

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           and the Department of Revenue; providing  
 10          requirements for product development  
 11          agreements; providing that donor companies may  
 12          be granted a credit which may be used as a  
 13          corporate income tax credit; requiring the  
 14          office to certify certain amounts to the  
 15          department; requiring the department to make  
 16          certain distributions; authorizing donor  
 17          companies to elect to change the type of credit  
 18          under certain circumstances; providing  
 19          requirements for such election; creating s.  
 20          220.115, F.S.; requiring receiving companies to  
 21          file a corporate tax return and remit to the  
 22          state certain fees in addition to any corporate  
 23          income tax due; relieving receiving companies  
 24          of payments to donor companies under certain  
 25          circumstances; providing remedies against a  
 26          donor company when a receiving company fails to  
 27          remit funds; providing for application of  
 28          administrative and penalty provisions of ch.  
 29          220, F.S.; creating s. 220.1825, F.S.;  
 30          providing for a credit against the corporate  
 31          income tax for donor companies that so elect;

1 providing for carryover of the credit;  
2 providing for rules; amending s. 220.02, F.S.;  
3 providing order of credits against the  
4 corporate income tax; providing an effective  
5 date.

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

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

11 Section 2. Section 288.1172, Florida Statutes, is  
12 created to read:

13 288.1172 Licensing of products or technologies by  
14 donor companies to receiving companies; credits and use  
15 thereof.--

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

21 (2) As used in this section:

22 (a) "Annual statement of donor credit" means the  
23 statement produced by the Department of Revenue for each donor  
24 company listing the total amount of credit available to the  
25 donor company for all of the product development agreements it  
26 has entered into. This statement shall also include any  
27 additional information specified in the product development  
28 agreement.

29 (b) "Annual statement of fees due" means the statement  
30 submitted by the receiving company to the Department of  
31 Revenue each year, which lists the amount of fees and

1 royalties owed by it under the product development agreement  
2 to the donor company for the preceding tax year which it has  
3 paid to the department. This statement shall also contain any  
4 additional information specified in the product development  
5 agreement and shall contain a copy of the product development  
6 agreement.

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

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

16 (e) "Receiving company" means a business operating in  
17 this state which has entered into a product development  
18 agreement for the purpose of obtaining the right to produce  
19 and market a product or technology from a donor company.

20 (3) 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 this state. 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 the Department of Revenue and shall specify the information to  
30 be included in the statement.

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1       (4) Each receiving company shall submit an annual  
2 statement of fees due to the Department of Revenue within 30  
3 days after filing its corporate income tax return for this  
4 state for the preceding tax year, in a format developed by the  
5 department. The department shall be responsible for producing  
6 an annual statement of donor credit for each donor company  
7 using the information contained in the statements. The donor  
8 credit for each donor company shall equal 94.5 percent of the  
9 total of the amounts specified in the annual statements of  
10 fees due from all receiving companies with which it has  
11 entered into a product development agreement. In any year the  
12 total amount of credits granted under all annual statements of  
13 donor credit shall not exceed 94.5 percent of the amount due  
14 to the state under all annual statements of fees due.

15       (5) The Department of Revenue shall send the annual  
16 statement of donor credit to each donor company within 90 days  
17 after the receipt of the annual statement of fees due. These  
18 statements shall contain the information specified by the  
19 product development agreement. The department shall specify,  
20 in a format developed by the department, the amount of credit  
21 due to each donor company based upon the funds paid to the  
22 department by the receiving company for the preceding tax  
23 year, the identities of the receiving companies from which  
24 those credits originated, and the type of credit the donor  
25 company has elected to receive.

26       (6) The donor company may elect to apply the amount  
27 specified in the annual statement of donor credit as a  
28 corporate income tax credit under s. 220.1825. In no case  
29 shall the combined benefits exceed the amount specified in the  
30 annual statement of donor credit.

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1           Section 3. Section 220.115, Florida Statutes, is  
2 created to read:

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

23           Section 4. Section 220.1825, Florida Statutes, is  
24 created to read:

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

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

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

9 220.02 Legislative intent.--

10 (8) It is the intent of the Legislature that credits  
11 against either the corporate income tax or the franchise tax  
12 be applied in the following order: those enumerated in s.  
13 631.828, those enumerated in s. 220.191, those enumerated in  
14 s. 220.181, those enumerated in s. 220.183, those enumerated  
15 in s. 220.182, those enumerated in s. 220.1895, those  
16 enumerated in s. 221.02, those enumerated in s. 220.184, those  
17 enumerated in s. 220.186, those enumerated in s. 220.1845,  
18 those enumerated in s. 220.19, those enumerated in s. 220.185,  
19 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.  
20 220.1825.

21 Section 6. This act shall take effect upon becoming a  
22 law.

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HOUSE SUMMARY

Creates the New Product Transfer Enhancement Act. Provides for licensing of products or technologies by donor companies to receiving companies for production and marketing. Provides duties of such companies and the Department of Revenue. Provides that donor companies may be granted a credit which may be used as a corporate income tax credit. Provides requirements for product development agreements. Requires receiving companies to file a corporate tax return and remit fees to the state in addition to any corporate income tax due. Provides for application of administrative and penalty provisions of chapter 220, Florida Statutes.