

By Representative Andrews

1                                   A bill to be entitled  
2           An act relating to incentives to promote new  
3           product development; providing a short title;  
4           creating s. 288.1172, F.S.; providing  
5           definitions; providing for licensing of certain  
6           products or technologies by donor companies to  
7           receiving companies for production and  
8           marketing; providing duties of such companies,  
9           the Office of Tourism, Trade, and Economic  
10          Development, and the Department of Revenue;  
11          providing requirements for product development  
12          agreements; providing that donor companies may  
13          be granted a credit which may be used to fund  
14          sponsored research at a state university, as  
15          reimbursement for the purchase of machinery,  
16          equipment, or building supplies used in a  
17          Florida manufacturing facility, or as a  
18          corporate income tax credit; creating s.  
19          220.115, F.S.; requiring receiving companies to  
20          file a corporate tax return and remit to the  
21          state certain fees in addition to any corporate  
22          income tax due; providing for application of  
23          administrative and penalty provisions of ch.  
24          220, F.S.; creating s. 220.1825, F.S.;  
25          providing for a credit against the corporate  
26          income tax for donor companies that so elect;  
27          providing for carryover of the credit;  
28          providing for rules; amending s. 220.02, F.S.;  
29          providing order of credits against the  
30          corporate income tax; providing an effective  
31          date.

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

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3           Section 1. This act may be cited as the "New Product  
4 Transfer Enhancement Act."

5           Section 2. Section 288.1172, Florida Statutes, is  
6 created to read:

7           288.1172 Licensing of products or technologies by  
8 donor companies to receiving companies; credits and use  
9 thereof.--

10           (1) The purpose of this section is to promote economic  
11 growth by providing an incentive for corporations which have  
12 developed or patented products or technologies they do not  
13 wish to develop further to license those items to companies  
14 located in Florida for production and marketing.

15           (2) As used in this section:

16           (a) "Annual statement of donor credit" means the  
17 statement produced by the Office of Tourism, Trade, and  
18 Economic Development for each donor company listing the total  
19 amount of credit available to the donor company for all of the  
20 product development agreements it has entered into. This  
21 statement shall also include any additional information  
22 specified in the product development agreement.

23           (b) "Annual statement of fees due" means the statement  
24 submitted by the receiving company to the Office of Tourism,  
25 Trade, and Economic Development and the Department of Revenue  
26 each year, which lists the amount of fees and royalties owed  
27 by it under the product development agreement to the donor  
28 company for the preceding calendar year. This statement shall  
29 also contain any additional information specified in the  
30 product development agreement.

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1           (c) "Donor company" means an entity subject to the tax  
2 imposed by chapter 220 which has developed or holds the patent  
3 for a product or technology that it does not wish to develop  
4 itself and which has entered into a product development  
5 agreement.

6           (d) "Product development agreement" means a contract  
7 or series of contracts which provides the receiving company  
8 with the right to produce and market a product or technology  
9 which was developed or patented by the donor company.

10           (e) "Receiving company" means a business operating in  
11 Florida which has entered into a product development agreement  
12 for the purpose of obtaining the right to produce and market a  
13 product or technology from a donor company.

14           (3) The Office of Tourism, Trade, and Economic  
15 Development shall actively seek out corporations which may be  
16 interested in becoming donor companies and Florida businesses  
17 which may be interested in becoming receiving companies and  
18 attempt to facilitate the formation of product development  
19 agreements.

20           (4) To qualify under this section, a product  
21 development agreement shall specify that a minimum of 75  
22 percent of the jobs created by the production of the new  
23 product or technology shall be located in Florida. In  
24 addition, the agreement shall specify the amount of  
25 compensation to be remitted by the receiving company for the  
26 license, and the type of credit the donor company has elected  
27 to receive. The agreement shall further provide for submission  
28 by the receiving company of an annual statement of fees due to  
29 both the Office of Tourism, Trade, and Economic Development  
30 and the Department of Revenue and shall specify the  
31 information to be included in the statement.

1       (5) Each receiving company shall submit an annual  
2 statement of fees due to the Office of Tourism, Trade, and  
3 Economic Development and the Department of Revenue by February  
4 1 each year, in a format approved by the Office of Tourism,  
5 Trade, and Economic Development. The Office of Tourism,  
6 Trade, and Economic Development shall be responsible for  
7 producing an annual statement of donor credit for each donor  
8 company using the information contained in the statements. The  
9 donor credit for each donor company shall equal 94.5 percent  
10 of the total of the amounts specified in the annual statements  
11 of fees due from all receiving companies with which it has  
12 entered into a product development agreement. In any year the  
13 total amount of credits granted under all annual statements of  
14 donor credit shall not exceed 94.5 percent of the amount due  
15 to the state under all annual statements of fees due.

16       (6) The Office of Tourism, Trade, and Economic  
17 Development shall send the annual statement of donor credit to  
18 each donor company by March 1 each year. These statements  
19 shall contain the information specified by the product  
20 development agreement. The Office of Tourism, Trade, and  
21 Economic Development shall also submit to the Department of  
22 Revenue a statement, in a format approved by the department,  
23 which specifies the amount of credit due to each donor  
24 company, the identities of the receiving companies from which  
25 those credits originated, and the type of credit the donor  
26 company has elected to receive.

27       (7) The donor company may elect to apply the amount  
28 specified in the annual statement of donor credit as a  
29 corporate income tax credit under s. 220.1825, as a payment to  
30 a state university's division of sponsored research under  
31 subsection (8), or as a purchase price refund under subsection

1 (9). In no case shall the combined benefits exceed the amount  
2 specified in the annual statement of donor credit.

3 (8) A donor company which is providing funding for  
4 sponsored research at a state university in this state may  
5 elect to use its donor credit to fund such research. If the  
6 donor company elects to apply its donor credit in this manner,  
7 it shall submit this request to the Department of Revenue on a  
8 form approved by the department. At a minimum, the form shall  
9 specify the donor company, the research being sponsored, and  
10 the state university at which the research is being conducted.  
11 The Department of Revenue shall then request the Office of the  
12 Comptroller to transfer to the appropriate university's  
13 division of sponsored research the amount shown on the donor  
14 company's annual statement of donor credit. The Office of the  
15 Comptroller and the Department of Revenue may promulgate rules  
16 to implement this subsection.

17 (9) A donor company shall be eligible to receive a  
18 reimbursement for the purchase price paid on the purchase of  
19 machinery and equipment which is installed in a Florida  
20 manufacturing facility, or for the building materials used in  
21 the construction or rehabilitation of a Florida manufacturing  
22 facility. This reimbursement shall be limited to the amount  
23 shown on the annual statement of donor credit which the donor  
24 company has elected to apply as a purchase reimbursement.  
25 Application for such reimbursement shall be made on a form  
26 approved by the Department of Revenue and accompanied by any  
27 supporting documentation required by the department. The  
28 Department of Revenue may promulgate rules to implement this  
29 subsection.

30 Section 3. Section 220.115, Florida Statutes, is  
31 created to read:

1           220.115 Fees due from receiving companies pursuant to  
2 s. 288.1172.--In addition to the tax imposed by this chapter,  
3 any company which has entered into a product development  
4 agreement pursuant to s. 288.1172 as a receiving company shall  
5 remit to the state the funds listed as due on the annual  
6 statement of fees due which the company has submitted to both  
7 the Office of Tourism, Trade, and Economic Development and the  
8 Department of Revenue. Even if no tax is due under this  
9 chapter and a return would not normally be required, a Florida  
10 corporate income tax return shall be filed by the receiving  
11 company, and the funds listed on the annual statement of fees  
12 due shall be remitted to the department, subject to all filing  
13 requirements, fines, and penalties specified for returns and  
14 taxes due under this chapter. The department may adopt rules  
15 requiring the information that it considers necessary to  
16 ensure that the funds due under this section are properly  
17 reported and paid, including, but not limited to, rules  
18 relating to the methods, forms (including returns to be filed  
19 by the receiving companies), deadlines, and penalties for  
20 providing the information required under this section.

21           Section 4. Section 220.1825, Florida Statutes, is  
22 created to read:

23           220.1825 Credit for donor companies pursuant to s.  
24 288.1172.--A credit against the tax imposed by this chapter  
25 shall be allowed to a donor company which has entered into a  
26 product development agreement pursuant to s. 288.1172, and  
27 which has elected to apply its donor credit as a corporate  
28 income tax credit. Such credit shall be limited to 94.5  
29 percent of the amount stated in the annual statement of fees  
30 due submitted to the Office of Tourism, Trade, and Economic  
31 Development by the receiving companies. If any credit granted

1 under this section is not fully used in the first year for  
2 which it becomes available, the unused amount may be carried  
3 forward for a period not to exceed 5 years. The Department of  
4 Revenue may adopt rules relating to the method of reporting  
5 and claiming this credit.

6 Section 5. Subsection (8) of section 220.02, Florida  
7 Statutes, is amended to read:

8 220.02 Legislative intent.--

9 (8) It is the intent of the Legislature that credits  
10 against either the corporate income tax or the franchise tax  
11 be applied in the following order: those enumerated in s.  
12 631.828, those enumerated in s. 220.191, those enumerated in  
13 s. 220.181, those enumerated in s. 220.183, those enumerated  
14 in s. 220.182, those enumerated in s. 220.1895, those  
15 enumerated in s. 221.02, those enumerated in s. 220.184, those  
16 enumerated in s. 220.186, those enumerated in s. 220.1845,  
17 those enumerated in s. 220.19, those enumerated in s. 220.185,  
18 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.  
19 220.1825.

20 Section 6. This act shall take effect January 1, 2003.  
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HOUSE SUMMARY

Creates the New Product Transfer Enhancement Act. Provides for licensing of certain products or technologies by donor companies to receiving companies for production and marketing. Provides duties of such companies, the Office of Tourism, Trade, and Economic Development, and the Department of Revenue. Provides that donor companies may be granted a credit which may be used to fund sponsored research at a state university, as reimbursement for the purchase of machinery, equipment, or building supplies used in a Florida manufacturing facility, or as a corporate income tax credit. Provides requirements for product development agreements. Requires receiving companies to file a corporate tax return and remit to the state certain fees in addition to any corporate income tax due. Provides for application of administrative and penalty provisions of ch. 220, F.S.