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Bill No. HB 49-E

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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Representative(s) Andrews offered the following:

Amendment (with title amendment)

On page 3, line 16,

insert:

Section 1. Sections 1-6 of this act may be cited as the "New Product Transfer Enhancement Act."

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

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

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

(2) As used in this section:

(a) "Annual statement of donor credit" means the statement produced by the Department of Revenue for each donor

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1 company listing the total amount of credit available to the
2 donor company for all of the product development agreements it
3 has entered into. This statement shall also include any
4 additional information specified in the product development
5 agreement.

6 (b) "Annual statement of fees due" means the statement
7 submitted by the receiving company to the Department of
8 Revenue each year, which lists the amount of fees and
9 royalties owed by it under the product development agreement
10 to the donor company for the preceding tax year which it has
11 paid to the department. This statement shall also contain any
12 additional information specified in the product development
13 agreement and shall contain a copy of the product development
14 agreement.

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

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

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

28 (3) To qualify under this section, a product
29 development agreement shall specify that a minimum of 75
30 percent of the jobs created by the production of the new
31 product or technology shall be located in this state. In

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1 addition, the agreement shall specify the amount of
2 compensation to be remitted by the receiving company for the
3 license, and the type of credit the donor company has elected
4 to receive. The agreement shall further provide for submission
5 by the receiving company of an annual statement of fees due to
6 the Department of Revenue and shall specify the information to
7 be included in the statement.

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

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

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1 company has elected to receive.

2 (6) The donor company may elect to apply the amount
3 specified in the annual statement of donor credit as a
4 corporate income tax credit under s. 220.1825. In no case
5 shall the combined benefits exceed the amount specified in the
6 annual statement of donor credit.

7 Section 3. Section 220.115, Florida Statutes, is
8 created to read:

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

29 Section 4. Section 220.1825, Florida Statutes, is
30 created to read:

31 220.1825 Credit for donor companies pursuant to s.

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1 288.1172.--A credit against the tax imposed by this chapter
 2 shall be allowed to a donor company which has entered into a
 3 product development agreement pursuant to s. 288.1172, and
 4 which has elected to apply its donor credit as a corporate
 5 income tax credit. Such credit shall be limited to 94.5
 6 percent of the amount stated in the annual statement of fees
 7 due submitted to the Department of Revenue by the receiving
 8 companies. If any credit granted under this section is not
 9 fully used in the first year for which it becomes available,
 10 the unused amount may be carried forward for a period not to
 11 exceed 5 years. The Department of Revenue may adopt rules
 12 relating to the method of reporting and claiming this credit.

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

15 220.02 Legislative intent.--

16 (8) It is the intent of the Legislature that credits
 17 against either the corporate income tax or the franchise tax
 18 be applied in the following order: those enumerated in s.
 19 631.828, those enumerated in s. 220.191, those enumerated in
 20 s. 220.181, those enumerated in s. 220.183, those enumerated
 21 in s. 220.182, those enumerated in s. 220.1895, those
 22 enumerated in s. 221.02, those enumerated in s. 220.184, those
 23 enumerated in s. 220.186, those enumerated in s. 220.1845,
 24 those enumerated in s. 220.19, those enumerated in s. 220.185,
 25 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
 26 220.1825.

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 29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 1, line 2, after the semicolon,

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1 insert:
2 providing a short title; creating s. 288.1172,
3 F.S.; providing definitions; providing for
4 licensing of certain products or technologies
5 by donor companies to receiving companies for
6 production and marketing; providing duties of
7 such companies and the Department of Revenue;
8 providing requirements for product development
9 agreements; providing that donor companies may
10 be granted a credit which may be used as a
11 corporate income tax credit; requiring the
12 office to certify certain amounts to the
13 department; requiring the department to make
14 certain distributions; authorizing donor
15 companies to elect to change the type of credit
16 under certain circumstances; providing
17 requirements for such election; creating s.
18 220.115, F.S.; requiring receiving companies to
19 file a corporate tax return and remit to the
20 state certain fees in addition to any corporate
21 income tax due; relieving receiving companies
22 of payments to donor companies under certain
23 circumstances; providing remedies against a
24 donor company when a receiving company fails to
25 remit funds; providing for application of
26 administrative and penalty provisions of ch.
27 220, F.S.; creating s. 220.1825, F.S. ;
28 providing for a credit against the corporate
29 income tax for donor companies that so elect;
30 providing for carryover of the credit;
31 providing for rules; amending s. 220.02, F.S.;

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providing order of credits against the
corporate income tax;