

By Senator Richter

37-01092A-11

20111236

1                                   A bill to be entitled  
2           An act relating to state revenues; amending s. 220.11,  
3           F.S.; providing for the gradual reduction of the  
4           corporate income tax rate and the termination of the  
5           tax over a specified time; providing that the  
6           termination of the corporate income tax applies to  
7           taxable years of a taxpayer which begin on or after  
8           January 1, 2018; amending s. 210.011, F.S.; providing  
9           for the revenue from the cigarette surcharge to be  
10          deposited into the General Revenue Fund; amending s.  
11          210.276, F.S.; providing for the revenue from the  
12          surcharge on tobacco products to be deposited into the  
13          General Revenue Fund; amending s. 213.053, F.S.;  
14          authorizing the Department of Revenue to provide the  
15          Department of Education and the Division of Alcoholic  
16          Beverages and Tobacco of the Department of Business  
17          and Professional Regulation with information relative  
18          to tax credits against taxes or surcharges on tobacco  
19          products for contributions to eligible nonprofit  
20          scholarship-funding organizations; amending s. 220.63,  
21          F.S.; providing for the gradual reduction of the rate  
22          of the franchise tax imposed on banks and savings  
23          associations and the termination of the tax over a  
24          specified time; providing that the termination of the  
25          franchise tax applies to taxable years of a taxpayer  
26          which begin on or after January 1, 2018; amending s.  
27          1002.395, F.S.; specifying additional taxes against  
28          which a taxpayer may claim a credit for an eligible  
29          contribution to an eligible nonprofit scholarship-

37-01092A-11

20111236

30 funding organization to include taxes or surcharges on  
31 tobacco products; authorizing a taxpayer to receive a  
32 tax credit against taxes or surcharges on tobacco  
33 products for an eligible contribution to an eligible  
34 nonprofit scholarship-funding organization; limiting  
35 the amount of the tax credit to 90 percent of the  
36 taxpayer's tax liability for taxes or surcharges on  
37 tobacco products; providing that the distribution of  
38 tax revenues to the General Revenue Fund is the only  
39 distribution that is reduced as a result of the tax  
40 credits; authorizing a taxpayer to exchange unused  
41 corporate income tax credits or franchise tax credits  
42 for other tax credits under certain circumstances;  
43 authorizing a taxpayer to sell or transfer unused  
44 corporate income tax credits or franchise tax credits  
45 under certain circumstances; authorizing the  
46 Department of Revenue to adopt emergency rules  
47 relating to the exchange, sale, or transfer of  
48 corporate income tax credits or franchise tax credits;  
49 authorizing the Department of Revenue to adopt  
50 emergency rules to administer the act; providing an  
51 effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Section 220.11, Florida Statutes, is amended to  
56 read:

57 220.11 Tax imposed.—

58 (1) A tax measured by net income is hereby imposed on every

37-01092A-11

20111236

59 taxpayer for each taxable year commencing on or after January 1,  
60 1972, and for each taxable year which begins before and ends  
61 after January 1, 1972, for the privilege of conducting business,  
62 earning or receiving income in this state, or being a resident  
63 or citizen of this state. Such tax shall be in addition to all  
64 other occupation, excise, privilege, and property taxes imposed  
65 by this state or by any political subdivision thereof, including  
66 any municipality or other district, jurisdiction, or authority  
67 of this state.

68 (2) The tax imposed by this section on a taxpayer's net  
69 income for a taxable year shall be:

70 (a) For a taxable year beginning before January 1, 2012, an  
71 amount equal to 5.5 ~~5-1/2~~ percent.

72 (b) For a taxable year beginning on or after January 1,  
73 2012, an amount equal to 3 percent.

74 (c) For a taxable year beginning on or after January 1,  
75 2013, an amount equal to 2.5 percent.

76 (d) For a taxable year beginning on or after January 1,  
77 2014, an amount equal to 2 percent.

78 (e) For a taxable year beginning on or after January 1,  
79 2015, an amount equal to 1.5 percent.

80 (f) For a taxable year beginning on or after January 1,  
81 2016, an amount equal to 1 percent.

82 (g) For a taxable year beginning on or after January 1,  
83 2017, an amount equal to 0.5 percent ~~of the taxpayer's net~~  
84 ~~income for the taxable year.~~

85 (3) The tax imposed by this section on a taxpayer's net  
86 income for a taxable year, for taxpayers determining taxable  
87 income under s. 220.13(2)(k), shall be:

37-01092A-11

20111236\_\_

88       (a) For a taxable year beginning before January 1, 2012, an  
89 amount equal to 3.3 percent.

90       (b) For a taxable year beginning on or after January 1,  
91 2012, an amount equal to 1.8 percent.

92       (c) For a taxable year beginning on or after January 1,  
93 2013, an amount equal to 1.5 percent.

94       (d) For a taxable year beginning on or after January 1,  
95 2014, an amount equal to 1.2 percent.

96       (e) For a taxable year beginning on or after January 1,  
97 2015, an amount equal 0.9 percent.

98       (f) For a taxable year beginning on or after January 1,  
99 2016, an amount equal to 0.6 percent.

100       (g) For a taxable year beginning on or after January 1,  
101 2017, an amount equal to 0.3 percent ~~of the taxpayer's net~~  
102 ~~income for the taxable year.~~

103       (4) In the case of a taxpayer to which s. 55 of the  
104 Internal Revenue Code is applied for the taxable year, the  
105 amount of tax determined under this section shall be the greater  
106 of the tax determined under subsection (2) without the  
107 application of s. 55 of the Internal Revenue Code or the tax  
108 determined under subsection (3).

109       (5) This section expires December 31, 2018, and the  
110 expiration of the tax in this section first applies to the  
111 taxable year of a taxpayer beginning on or after January 1,  
112 2018.

113       Section 2. Subsection (9) of section 210.011, Florida  
114 Statutes, is amended to read:

115       210.011 Cigarette surcharge levied; collection.-

116       (9) Revenue produced from the surcharge levied under this

37-01092A-11

20111236

117 section shall be deposited into the General Revenue Fund Health  
118 ~~Care Trust Fund within the Agency for Health Care~~  
119 ~~Administration.~~

120 Section 3. Subsection (7) of section 210.276, Florida  
121 Statutes, is amended to read:

122 210.276 Surcharge on tobacco products.—

123 (7) Revenue produced from the surcharge levied under this  
124 section shall be deposited into the General Revenue Fund Health  
125 ~~Care Trust Fund within the Agency for Health Care~~  
126 ~~Administration.~~

127 Section 4. Paragraph (u) of subsection (8) of section  
128 213.053, Florida Statutes, as amended by section 3 of chapter  
129 2010-280, Laws of Florida, is amended to read:

130 213.053 Confidentiality and information sharing.—

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

133 (u) Information relative to section 7 of this act and ss.  
134 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, and 1002.395  
135 ~~ss. 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, and~~  
136 ~~1002.395~~ to the Department of Education and the Division of  
137 Alcoholic Beverages and Tobacco in the conduct of official  
138 business.

139 Section 5. Subsection (2) of section 220.63, Florida  
140 Statutes, is amended, and subsection (6) is added to that  
141 section, to read:

142 220.63 Franchise tax imposed on banks and savings  
143 associations.—

144 (2) The tax imposed by this section on a taxpayer's net  
145 income for a taxable year shall be:

37-01092A-11

20111236\_\_

146 (a) For a taxable year beginning before January 1, 2012, an  
147 amount equal to 5.5 5-1/2 percent of the franchise tax base of  
148 the bank or savings association.

149 (b) For a taxable year beginning on or after January 1,  
150 2012, an amount equal to 3 percent.

151 (c) For a taxable year beginning on or after January 1,  
152 2013, an amount equal to 2.5 percent.

153 (d) For a taxable year beginning on or after January 1,  
154 2014, an amount equal to 2 percent.

155 (e) For a taxable year beginning on or after January 1,  
156 2015, an amount equal to 1.5 percent.

157 (f) For a taxable year beginning on or after January 1,  
158 2016, an amount equal to 1 percent.

159 (g) For a taxable year beginning on or after January 1,  
160 2017, an amount equal to 0.5 percent ~~for the taxable year.~~

161 (6) This section expires December 31, 2018, and the  
162 expiration of the tax in this section first applies to the  
163 taxable year of a taxpayer beginning on or after January 1,  
164 2018.

165 Section 6. Paragraphs (b) and (c) of subsection (5),  
166 paragraphs (b) and (c) of subsection (13), and subsection (15)  
167 of section 1002.395, Florida Statutes, are amended to read:

168 1002.395 Florida Tax Credit Scholarship Program.—

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

170 (b) A taxpayer may submit an application to the department  
171 for a tax credit or credits under one or more of section 7 of  
172 this act, s. 211.0251, s. 212.1831, s. 220.1875, s. 561.1211, or  
173 s. 624.51055. The taxpayer shall specify in the application each  
174 tax for which the taxpayer requests a credit and the applicable

37-01092A-11

20111236

175 taxable year for a credit under s. 220.1875 or s. 624.51055 or  
176 the applicable state fiscal year for a credit under section 7 of  
177 this act, s. 211.0251, s. 212.1831, or s. 561.1211. The  
178 department shall approve tax credits on a first-come, first-  
179 served basis and must obtain the division's approval prior to  
180 approving a tax credit under section 7 of this act or s.  
181 561.1211.

182 (c) If a tax credit approved under paragraph (b) is not  
183 fully used within the specified state fiscal year for credits  
184 under section 7 of this act, s. 211.0251, s. 212.1831, or s.  
185 561.1211 or against taxes due for the specified taxable year for  
186 credits under s. 220.1875 or s. 624.51055 because of  
187 insufficient tax liability on the part of the taxpayer, the  
188 unused amount may be carried forward for a period not to exceed  
189 3 years. However, any taxpayer that seeks to carry forward an  
190 unused amount of tax credit must submit an application to the  
191 department for approval of the carryforward tax credit in the  
192 year that the taxpayer intends to use the carryforward. The  
193 department must obtain the division's approval prior to  
194 approving the carryforward of a tax credit under s. 561.1211.

195 (13) ADMINISTRATION; RULES.—

196 (b) The department shall adopt rules necessary to  
197 administer this section, section 7 of this act, and ss.  
198 211.0251, 212.1831, 220.1875, 561.1211, and 624.51055, including  
199 rules establishing application forms, procedures governing the  
200 approval of tax credits and carryforward tax credits under  
201 subsection (5), and procedures to be followed by taxpayers when  
202 claiming approved tax credits on their returns.

203 (c) The division shall adopt rules necessary to administer

37-01092A-11

20111236

204 its responsibilities under this section, section 7 of this act,  
205 and s. 561.1211.

206 (15) PRESERVATION OF CREDIT.—If any provision or portion of  
207 this section, section 7 of this act, s. 211.0251, s. 212.1831,  
208 s. 220.1875, s. 561.1211, or s. 624.51055 or the application  
209 thereof to any person or circumstance is held unconstitutional  
210 by any court or is otherwise declared invalid, the  
211 unconstitutionality or invalidity shall not affect any credit  
212 earned under section 7 of this act, s. 211.0251, s. 212.1831, s.  
213 220.1875, s. 561.1211, or s. 624.51055 by any taxpayer with  
214 respect to any contribution paid to an eligible nonprofit  
215 scholarship-funding organization before the date of a  
216 determination of unconstitutionality or invalidity. Such credit  
217 shall be allowed at such time and in such a manner as if a  
218 determination of unconstitutionality or invalidity had not been  
219 made, provided that nothing in this subsection by itself or in  
220 combination with any other provision of law shall result in the  
221 allowance of any credit to any taxpayer in excess of one dollar  
222 of credit for each dollar paid to an eligible nonprofit  
223 scholarship-funding organization.

224 Section 7. Credit for contributions to eligible nonprofit  
225 scholarship-funding organizations.—There is allowed a credit of  
226 100 percent of an eligible contribution made to an eligible  
227 nonprofit scholarship-funding organization under s. 1002.395,  
228 Florida Statutes, against any tax or surcharge due under chapter  
229 210, Florida Statutes. However, a credit allowed under this  
230 section may not exceed 90 percent of the tax due on the return  
231 on which the credit is taken. For purposes of determining the  
232 distribution of tax revenue under chapter 210, Florida Statutes,



37-01092A-11

20111236

233 the Division of Alcoholic Beverages and Tobacco of the  
234 Department of Business and Professional Regulation shall  
235 disregard any tax credits allowed under this section to ensure  
236 that the distribution of tax revenues to the General Revenue  
237 Fund is the only distribution that is reduced as a result of the  
238 tax credits. The provisions of s. 1002.395, Florida Statutes,  
239 apply to the credits authorized under this section.

240 Section 8. (1) Notwithstanding the limitations in s.  
241 1002.395(5)(d), Florida Statutes, a taxpayer who has an unused  
242 amount of corporate income tax credits or franchise tax credits  
243 which will not be used by the taxpayer as a result of this act  
244 is entitled to:

245 (a) Exchange the unused amount of corporate income tax  
246 credits or franchise tax credits for credits against other taxes  
247 which were allowed by the statute allowing the credit against  
248 the corporate income tax; or

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

252 (2) This act does not alter the tax credit cap amount that  
253 would otherwise apply in a state fiscal year.

254 (3) The Department of Revenue is authorized, and all  
255 conditions are deemed met, to adopt emergency rules under ss.  
256 120.536(1) and 120.54(4), Florida Statutes, to administer this  
257 section. The emergency rules shall remain in effect for 6 months  
258 after adoption and may be renewed during the pendency of  
259 procedures to adopt rules addressing the subject of the  
260 emergency rules. Such rules may include, but are not limited to,  
261 rules establishing the process for exchanging, selling, or

37-01092A-11

20111236\_\_

262 transferring unused credit amounts, including notice and  
263 tracking requirements.

264 Section 9. The Department of Revenue is authorized, and all  
265 conditions are deemed met, to adopt emergency rules pursuant to  
266 ss. 120.536(1) and 120.54, Florida Statutes, to administer this  
267 act. The emergency rules shall remain in effect for 6 months  
268 after adoption and may be renewed during the pendency of  
269 procedures to adopt permanent rules addressing the subject of  
270 the emergency rules.

271 Section 10. This act shall take effect July 1, 2011.