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A bill to be entitled

An act relating to tax credits for hiring a person who has a disability; creating ss. 212.099 and 220.193, F.S.; authorizing credits against the sales and use tax and the corporate income tax, respectively, for hiring a person who has a disability; providing conditions and procedures for receiving the tax credit; authorizing rulemaking by the Department of Revenue and the Department of Education; providing criminal penalties; providing for future expiration of the provisions; amending s. 220.02, F.S.; providing legislative intent on the order in which to claim the credit against corporate income tax; amending s. 220.13, F.S.; providing for adjustments to taxable income to account for the credit against corporate income tax; providing for future expiration; providing an effective date.

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

Section 1. Section 212.099, Florida Statutes, is created to read:

212.099 Credit for hiring a person who has a disability.--

(1) As used in this section, the term "person who has a disability" has the same meaning ascribed in s. 413.20 and in rules of the Division of Vocational Rehabilitation of the Department of Education which implement that section and part II of chapter 413.

(2)(a) Beginning January 1, 2005, there shall be allowed a credit against the tax remitted under this chapter for a

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30 business that demonstrates to the department that it has hired,
 31 on or after July 1, 2004, a person who has a disability.

32 (b) The credit shall be computed as 20 percent of the
 33 actual monthly wages paid in this state during the taxable
 34 period to each employee who is a person who has a disability.
 35 The credit may be claimed for a maximum of five eligible
 36 employees per taxable period and may not exceed \$670 per
 37 eligible employee per month.

38 (3)(a) The credit under this section applies only with
 39 respect to wages subject to unemployment tax.

40 (b) The credit does not apply for an employee who:

- 41 1. Works fewer than 80 hours per month; or
- 42 2. Is employed for a period of less than 3 calendar
 43 months.

44 (4) A business that uses a credit under this section
 45 against the tax imposed by this chapter may not take the credit
 46 under s. 220.193 against the tax imposed by chapter 220.

47 (5) Credit under this section is not allowed for a month
 48 in which the tax due for such period or the tax return required
 49 under s. 212.11 for such period is delinquent.

50 (6) If a business has a credit larger than the amount owed
 51 the state on the tax return for the period in which the credit
 52 is claimed, the amount of the credit for that time period is the
 53 amount owed the state on that tax return.

54 (7) Before claiming a credit under this section, a
 55 business must obtain from the Division of Vocational
 56 Rehabilitation of the Department of Education a written
 57 verification that the employee who is the basis for the credit
 58 is a person who has a disability. The division may adopt rules

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59 under ss. 120.536(1) and 120.54 to administer this subsection,
60 including, but not limited to, rules governing the process for
61 applying for the verification and the criteria for evaluating an
62 application for verification.

63 (8) To receive the credit under this section, a business
64 must demonstrate to the department that it has satisfied the
65 conditions and requirements of this section. The department may
66 adopt rules under ss. 120.536(1) and 120.54 to administer this
67 section, including, but not limited to, rules governing the
68 procedures and forms to claim a credit and the guidelines for
69 approval or disapproval of the claim.

70 (9)(a) A person who fraudulently claims a credit under
71 this section is liable for repayment of the credit, plus a
72 mandatory penalty in the amount of 100 percent of the credit,
73 plus interest at the rate provided in this chapter, and commits
74 a misdemeanor of the first degree, punishable as provided in s.
75 775.082 or s. 775.083.

76 (b) A person who makes an underpayment of tax as a result
77 of a grossly overstated claim for this credit commits a felony
78 of the third degree, punishable as provided in s. 775.082 or s.
79 775.083. For the purposes of this paragraph, the term "grossly
80 overstated claim" means a claim in an amount in excess of 100
81 percent of the amount of credit allowable under this section.

82 (10) This section expires on June 30, 2009; however, the
83 expiration of this section does not affect the operation of any
84 credit for which a taxpayer has qualified under this section
85 before June 30, 2009.

86 Section 2. Section 220.193, Florida Statutes, is created
87 to read:

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88 220.193 Credit for hiring a person who has a disability.--

89 (1) As used in this section, the term "person who has a
 90 disability" has the same meaning ascribed in s. 413.20 and in
 91 rules of the Division of Vocational Rehabilitation of the
 92 Department of Education which implement that section and part II
 93 of chapter 413.

94 (2)(a) Beginning January 1, 2005, there shall be allowed a
 95 credit against the tax imposed by this chapter to a taxpayer
 96 that demonstrates to the department that it has hired, on or
 97 after July 1, 2004, a person who has a disability.

98 (b) The credit shall be computed as 20 percent of the
 99 actual monthly wages paid in this state during the taxable
 100 period to each employee who is a person who has a disability.
 101 The credit may be claimed for a maximum of five eligible
 102 employees per taxable period and may not exceed \$8,000 per
 103 eligible employee each taxable year.

104 (3)(a) The credit under this section applies only with
 105 respect to wages subject to unemployment tax.

106 (b) The credit does not apply for an employee who:
 107 1. Works fewer than 80 hours per month; or
 108 2. Is employed for a period of less than 3 calendar
 109 months.

110 (4) A taxpayer that uses a credit granted under this
 111 section against the tax imposed by this chapter may not take the
 112 credit granted under s. 212.099 against the tax imposed by
 113 chapter 212.

114 (5) If the credit is not fully used in any one year, the
 115 unused amount may be carried forward for a period not to exceed
 116 5 years. The carryover credit may be used in a subsequent year

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117 if the tax imposed by this chapter for such year exceeds the
118 credit for such year after applying the other credits and unused
119 credit carryovers in the order provided in s. 220.02.

120 (6) Before claiming a credit under this section, a
121 taxpayer must obtain from the Division of Vocational
122 Rehabilitation of the Department of Education a written
123 verification that the employee who is the basis for the credit
124 is a person who has a disability. The division may adopt rules
125 under ss. 120.536(1) and 120.54 to administer this subsection,
126 including, but not limited to, rules governing the process for
127 applying for the verification and the criteria for evaluating an
128 application for verification.

129 (7) To receive the credit under this section, a taxpayer
130 must demonstrate to the department that it has satisfied the
131 conditions and requirements of this section. The department may
132 adopt rules under ss. 120.536(1) and 120.54 to administer this
133 section, including, but not limited to, rules governing the
134 procedures and forms to claim a credit and the guidelines for
135 approval or disapproval of the claim.

136 (8)(a) A person who fraudulently claims a credit under
137 this section is liable for repayment of the credit, plus a
138 mandatory penalty in the amount of 100 percent of the credit,
139 plus interest at the rate provided in s. 220.807, and commits a
140 misdemeanor of the first degree, punishable as provided in s.
141 775.082 or s. 775.083.

142 (b) A person who makes an underpayment of tax as a result
143 of a grossly overstated claim for this credit commits a felony
144 of the third degree, punishable as provided in s. 775.082 or s.
145 775.083. For the purposes of this paragraph, the term "grossly

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146 overstated claim" means a claim in an amount in excess of 100
 147 percent of the amount of credit allowable under this section.

148 (9) This section expires on June 30, 2009; however, the
 149 expiration of this section does not affect the operation of any
 150 credit for which a taxpayer has qualified under this section
 151 before June 30, 2009, or any carryforward of unused credit
 152 amounts as provided in subsection (5).

153 Section 3. Subsection (8) of section 220.02, Florida
 154 Statutes, is amended to read:

155 220.02 Legislative intent.--

156 (8) It is the intent of the Legislature that credits
 157 against either the corporate income tax or the franchise tax be
 158 applied in the following order: those enumerated in s. 631.828,
 159 those enumerated in s. 220.191, those enumerated in s. 220.181,
 160 those enumerated in s. 220.183, those enumerated in s. 220.182,
 161 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 162 those enumerated in s. 220.184, those enumerated in s. 220.186,
 163 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 164 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
 165 220.187, and those enumerated in s. 220.193.

166 Section 4. Paragraph (a) of subsection (1) of section
 167 220.13, Florida Statutes, is amended to read:

168 220.13 "Adjusted federal income" defined.--

169 (1) The term "adjusted federal income" means an amount
 170 equal to the taxpayer's taxable income as defined in subsection
 171 (2), or such taxable income of more than one taxpayer as
 172 provided in s. 220.131, for the taxable year, adjusted as
 173 follows:

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174 (a) Additions.--There shall be added to such taxable
 175 income:

176 1. The amount of any tax upon or measured by income,
 177 excluding taxes based on gross receipts or revenues, paid or
 178 accrued as a liability to the District of Columbia or any state
 179 of the United States which is deductible from gross income in
 180 the computation of taxable income for the taxable year.

181 2. The amount of interest which is excluded from taxable
 182 income under s. 103(a) of the Internal Revenue Code or any other
 183 federal law, less the associated expenses disallowed in the
 184 computation of taxable income under s. 265 of the Internal
 185 Revenue Code or any other law, excluding 60 percent of any
 186 amounts included in alternative minimum taxable income, as
 187 defined in s. 55(b)(2) of the Internal Revenue Code, if the
 188 taxpayer pays tax under s. 220.11(3).

189 3. In the case of a regulated investment company or real
 190 estate investment trust, an amount equal to the excess of the
 191 net long-term capital gain for the taxable year over the amount
 192 of the capital gain dividends attributable to the taxable year.

193 4. That portion of the wages or salaries paid or incurred
 194 for the taxable year which is equal to the amount of the credit
 195 allowable for the taxable year under s. 220.181. The provisions
 196 of this subparagraph shall expire and be void on June 30, 2005.

197 5. That portion of the ad valorem school taxes paid or
 198 incurred for the taxable year which is equal to the amount of
 199 the credit allowable for the taxable year under s. 220.182. The
 200 provisions of this subparagraph shall expire and be void on June
 201 30, 2005.

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202 6. The amount of emergency excise tax paid or accrued as a
 203 liability to this state under chapter 221 which tax is
 204 deductible from gross income in the computation of taxable
 205 income for the taxable year.

206 7. That portion of assessments to fund a guaranty
 207 association incurred for the taxable year which is equal to the
 208 amount of the credit allowable for the taxable year.

209 8. In the case of a nonprofit corporation which holds a
 210 pari-mutuel permit and which is exempt from federal income tax
 211 as a farmers' cooperative, an amount equal to the excess of the
 212 gross income attributable to the pari-mutuel operations over the
 213 attributable expenses for the taxable year.

214 9. The amount taken as a credit for the taxable year under
 215 s. 220.1895.

216 10. Up to nine percent of the eligible basis of any
 217 designated project which is equal to the credit allowable for
 218 the taxable year under s. 220.185.

219 11. The amount taken as a credit for the taxable year
 220 under s. 220.187.

221 12. The amount taken as a credit for the taxable year
 222 under s. 220.193. This subparagraph expires on June 30, 2009.

223 Section 5. This act shall take effect July 1, 2004.