of the Internal Revenue Code shall not exceed, cumulatively, the total of any amounts determined under s. 815(c)(2) of the Internal Revenue Code of 1954, as amended, from January 1, 1972, to December 31, 1983;

(b) "Taxable income," in the case of an insurance company subject to the tax imposed by s. 831(b) of the Internal Revenue Code, means taxable investment income;

(c) "Taxable income," in the case of an insurance company subject to the tax imposed by s. 831(a) of the Internal Revenue Code, means insurance company taxable income;

(d) "Taxable income," in the case of a regulated investment company subject to the tax imposed by s. 852 of the Internal Revenue Code, means investment company taxable income;

(e) "Taxable income," in the case of a real estate investment trust subject to the tax imposed by s. 857 of the Internal Revenue Code, means the income subject to tax, computed as provided in s. 857 of the Internal Revenue Code;

(f) "Taxable income," in the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, means taxable income of such corporation

for federal income tax purposes as if such corporation had filed a separate federal income tax return for the taxable year and each preceding taxable year for which it was a member of an affiliated group~~, unless a consolidated return for the taxpayer and others is required or elected under s. 220.131~~;

(g) "Taxable income," in the case of a cooperative corporation or association, means the taxable income of such organization determined in accordance with the provisions of ss. 1381-1388 of the Internal Revenue Code;

(h) "Taxable income," in the case of an organization which is exempt from the federal income tax by reason of s. 501(a) of the Internal Revenue Code, means its unrelated business taxable income as determined under s. 512 of the Internal Revenue Code;

(i) "Taxable income," in the case of a corporation for which there is in effect for the taxable year an election under s. 1362(a) of the Internal Revenue Code, means the amounts subject to tax under s. 1374 or s. 1375 of the Internal Revenue Code for each taxable year;

(j) "Taxable income," in the case of a limited liability company, other than a limited liability company classified as a partnership for federal income tax purposes, as defined in and organized pursuant to chapter 608 or qualified to do business in this state as a foreign limited liability company or other than a similar limited liability company classified as a partnership for federal income tax purposes and created as an artificial entity pursuant to the statutes of the United States or any

other state, territory, possession, or jurisdiction, if such limited liability company or similar entity is taxable as a corporation for federal income tax purposes, means taxable income determined as if such limited liability company were required to file or had filed a federal corporate income tax return under the Internal Revenue Code;

(k) "Taxable income," in the case of a taxpayer liable for the alternative minimum tax as defined in s. 55 of the Internal Revenue Code, means the alternative minimum taxable income as defined in s. 55(b)(2) of the Internal Revenue Code, less the exemption amount computed under s. 55(d) of the Internal Revenue Code. A taxpayer is not liable for the alternative minimum tax unless the taxpayer's federal tax return, or related federal consolidated tax return, if included in a consolidated return for federal tax purposes, reflect a liability on the return filed for the alternative minimum tax as defined in s. 55(b)(2) of the Internal Revenue Code;

(l) "Taxable income," in the case of a taxpayer whose taxable income is not otherwise defined in this subsection, means the sum of amounts to which a tax rate specified in s. 11 of the Internal Revenue Code plus the amount to which a tax rate specified in s. 1201(a)(2) of the Internal Revenue Code are applied for federal income tax purposes.

Section 5. Section 220.136, Florida Statutes, is created to read:

220.136 Determination of the members of a water's edge

group.—

(1) MEMBERSHIP RULES.—

(a) A corporation having 50 percent or more of its outstanding voting stock directly or indirectly owned or controlled by a water's edge group is presumed to be a member of the group. A corporation having less than 50 percent of its outstanding voting stock directly or indirectly owned or controlled by a water's edge group is a member of the group if the businesses activities of the corporation show that the corporation is a member of the group. All of the income of a corporation that is a member of a water's edge group is presumed to be unitary.

(b) A corporation that conducts business outside the United States is not a member of a water's edge group if 80 percent or more of the corporation's property and payroll, as determined by the apportionment factors described in ss. 220.15 and 220.1363, may be assigned to locations outside the United States. However, such corporations that are incorporated in a tax haven may be a member of a water's edge group pursuant to paragraph (a). This paragraph does not exempt a corporation that is not a member of a water's edge group from this chapter.

(2) MEMBERSHIP EVALUATION CRITERIA.—

(a) The attribution rules of 26 U.S.C. s. 318 shall be used to determine whether voting stock is owned indirectly.

(b) As used in this section, the term "United States" means the 50 states, the District of Columbia, and Puerto Rico.

(c) The apportionment factors described in ss. 220.15 and 220.1363 shall be used to determine whether a special industry corporation has engaged in a sufficient amount of activities outside the United States to exclude it from treatment as a member of a water's edge group.

Section 6. Section 220.1363, Florida Statutes, is created to read:

220.1363 Water's edge groups; special requirements.—

(1) All members of a water's edge group must use the water's edge reporting method. Under the water's edge reporting method:

(a) Adjusted federal income for purposes of s. 220.12 means the sum of adjusted federal income for all members of the group as determined for a concurrent tax year.

(b) The numerators and denominators of the apportionment factors shall be calculated for all members of the group combined.

(c) Intercompany sales transactions between members of the group are not included in the numerator or denominator of the sales factor pursuant to ss. 220.15 and 220.151 regardless of whether indicia of a sale exist. As used in this subsection, the term "sale" includes, but is not limited to, loans, payments for the use of intangibles, dividends, and management fees.

(d) For sales of intangibles, including, but not limited to, accounts receivable, notes, bonds, and stock, which are made to entities outside the group, only the net proceeds are

included in the numerator and denominator of the sales factor.

(e) Sales that are not allocated or apportioned to any taxing jurisdiction, otherwise known as "nowhere sales," may not be included in the numerator or denominator of the sales factor.

(f) The income attributable to the Florida activities of a corporation that is exempt from taxation under Pub. L. No. 86-272 is excluded from the apportionment factor numerators in the calculation of corporate income tax even if another member of the water's edge group has nexus with Florida and is subject to tax.

(2) For purposes of this section, the term "water's edge reporting method" is a method to determine the taxable business profits of a group of entities conducting a unitary business. Under this method, the net income of the entities must be added together along with the additions and subtractions under s. 220.13 and apportioned to this state as a single taxpayer under ss. 220.15 and 220.151. However, each special industry member included in a water's edge group return, which would otherwise be permitted to use a special method of apportionment under s. 220.151, shall convert its single-factor apportionment to a three-factor apportionment of property, payroll, and sales. The special industry member shall calculate the denominator of its property, payroll, and sales factors in the same manner as those denominators are calculated by members that are not special industry members. The numerator of its sales, property, and payroll factors is the product of the denominator of each factor

multiplied by the premiums or revenue-miles-factor ratio otherwise applicable under s. 220.151.

(3)(a) A single water's edge group return must be filed in the name and under the federal employer identification number of the parent corporation if the parent is a member of the group and has nexus with Florida. If the group does not have a parent corporation, if the parent corporation is not a member of the group, or if the parent corporation does not have nexus with Florida, the members of the group must choose a member subject to the Florida corporate income tax to file the return. The members of the group may not choose another member to file a corporate income tax return in subsequent years unless the filing member does not maintain nexus with Florida or remain a member of that group. The return must be signed by an authorized officer of the filing member as the agent for the group.

(b) If members of a water's edge group have different tax years, the tax year of a majority of the members of the group is the tax year of the group. If the tax years of a majority of the members of a group do not correspond, the tax year of the member that must file the return for the group is the tax year of the group.

(c)1. A member of a water's edge group having a tax year that does not correspond to the tax year of the group shall determine its income for inclusion on the tax return for the group. The member shall use:

a. The precise amount of taxable income received during

the months corresponding to the tax year of the group if the precise amount can be readily determined from the member's books and records.

b. The taxable income of the member converted to conform to the tax year of the group on the basis of the number of months falling within the tax year of the group. For example, if the tax year of the water's edge group is a calendar year and a member operates on a fiscal year ending on April 30, the income of the member shall include 8/12 of the income from the current tax year and 4/12 of the income from the preceding tax year. This method to determine the income of a member may be used only if the return can be timely filed after the end of the tax year of the group.

c. The taxable income of the member during its tax year that ends within the tax year of the group.

2. The method of determining the income of a member of a group whose tax year does not correspond to the tax year of the group may not change as long as the member remains a member of the group. The apportionment factors for the member must be applied to the income of the member for the tax year of the group.

(4)(a) A water's edge group return shall include a computational schedule that:

1. Combines the federal income of all members of the water's edge group;

2. Shows all intercompany eliminations;

3. Shows Florida additions and subtractions under s. 220.13; and

4. Shows the calculation of the combined apportionment factors.

(b) A water's edge group shall also file a domestic disclosure spreadsheet in addition to its return. The spreadsheet shall fully disclose:

1. The income reported to each state;

2. The state tax liability;

3. The method used for apportioning or allocating income to the various states; and

4. Other information required by the department by rule in order to determine the proper amount of tax due to each state and to identify the water's edge group.

(5) The department may adopt rules and forms to administer this section. The Legislature intends to grant the department extensive authority to adopt rules and forms describing and defining principles for determining the existence of a water's edge business, definitions of common control, methods of reporting, and related forms, principles, and other definitions.

Section 7. Section 220.14, Florida Statutes, is amended to read:

220.14 Exemption.—

(1) In computing a taxpayer's liability for tax under this code, there shall be exempt from the tax $50,000 of net income as defined in s. 220.12 or such lesser amount as will, without

increasing the taxpayer's federal income tax liability, provide the state with an amount under this code which is equal to the maximum federal income tax credit which may be available from time to time under federal law.

(2) In the case of a taxable year for a period of less than 12 months, the exemption allowed by this section shall be prorated on the basis of the number of days in such year to 365 or, in the case of a leap year, to 366.

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

(4) Notwithstanding any other provision of this code, not more than one exemption under this section may be allowed to the Florida members of a controlled group of corporations, as defined in s. 1563 of the Internal Revenue Code with respect to taxable years ending on or after December 31, 1970, filing separate returns under this code. The exemption described in this section shall be divided equally among such Florida members of the group~~,~~ unless all of such members consent, at such time and in such manner as the department shall by regulation prescribe, to an apportionment plan providing for an unequal allocation of such exemption.

Section 8. Subsection (5) of section 220.15, Florida Statutes, is amended to read:

220.15 Apportionment of adjusted federal income.—

(5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the

taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:

1. Rental income is included in the term if a significant portion of the taxpayer's business consists of leasing or renting real or tangible personal property; and

2. Royalty income is included in the term if a significant portion of the taxpayer's business consists of dealing in or with the production, exploration, or development of minerals.

(b)1. Sales of tangible personal property occur in this state if the property is delivered or shipped to a purchaser within this state, regardless of the f.o.b. point, other conditions of the sale, or ultimate destination of the property, unless shipment is made via a common or contract carrier. However, for industries in NAICS National Number 311411, if the ultimate destination of the product is to a location outside this state, regardless of the method of shipment or f.o.b. point, the sale shall not be deemed to occur in this state. As used in this paragraph, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget,

Executive Office of the President.

2. When citrus fruit is delivered by a cooperative for a grower-member, by a grower-member to a cooperative, or by a grower-participant to a Florida processor, the sales factor for the growers for such citrus fruit delivered to such processor shall be the same as the sales factor for the most recent taxable year of that processor. That sales factor, expressed only as a percentage and not in terms of the dollar volume of sales, so as to protect the confidentiality of the sales of the processor, shall be furnished on the request of such a grower promptly after it has been determined for that taxable year.

3. Reimbursement of expenses under an agency contract between a cooperative, a grower-member of a cooperative, or a grower and a processor is not a sale within this state.

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

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

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

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

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

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

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

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

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

Section 9. Subsection (1) of section 220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section, s. 212.08(5)(p), and s. 624.5105 is $18.4 million annually for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071 and $3.5 million annually for all other projects.

(d) All proposals for the granting of the tax credit shall require the prior approval of the Department of Economic Opportunity.

(e) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the business firm, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits

and unused credit carryovers in the order provided in s. 220.02(8).

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

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

Section 10. Subsection (2) of section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

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

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

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

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

(b) A tax credit applicant, or multiple tax credit

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

(c) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward for up to 5 years. The carryover credit may be used in a subsequent year if the tax imposed by this chapter for that year exceeds the credit for which the corporation is eligible in that year after applying the other credits and unused carryovers in the order provided by s. 220.02(8). If during the 5-year period the credit is transferred, in whole or in part, pursuant to paragraph (f) ~~(g)~~, each transferee has 5 years after the date of transfer to use its credit.

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

(d)~~(e)~~ A tax credit applicant that receives state-funded

site rehabilitation under s. 376.3078(3) for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive credit under this section for costs incurred by the tax credit applicant in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was underway.

(e) ~~(f)~~ The total amount of the tax credits which may be granted under this section is $5 million annually.

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

2. The entity or its surviving or acquiring entity as described in subparagraph 1., may transfer any unused credit in whole or in units of at least 25 percent of the remaining credit. The entity acquiring such credit may use it in the same manner and with the same limitation as described in this section. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section.

3. If the credit is reduced due to a determination by the Department of Environmental Protection or an examination or audit by the Department of Revenue, the tax deficiency shall be recovered from the first entity, or the surviving or acquiring

entity that claimed the credit up to the amount of credit taken. Any subsequent deficiencies shall be assessed against the entity acquiring and claiming the credit, or in the case of multiple succeeding entities in the order of credit succession.

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

(h) ~~(i)~~ In order to encourage the construction of housing that meets the definition of affordable provided in s. 420.0004, an applicant for the tax credit may claim an additional 25 percent of the total site rehabilitation costs that are eligible for tax credits under this section, not to exceed $500,000. In order to receive this additional tax credit, the applicant must provide a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement indicating that the construction on the brownfield site has received a certificate of occupancy and the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in s. 420.0004.

(i) ~~(j)~~ In order to encourage the redevelopment of a brownfield site, as defined in the brownfield site

rehabilitation agreement, that is hindered by the presence of solid waste, as defined in s. 403.703, a tax credit applicant, or multiple tax credit applicants working jointly to clean up a single brownfield site, may also claim costs required to address solid waste removal as defined in this paragraph in accordance with rules of the Department of Environmental Protection. Multiple tax credit applicants shall be granted tax credits in the same proportion as each applicant's contribution to payment of solid waste removal costs. These costs are eligible for a tax credit provided the applicant submits an affidavit stating that, after consultation with appropriate local government officials and the Department of Environmental Protection, to the best of the applicant's knowledge according to such consultation and available historical records, the brownfield site was never operated as a permitted solid waste disposal area or was never operated for monetary compensation and the applicant submits all other documentation and certifications required by this section. Under this section, wherever reference is made to "site rehabilitation," the Department of Environmental Protection shall instead consider whether or not the costs claimed are for solid waste removal. Tax credit applications claiming costs pursuant to this paragraph shall not be subject to the calendar-year limitation and January 31 annual application deadline, and the Department of Environmental Protection shall accept a one-time application filed subsequent to the completion by the tax credit applicant of the applicable requirements listed in this

section. A tax credit applicant may claim 50 percent of the cost for solid waste removal, not to exceed $500,000, after the applicant has determined solid waste removal is completed for the brownfield site. A solid waste removal tax credit application may be filed only once per brownfield site. For the purposes of this section, the term:

1. "Solid waste disposal area" means a landfill, dump, or other area where solid waste has been disposed of.

2. "Monetary compensation" means the fees that were charged or the assessments that were levied for the disposal of solid waste at a solid waste disposal area.

3. "Solid waste removal" means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site. The term also includes:

a. Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

b. Sorting or screening of solid waste prior to removal from the site.

c. Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled.

(j) ~~(k)~~ In order to encourage the construction and operation of a new health care facility as defined in s. 408.032 or s. 408.07, or a health care provider as defined in s. 408.07 or s. 408.7056, on a brownfield site, an applicant for a tax

credit may claim an additional 25 percent of the total site rehabilitation costs, not to exceed $500,000, if the applicant meets the requirements of this paragraph. In order to receive this additional tax credit, the applicant must provide documentation indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the health care facility or health care provider.

Section 11. Section 220.1875, Florida Statutes, is amended to read:

220.1875 Credit for contributions to eligible nonprofit scholarship-funding organizations.—

(1) There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization under s. 1002.395 against any tax due for a taxable year under this chapter after the application of any other allowable credits by the taxpayer. The credit granted by this section shall be reduced by the difference between the amount of federal corporate income tax taking into account the credit granted by this section and the amount of federal corporate income tax without application of the credit granted by this section.

~~(2) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis; however, the~~

~~total credit taken by the affiliated group is subject to the limitation established under subsection (1).~~

(2)~~(3)~~ Section ~~The provisions of s.~~ 1002.395 applies ~~apply~~ to the credit authorized by this section.

Section 12. Subsection (3) of section 220.191, Florida Statutes, is amended to read:

220.191 Capital investment tax credit.—

(3)(a) Notwithstanding subsection (2), an annual credit against the tax imposed by this chapter shall be granted to a qualifying business which establishes a qualifying project pursuant to subparagraph (1)(g)3., in an amount equal to the lesser of $15 million or 5 percent of the eligible capital costs made in connection with a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The tax credit shall be granted against the corporate income tax liability of the qualifying business and as further provided in paragraph (c). The total tax credit provided pursuant to this subsection shall be equal to no more than 100 percent of the eligible capital costs of the qualifying project.

(b) If the credit granted under this subsection is not fully used in any one year because of insufficient tax liability on the part of the qualifying business, the unused amount may be carried forward for a period not to exceed 20 years after the commencement of operations of the project. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for which the

qualifying business is eligible in that year under this subsection after applying the other credits and unused carryovers in the order provided by s. 220.02(8).

(c) The credit granted under this subsection may be used in whole or in part by the qualifying business ~~or any corporation that is either a member of that qualifying business's affiliated group of corporations, is a related entity taxable as a cooperative under subchapter T of the Internal Revenue Code, or, if the qualifying business is an entity taxable as a cooperative under subchapter T of the Internal Revenue Code, is related to the qualifying business. Any entity related to the qualifying business may continue to file as a member of a Florida-nexus consolidated group pursuant to a prior election made under s. 220.131(1), Florida Statutes (1985), even if the parent of the group changes due to a direct or indirect acquisition of the former common parent of the group. Any credit can be used by any of the affiliated companies or related entities referenced in this paragraph to the same extent as it could have been used by the qualifying business. However, any such use shall not operate to increase the amount of the credit or extend the period within which the credit must be used~~.

Section 13. Subsection (2) of section 220.192, Florida Statutes, is amended to read:

220.192 Renewable energy technologies investment tax credit.—

(2) TAX CREDIT.—For tax years beginning on or after

January 1, 2013, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs. Credits may be used in tax years beginning January 1, 2013, and ending December 31, 2016, after which the credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2013, and ending December 31, 2018, after which the credit carryover expires and may not be used. ~~A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group.~~ Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

Section 14. Subsection (3) of section 220.193, Florida Statutes, is amended to read:

220.193 Florida renewable energy production credit.—

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's

electrical production that are achieved after May 1, 2012.

(a) The credit shall be $0.01 for each kilowatt-hour of electricity produced and sold by the taxpayer to an unrelated party during a given tax year.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2013. Beginning in 2014 and continuing until 2017, each taxpayer claiming a credit under this section must apply to the Department of Agriculture and Consumer Services by the date established by the Department of Agriculture and Consumer Services for an allocation of available credits for that year. The application form shall be adopted by rule of the Department of Agriculture and Consumer Services in consultation with the commission. The application form shall, at a minimum, require a sworn affidavit from each taxpayer certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(c) If the amount of credits applied for each year exceeds the amount authorized in paragraph (f) ~~(g)~~, the Department of Agriculture and Consumer Services shall allocate credits to qualified applicants based on the following priority:

1. An applicant who places a new facility in operation after May 1, 2012, shall be allocated credits first, up to a maximum of $250,000 each, with any remaining credits to be granted pursuant to subparagraph 3., but if the claims for credits under this subparagraph exceed the state fiscal year cap

in paragraph (f) ~~(g)~~, credits shall be allocated pursuant to this subparagraph on a prorated basis based upon each applicant's qualified production and sales as a percentage of total production and sales for all applicants in this category for the fiscal year.

2. An applicant who does not qualify under subparagraph 1. but who claims a credit of $50,000 or less shall be allocated credits next, but if the claims for credits under this subparagraph, combined with credits allocated in subparagraph 1., exceed the state fiscal year cap in paragraph (f) ~~(g)~~, credits shall be allocated pursuant to this subparagraph on a prorated basis based upon each applicant's qualified production and sales as a percentage of total qualified production and sales for all applicants in this category for the fiscal year.

3. An applicant who does not qualify under subparagraph 1. or subparagraph 2. and an applicant whose credits have not been fully allocated under subparagraph 1. shall be allocated credits next. If there is insufficient capacity within the amount authorized for the state fiscal year in paragraph (f) ~~(g)~~, and after allocations pursuant to subparagraphs 1. and 2., the credits allocated under this subparagraph shall be prorated based upon each applicant's unallocated claims for qualified production and sales as a percentage of total unallocated claims for qualified production and sales of all applicants in this category, up to a maximum of $1 million per taxpayer per state fiscal year. If, after application of this $1 million cap, there

is excess capacity under the state fiscal year cap in paragraph (f) ~~(g)~~ in any state fiscal year, that remaining capacity shall be used to allocate additional credits with priority given in the order set forth in this subparagraph and without regard to the $1 million per taxpayer cap.

(d) If the credit granted pursuant to this section is not fully used in 1 year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year, after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

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

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

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

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

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

(f) ~~(g)~~ Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2013, and June 30, 2016. The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to $5 million in state fiscal year 2012-2013 and $10 million per state fiscal year in state fiscal years 2013-2014 through 2016-2017. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192 but unallocated due to a lack of authorized funds.

(g) ~~(h)~~ A taxpayer claiming a credit under this section

shall be required to add back to net income that portion of its business deductions claimed on its federal return paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under this section.

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

(i) ~~(j)~~ When an entity treated as a partnership or a disregarded entity under this chapter produces and sells electricity from a new or expanded renewable energy facility, the credit earned by such entity shall pass through in the same manner as items of income and expense pass through for federal income tax purposes. When an entity applies for the credit and the entity has received the credit by a pass-through, the application must identify the taxpayer that passed the credit through, all taxpayers that received the credit, and the percentage of the credit that passes through to each recipient and must provide other information that the Department of Agriculture and Consumer Services requires.

(j) ~~(k)~~ A taxpayer's use of the credit granted pursuant to this section does not reduce the amount of any credit available to such taxpayer under s. 220.186.

Section 15. Section 220.51, Florida Statutes, is amended to read:

220.51 Adoption ~~Promulgation~~ of rules and regulations.—In accordance with the Administrative Procedure Act, chapter 120,

the department is authorized to make, adopt ~~promulgate~~, and enforce such reasonable rules and regulations, and to prescribe such forms relating to the administration and enforcement of ~~the provisions of~~ this code, as it may deem appropriate, including:

(1) Rules for initial implementation of this code and for taxpayers' transitional taxable years commencing before and ending after January 1, 1972; and

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

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

Section 16. Section 220.64, Florida Statutes, is amended to read:

220.64 Other provisions applicable to franchise tax.—To the extent that they are not manifestly incompatible with ~~the provisions of~~ this part, parts I, III, IV, V, VI, VIII, IX, and X of this code and ss. 220.12, 220.13, 220.136, 220.1363, 220.15, and 220.16 apply to the franchise tax imposed by this part. Under rules prescribed by the department ~~in s. 220.131~~, a consolidated return may be filed by any affiliated group of corporations composed of one or more banks or savings

associations, ~~its or~~ their Florida parent corporations ~~corporation~~, and any nonbank or nonsavings subsidiaries of such parent corporations ~~corporation~~.

Section 17. Subsection (4) and paragraph (a) of subsection (5) of section 288.1254, Florida Statutes, are amended to read:

288.1254 Entertainment industry financial incentive program.—

(4) TAX CREDIT ELIGIBILITY; TAX CREDIT AWARDS; QUEUES; ELECTION AND DISTRIBUTION; CARRYFORWARD; CONSOLIDATED RETURNS; PARTNERSHIP AND NONCORPORATE DISTRIBUTIONS; MERGERS AND ACQUISITIONS.—

(a) Priority for tax credit award.—The priority of a qualified production for tax credit awards must be determined on a first-come, first-served basis within its appropriate queue. Each qualified production must be placed into the appropriate queue and is subject to the requirements of that queue.

(b) Tax credit eligibility.—

1. General production queue.—Ninety-four percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the general production queue. The general production queue consists of all qualified productions other than those eligible for the commercial and music video queue or the independent and emerging media production queue. A qualified production that demonstrates a minimum of $625,000 in qualified expenditures is eligible for tax credits equal to 20 percent of its actual qualified

expenditures, up to a maximum of $8 million. A qualified production that incurs qualified expenditures during multiple state fiscal years may combine those expenditures to satisfy the $625,000 minimum threshold.

a. An off-season certified production that is a feature film, independent film, or television series or pilot is eligible for an additional 5 percent tax credit on actual qualified expenditures. An off-season certified production that does not complete 75 percent of principal photography due to a disruption caused by a hurricane or tropical storm may not be disqualified from eligibility for the additional 5 percent credit as a result of the disruption.

b. If more than 45 percent of the sum of total tax credits initially certified and awarded after April 1, 2012, total tax credits initially certified after April 1, 2012, but not yet awarded, and total tax credits available for certification after April 1, 2012, but not yet certified has been awarded for high-impact television series, then no high-impact television series is eligible for tax credits under this subparagraph. Tax credits initially certified for a high-impact television series after April 1, 2012, may not be awarded if the award will cause the percentage threshold in this sub-subparagraph to be exceeded. This sub-subparagraph does not prohibit the award of tax credits certified before April 1, 2012, for high-impact television series.

c. Subject to sub-subparagraph b., first priority in the

queue for tax credit awards not yet certified shall be given to high-impact television series and high-impact digital media projects. For the purposes of determining priority between a high-impact television series and a high-impact digital media project, the first position must go to the first application received. Thereafter, priority shall be determined by alternating between a high-impact television series and a high-impact digital media project on a first-come, first-served basis. However, if the Office of Film and Entertainment receives an application for a high-impact television series or high-impact digital media project that would be certified but for the alternating priority, the office may certify the project as being in the priority position if an application that would normally be the priority position is not received within 5 business days.

d. A qualified production for which at least 67 percent of its principal photography days occur within a region designated as an underutilized region at the time that the production is certified is eligible for an additional 5 percent tax credit.

e. A qualified production that employs students enrolled full-time in a film and entertainment-related or digital media-related course of study at an institution of higher education in this state is eligible for an additional 15 percent tax credit on qualified expenditures that are wages, salaries, or other compensation paid to such students. The additional 15 percent tax credit is also applicable to persons hired within 12 months

after graduating from a film and entertainment-related or digital media-related course of study at an institution of higher education in this state. The additional 15 percent tax credit applies to qualified expenditures that are wages, salaries, or other compensation paid to such recent graduates for 1 year after the date of hiring.

f. A qualified production for which 50 percent or more of its principal photography occurs at a qualified production facility, or a qualified digital media project or the digital animation component of a qualified production for which 50 percent or more of the project's or component's qualified expenditures are related to a qualified digital media production facility, is eligible for an additional 5 percent tax credit on actual qualified expenditures for production activity at that facility.

g. A qualified production is not eligible for tax credits provided under this paragraph totaling more than 30 percent of its actual qualified expenses.

2. Commercial and music video queue.—Three percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the commercial and music video queue. A qualified production company that produces national or regional commercials or music videos may be eligible for a tax credit award if it demonstrates a minimum of $100,000 in qualified expenditures per national or regional commercial or music video and exceeds a combined threshold of $500,000 after

combining actual qualified expenditures from qualified commercials and music videos during a single state fiscal year. After a qualified production company that produces commercials, music videos, or both reaches the threshold of $500,000, it is eligible to apply for certification for a tax credit award. The maximum credit award shall be equal to 20 percent of its actual qualified expenditures up to a maximum of $500,000. If there is a surplus at the end of a fiscal year after the Office of Film and Entertainment certifies and determines the tax credits for all qualified commercial and video projects, such surplus tax credits shall be carried forward to the following fiscal year and are available to any eligible qualified productions under the general production queue.

3. Independent and emerging media production queue.—Three percent of tax credits authorized pursuant to subsection (6) in any state fiscal year must be dedicated to the independent and emerging media production queue. This queue is intended to encourage independent film and emerging media production in this state. Any qualified production, excluding commercials, infomercials, or music videos, which demonstrates at least $100,000, but not more than $625,000, in total qualified expenditures is eligible for tax credits equal to 20 percent of its actual qualified expenditures. If a surplus exists at the end of a fiscal year after the Office of Film and Entertainment certifies and determines the tax credits for all qualified independent and emerging media production projects, such surplus

tax credits shall be carried forward to the following fiscal year and are available to any eligible qualified productions under the general production queue.

4. Family-friendly productions.—A certified theatrical or direct-to-video motion picture production or video game determined by the Commissioner of Film and Entertainment, with the advice of the Florida Film and Entertainment Advisory Council, to be family-friendly, based on review of the script and review of the final release version, is eligible for an additional tax credit equal to 5 percent of its actual qualified expenditures. Family-friendly productions are those that have cross-generational appeal; would be considered suitable for viewing by children age 5 or older; are appropriate in theme, content, and language for a broad family audience; embody a responsible resolution of issues; and do not exhibit or imply any act of smoking, sex, nudity, or vulgar or profane language.

(c) Withdrawal of tax credit eligibility.—A qualified or certified production must continue on a reasonable schedule, which includes beginning principal photography or the production project in this state no more than 45 calendar days before or after the principal photography or project start date provided in the production's program application. The department shall withdraw the eligibility of a qualified or certified production that does not continue on a reasonable schedule.

(d) Election and distribution of tax credits.—

1. A certified production company receiving a tax credit

award under this section shall, at the time the credit is awarded by the department after production is completed and all requirements to receive a credit award have been met, make an irrevocable election to apply the credit against taxes due under chapter 220, against state taxes collected or accrued under chapter 212, or against a stated combination of the two taxes. The election is binding upon any distributee, successor, transferee, or purchaser. The department shall notify the Department of Revenue of any election made pursuant to this paragraph.

2. A qualified production company is eligible for tax credits against its sales and use tax liabilities and corporate income tax liabilities as provided in this section. However, tax credits awarded under this section may not be claimed against sales and use tax liabilities or corporate income tax liabilities for any tax period beginning before July 1, 2011, regardless of when the credits are applied for or awarded.

(e) Tax credit carryforward.—If the certified production company cannot use the entire tax credit in the taxable year or reporting period in which the credit is awarded, any excess amount may be carried forward to a succeeding taxable year or reporting period. A tax credit applied against taxes imposed under chapter 212 may be carried forward for a maximum of 5 years after the date the credit is awarded. A tax credit applied against taxes imposed under chapter 220 may be carried forward for a maximum of 5 years after the date the credit is awarded,

after which the credit expires and may not be used.

~~(f) Consolidated returns.—A certified production company that files a Florida consolidated return as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of the tax imposed upon the consolidated group under chapter 220.~~

(f)~~(g)~~ Partnership and noncorporate distributions.—A qualified production company that is not a corporation as defined in s. 220.03 may elect to distribute tax credits awarded under this section to its partners or members in proportion to their respective distributive income or loss in the taxable year in which the tax credits were awarded.

(g)~~(h)~~ Mergers or acquisitions.—Tax credits available under this section to a certified production company may succeed to a surviving or acquiring entity subject to the same conditions and limitations as described in this section; however, they may not be transferred again by the surviving or acquiring entity.

(5) TRANSFER OF TAX CREDITS.—

(a) Authorization.—Upon application to the Office of Film and Entertainment and approval by the department, a certified production company, or a partner or member that has received a distribution under paragraph (4)(f)~~(g)~~, may elect to transfer, in whole or in part, any unused credit amount granted under this section. An election to transfer any unused tax credit amount under chapter 212 or chapter 220 must be made no later than 5

years after the date the credit is awarded, after which period the credit expires and may not be used. The department shall notify the Department of Revenue of the election and transfer.

Section 18. Subsections (9) and (10) of section 376.30781, Florida Statutes, are amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority; revocation authority.—

(9) On or before May 1, the Department of Environmental Protection shall inform each tax credit applicant that is subject to the January 31 annual application deadline of the applicant's eligibility status and the amount of any tax credit due. The department shall provide each eligible tax credit applicant with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(f) ~~220.1845(2)(g)~~. The May 1 deadline for annual site rehabilitation tax credit certificate awards shall not apply to any tax credit application for which the department has issued a notice of deficiency pursuant to subsection (8). The department shall respond within 90 days after receiving a response from the tax credit applicant to such a notice of deficiency. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

(10) For solid waste removal, new health care facility or

health care provider, and affordable housing tax credit applications, the Department of Environmental Protection shall inform the applicant of the department's determination within 90 days after the application is deemed complete. Each eligible tax credit applicant shall be informed of the amount of its tax credit and provided with a tax credit certificate that must be submitted with its tax return to the Department of Revenue to claim the tax credit or be transferred pursuant to s. 220.1845(2)(f) ~~220.1845(2)(g)~~. Credits may not result in the payment of refunds if total credits exceed the amount of tax owed.

Section 19. Transitional rules.—

(1) For the first tax year beginning on or after January 1, 2016, a taxpayer that filed a Florida corporate income tax return in the preceding tax year and is a member of a water's edge group shall compute its income together with all members of its water's edge group and file a combined Florida corporate income tax return with all members of its water's edge group.

(2) An affiliated group of corporations that filed a Florida consolidated corporate income tax return pursuant to an election provided in s. 220.131, Florida Statutes, shall cease filing a Florida consolidated return for tax years beginning on or after January 1, 2016, and shall file a combined Florida corporate income tax return with all members of its water's edge group.

(3) An affiliated group of corporations that filed a

Florida consolidated corporate income tax return pursuant to the election in s. 220.131(1), Florida Statutes (1985), which allowed the affiliated group to make an election within 90 days after December 20, 1984, or upon filing the taxpayer's first return after December 20, 1984, whichever was later, shall cease filing a Florida consolidated corporate income tax return using that method for tax years beginning on or after January 1, 2016, and shall file a combined Florida corporate income tax return with all members of its water's edge group.

(4) A taxpayer that is not a member of a water's edge group remains subject to chapter 220, Florida Statutes, and shall file a separate Florida corporate income tax return as previously required.

(5) For tax years beginning on or after January 1, 2016, a tax return for a member of a water's edge group must be a combined Florida corporate income tax return that includes tax information for all members of the water's edge group. The tax return must be filed by a member that has a nexus with Florida.

Section 20. Of the funds recaptured pursuant to this act, $50 million is appropriated from the General Revenue Fund to the State University System for workforce education, to be allocated by the Board of Governors; $50 million is appropriated from the General Revenue Fund to community colleges for workforce education, to be allocated by the State Board of Education; and the remainder of such funds, as determined by the Revenue Estimating Conference, shall be appropriated from the General

Revenue Fund and allocated as provided in the General Appropriations Act to the various school districts to reduce the required local effort millage.

Section 21. Section 220.131, Florida Statutes, is repealed.

Section 22. This act shall take effect July 1, 2015.