

1 A bill to be entitled
 2 An act relating to tax credits; amending s. 220.02, F.S.;
 3 revising the priority of tax credits that may be taken
 4 against the corporate income tax or the franchise tax;
 5 amending s. 220.13, F.S.; redefining the term "adjusted
 6 federal income" to include the amount of certain tax
 7 credits; creating s. 220.1811, F.S.; authorizing aerospace
 8 sector jobs tax credits and tuition reimbursement tax
 9 credits; defining terms; authorizing a tax credit to
 10 aerospace businesses based on the salary or tuition
 11 reimbursed to certain employees; specifying the maximum
 12 annual amount of tax credits for an aerospace business;
 13 limiting the annual amount of tax credits available;
 14 providing for the Department of Revenue to approve
 15 applications for tax credits; prohibiting increases in the
 16 amount of unused tax credits carried over in amended tax
 17 returns; providing fines and criminal penalties for
 18 certain unlawful claims of tax credits; authorizing the
 19 Department of Revenue to adopt rules; providing for the
 20 expiration of the tax credit program; providing an
 21 effective date.

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

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 25 Section 1. Subsection (8) of section 220.02, Florida
 26 Statutes, is amended to read:

27 220.02 Legislative intent.--

28 (8) ~~It is the intent of the Legislature that Credits~~

29 against ~~either~~ the corporate income tax or the franchise tax
 30 shall be applied in the following order: those enumerated in s.
 31 631.828, those enumerated in s. 220.191, those enumerated in s.
 32 220.181, those enumerated in s. 220.183, those enumerated in s.
 33 220.182, those enumerated in s. 220.1895, those enumerated in s.
 34 221.02, those enumerated in s. 220.184, those enumerated in s.
 35 220.186, those enumerated in s. 220.1845, those enumerated in s.
 36 220.19, those enumerated in s. 220.185, those enumerated in s.
 37 220.187, those enumerated in s. 220.192, ~~and~~ those enumerated in
 38 s. 220.193, and those enumerated in s. 220.1811.

39 Section 2. Paragraph (a) of subsection (1) of section
 40 220.13, Florida Statutes, is amended to read:

41 220.13 "Adjusted federal income" defined.--

42 (1) The term "adjusted federal income" means an amount
 43 equal to the taxpayer's taxable income as defined in subsection
 44 (2), or such taxable income of more than one taxpayer as
 45 provided in s. 220.131, for the taxable year, adjusted as
 46 follows:

47 (a) Additions.--There shall be added to such taxable
 48 income:

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

54 2. The amount of interest which is excluded from taxable
 55 income under s. 103(a) of the Internal Revenue Code or any other
 56 federal law, less the associated expenses disallowed in the

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57 computation of taxable income under s. 265 of the Internal
58 Revenue Code or any other law, excluding 60 percent of any
59 amounts included in alternative minimum taxable income, as
60 defined in s. 55(b)(2) of the Internal Revenue Code, if the
61 taxpayer pays tax under s. 220.11(3).

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

66 4. That portion of the wages or salaries paid or incurred
67 for the taxable year which is equal to the amount of the credit
68 allowable for the taxable year under s. 220.181. This
69 subparagraph shall expire on the date specified in s. 290.016
70 for the expiration of the Florida Enterprise Zone Act.

71 5. That portion of the ad valorem school taxes paid or
72 incurred for the taxable year which is equal to the amount of
73 the credit allowable for the taxable year under s. 220.182. This
74 subparagraph shall expire on the date specified in s. 290.016
75 for the expiration of the Florida Enterprise Zone Act.

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

80 7. That portion of assessments to fund a guaranty
81 association incurred for the taxable year which is equal to the
82 amount of the credit allowable for the taxable year.

83 8. In the case of a nonprofit corporation which holds a
84 pari-mutuel permit and which is exempt from federal income tax

85 as a farmers' cooperative, an amount equal to the excess of the
 86 gross income attributable to the pari-mutuel operations over the
 87 attributable expenses for the taxable year.

88 9. The amount taken as a credit for the taxable year under
 89 s. 220.1895.

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

93 11. The amount taken as a credit for the taxable year
 94 under s. 220.187.

95 12. The amount taken as a credit for the taxable year
 96 under s. 220.192.

97 13. The amount taken as a credit for the taxable year
 98 under s. 220.193.

99 14. Any amount in excess of \$25,000 allowable as a
 100 deduction for federal income tax purposes under s. 179 of the
 101 Internal Revenue Code of 1986, as amended, for the taxable year.

102 15. Any amount allowable as a deduction for federal income
 103 tax purposes under s. 167 or s. 168 of the Internal Revenue Code
 104 of 1986, as amended, for the taxable year to the extent that
 105 such amount includes bonus depreciation allowable as deduction
 106 under s. 168(k).

107 16. The amount taken as a credit for the taxable year
 108 under s. 220.1811.

109 Section 3. Section 220.1811, Florida Statutes, is created
 110 to read:

111 220.1811 Aerospace sector jobs tax credit and tuition
 112 reimbursement tax credits.--

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113 (1) DEFINITIONS.--As used in this section, the term:

114 (a) "Aerospace business" means a business located in this
115 state which is engaged in the aerospace industry, as defined in
116 s. 331.303.

117 (b) "Qualified employee" means a resident of this state
118 who:

119 1. Is employed by an aerospace business on or after
120 January 1, 2010.

121 2. Received an undergraduate or graduate degree in a
122 program accredited by the Engineering Accreditation Commission
123 of the Accreditation Board for Engineering and Technology from a
124 college or university that is accredited by a national
125 accrediting body.

126 3. Was not employed by an aerospace business within 6
127 months preceding his or her employment or contract with the
128 aerospace business requesting a credit under this section.

129 4. Is not an owner, partner, or majority stockholder of an
130 aerospace business.

131 5. Is employed for at least 3 months.

132 (c) "Tuition reimbursed to a qualified employee" means a
133 lump-sum payment by an aerospace business to a qualified
134 employee, which may not exceed the average annual tuition for a
135 Florida resident enrolled in a program accredited by the
136 Engineering Accreditation Commission of the Accreditation Board
137 for Engineering and Technology offered by a state university, as
138 defined in s. 1000.21(6). The term does not include the cost of
139 books, fees, or room and board.

140 (2) AEROSPACE SECTOR JOBS TAX CREDIT.--

141 (a) A credit against the tax imposed under this chapter
 142 may be claimed by an aerospace business for compensation paid to
 143 a qualified employee.

144 (b) The credit authorized by this subsection shall be in
 145 the amount of:

146 1. Ten percent of the compensation paid for the first
 147 through fifth years of employment in this state by an aerospace
 148 business, if the qualified employee graduated from a college or
 149 university located in this state.

150 2. Five percent of the compensation paid for the first
 151 through fifth years of employment in this state by an aerospace
 152 business, if the qualified employee graduated from a college or
 153 university located outside this state.

154 (c) The credit authorized by this subsection may not
 155 exceed \$12,500 annually for each qualified employee.

156 (d) This credit applies only with respect to wages subject
 157 to unemployment tax.

158 (e) If the credit is not fully used in any one year, the
 159 unused amount may be carried forward for a period not to exceed
 160 5 years. The carryover credit may be used in a subsequent year
 161 if the tax imposed by this chapter for such year exceeds the
 162 credit for such year after applying the other credits and unused
 163 credit carryovers in the order provided in s. 220.02(8).

164 (3) TUITION REIMBURSEMENT TAX CREDIT.--

165 (a) A credit against the tax imposed under this chapter
 166 may be claimed by an aerospace business for 50 percent of
 167 tuition reimbursed to a qualified employee in a tax year.

168 (b) The credit may be claimed only if the qualified

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169 employee was awarded an undergraduate or graduate degree within
170 1 year after commencing employment with the business requesting
171 the credit and may be claimed within 4 years after employment of
172 a qualified employee.

173 (c) If this credit is not fully used in any one year, the
174 unused amount may be carried forward for a period not to exceed
175 5 years. The carryover credit may be used in a subsequent year
176 if the tax imposed under this chapter for such year exceeds the
177 credit for such year after applying the other credits and unused
178 credit carryovers in the order provided in s. 220.02(8).

179 (4) MAXIMUM CREDITS FOR AN AEROSPACE BUSINESS.--The
180 maximum amount of credits under this section which may be
181 claimed by any single aerospace business in a calendar year is
182 \$200,000.

183 (5) ANNUAL LIMIT ON TAX CREDITS.--The total amount of
184 credits that may be granted under this section is \$2 million in
185 any calendar year. A credit that is claimed after the \$2 million
186 limit is reached shall be disallowed.

187 (6) DUPLICATION OF TAX CREDITS.--A business may not claim
188 an aerospace sector jobs credit and tuition reimbursement tax
189 credit for the same qualified employee.

190 (7) APPLICATION FOR TAX CREDITS--

191 (a) An aerospace business must apply to the department for
192 authorization to claim an aerospace sector jobs tax credit or
193 tuition reimbursement tax credit. The application must be filed
194 under oath and include:

195 1. The name and address of the business and documentation
196 that the business is an aerospace business.

197 2. For each employee for which a tax credit is sought:
 198 a. The employee's name and documentation that the employee
 199 is a qualified employee.
 200 b. The salary or hourly wages, including the hourly wages
 201 subject to unemployment tax paid to the qualified employee.
 202 c. The location of the university from which the qualified
 203 employee received his or her degree.
 204 d. A statement of whether the applicant is seeking an
 205 aerospace sector jobs tax credit or a tuition reimbursement tax
 206 credit.
 207 (b) The applicant for a tax credit has the burden of
 208 demonstrating to the satisfaction of the department that it
 209 meets the requirements of this section.
 210 (8) LIMITS ON THE CARRY OVER OF TAX CREDITS.--An aerospace
 211 business may not carry over more tax credits in an amended
 212 return than were claimed on the original return for the taxable
 213 year. This subsection does not limit increases in the amount of
 214 credit claimed on an amended return due to the use of any credit
 215 amount previously carried over pursuant to paragraph (2)(e) or
 216 paragraph (3)(c).
 217 (9) PENALTIES.--
 218 (a) Any person who fraudulently claims this credit is
 219 liable for repayment of the credit, plus a mandatory penalty in
 220 the amount of 200 percent of the credit, plus interest at the
 221 rate provided in s. 220.807, and commits a felony of the third
 222 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 223 775.084.
 224 (b) Any person who makes an underpayment of tax as a

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225 result of a grossly overstated claim for this credit commits a
226 felony of the third degree, punishable as provided in s.
227 775.082, s. 775.083, or s. 775.084. As used in this paragraph,
228 the term "grossly overstated claim" means a claim in an amount
229 in excess of 100 percent of the amount of credit allowable under
230 this section.

231 (10) RULEMAKING.--The Department of Revenue may adopt
232 rules to prescribe any necessary forms required to claim a tax
233 credit under this section and to provide guidelines and
234 procedures required to administer this section.

235 (11) EXPIRATION.--This section, except paragraphs (2)(e)
236 and (3)(c) and subsection (9), expires on December 31, 2020. An
237 aerospace business may not claim a new tax credit under this
238 section after that date. However, an aerospace business may
239 claim tax credits carried over pursuant to paragraphs (2)(e) and
240 (3)(c).

241 Section 4. This act shall take effect January 1, 2010.