

By the Committee on Finance & Taxation and Representatives  
Ball, Futch, Murman and Byrd

1                                   A bill to be entitled  
2           An act relating to capital investment tax  
3           credits; amending s. 220.02, F.S.; revising  
4           legislative intent on the order of application  
5           of certain credits; creating s. 220.191, F.S.;  
6           providing definitions; providing for a credit  
7           against the corporate income tax for certain  
8           capital costs; providing requirements;  
9           providing limitations; providing for  
10          certification of eligibility by the Office of  
11          Tourism, Trade, and Economic Development;  
12          providing duties of the Department of Revenue;  
13          authorizing the office to develop certification  
14          guidelines and application materials; providing  
15          a responsibility for qualifying businesses;  
16          authorizing the Department of Revenue to adopt  
17          rules; providing an effective date.

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

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21           Section 1. Subsection (10) of section 220.02, Florida  
22 Statutes, is amended to read:

23           220.02 Legislative intent.--

24           (10) It is the intent of the Legislature that credits  
25 against either the corporate income tax or the franchise tax  
26 be applied in the following order: those enumerated in s.  
27 220.68, those enumerated in s. 631.719(1), those enumerated in  
28 s. 631.705, those enumerated in s. 220.18, those enumerated in  
29 s. 631.828, those enumerated in s. 220.191, those enumerated  
30 in s. 220.181, those enumerated in s. 220.183, those  
31 enumerated in s. 220.182, those enumerated in s. 220.1895,

1 those enumerated in s. 221.02, those enumerated in s. 220.184,  
2 those enumerated in s. 220.186, and those enumerated in s.  
3 220.188.

4 Section 2. Section 220.191, Florida Statutes, is  
5 created to read:

6 220.191 Capital investment tax credit.--

7 (1) DEFINITIONS.--For purposes of this section:

8 (a) "Commencement of operations" means the beginning  
9 of active operations by a qualifying business of the principal  
10 function for which a qualifying project was constructed.

11 (b) "Cumulative capital investment" means the total  
12 capital investment in land, buildings, and equipment made in  
13 connection with a qualifying project during the period from  
14 the beginning of construction of the project to the  
15 commencement of operations.

16 (c) "Eligible capital costs" means all expenses  
17 incurred by a qualifying business in connection with the  
18 acquisition, construction, installation, and equipping of a  
19 qualifying project during the period from the beginning of  
20 construction of the project to the commencement of operations,  
21 including, but not limited to:

22 1. The costs of acquiring, constructing, installing,  
23 equipping, and financing a qualifying project, including all  
24 obligations incurred for labor and obligations to contractors,  
25 subcontractors, builders, and materialmen.

26 2. The costs of acquiring land or rights to land and  
27 any cost incidental thereto, including recording fees.

28 3. The costs of architectural and engineering  
29 services, including test borings, surveys, estimates, plans  
30 and specifications, preliminary investigations, environmental  
31 mitigation, and supervision of construction, as well as the

1 performance of all duties required by or consequent to the  
2 acquisition, construction, installation, and equipping of a  
3 qualifying project.

4 4. The costs associated with the installation of  
5 fixtures and equipment; surveys, including archeological and  
6 environmental surveys; site tests and inspections; subsurface  
7 site work and excavation; removal of structures, roadways, and  
8 other surface obstructions; filling, grading, paving, and  
9 provisions for drainage, storm water retention, and  
10 installation of utilities, including water, sewer, sewage  
11 treatment, gas, electricity, communications, and similar  
12 facilities; and offsite construction of utility extensions to  
13 the boundaries of the property.

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15 Eligible capital costs shall not include the cost of any  
16 property previously owned or leased by the qualifying  
17 business.

18 (d) "Income generated by or arising out of the  
19 qualifying project" means the qualifying project's annual  
20 taxable income as determined by generally accepted accounting  
21 principles and under s. 220.13.

22 (e) "Jobs" means full-time equivalent positions, as  
23 such term is consistent with terms used by Department of Labor  
24 and Employment Security and the United States Department of  
25 Labor for purposes of unemployment tax administration and  
26 employment estimation, resulting directly from a project in  
27 this state. Such term does not include temporary construction  
28 jobs involved in the construction of the project facility.

29 (f) "Office" means the Office of Tourism, Trade and  
30 Economic Development.

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1       (g) "Qualifying business" means a business which  
2 establishes a qualifying project in this state and which is  
3 certified by the office to receive tax credits pursuant to  
4 this section.

5       (h) "Qualifying project" means a new or expanding  
6 facility in this state which creates at least 100 new jobs in  
7 this state and is in one of the high-impact sectors identified  
8 by Enterprise Florida, Inc., and certified by the office  
9 pursuant to s. 288.108(6), including, but not limited to,  
10 aviation, aerospace, automotive, and silicon technology  
11 industries.

12       (2) An annual credit against the tax imposed by this  
13 chapter shall be granted to any qualifying business in an  
14 amount equal to 5 percent of the eligible capital costs  
15 generated by a qualifying project, for a period not to exceed  
16 20 years beginning with the commencement of operations of the  
17 project. The tax credit shall be granted against only the  
18 corporate income tax liability generated by or arising out of  
19 the qualifying project, and the sum of all tax credits  
20 provided pursuant to this section shall not exceed 100 percent  
21 of the eligible capital costs of the project. In no event may  
22 any credit granted under this section be carried forward or  
23 backward by any qualifying business with respect to a  
24 subsequent or prior year. The annual tax credit granted under  
25 this section shall not exceed the following percentages of the  
26 annual corporate income tax liability generated by or arising  
27 out of a qualifying project:

28       (a) One hundred percent for a qualifying project which  
29 results in a cumulative capital investment of at least \$100  
30 million.

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1           (b) Seventy-five percent for a qualifying project  
2 which results in a cumulative capital investment of at least  
3 \$50 million but less than \$100 million.

4           (c) Fifty percent for a qualifying project which  
5 results in a cumulative capital investment of at least \$25  
6 million but less than \$50 million.

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8 A qualifying project which results in a cumulative capital  
9 investment of less than \$25 million is not eligible for the  
10 capital investment tax credit.

11           (3) Prior to receiving tax credits pursuant to this  
12 section, a qualifying business must achieve and maintain the  
13 minimum employment goals beginning with the commencement of  
14 operations at a qualifying project and continuing each year  
15 thereafter during which tax credits are available pursuant to  
16 this section.

17           (4) The office, upon a recommendation by Enterprise  
18 Florida, Inc., shall first certify a business as eligible to  
19 receive tax credits pursuant to this section prior to the  
20 commencement of operations of a qualifying project and such  
21 certification shall be transmitted to the Department of  
22 Revenue. Upon receipt of the certification, the Department of  
23 Revenue shall enter into a written agreement with the  
24 qualifying business specifying, at a minimum, the method by  
25 which income generated by or arising out of the qualifying  
26 project will be determined.

27           (5) The office, in consultation with Enterprise  
28 Florida, Inc., is authorized to develop the necessary  
29 guidelines and application materials for the certification  
30 process described in subsection (4).

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1       (6) It shall be the responsibility of the qualifying  
2 business to affirmatively demonstrate to the satisfaction of  
3 the Department of Revenue that such business meets the job  
4 creation and capital investment requirements of this section.

5       (7) The Department of Revenue may specify by rule the  
6 methods by which a project's pro forma annual taxable income  
7 is determined.

8       Section 3. This act shall take effect July 1 of the  
9 year in which enacted.

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