

By the Committee on Commerce; and Senators Altman and Baker

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1 A bill to be entitled

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

24  
25 Be It Enacted by the Legislature of the State of Florida:

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

29 220.02 Legislative intent.—

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30           ~~It is the intent of the Legislature that~~ Credits  
31 against ~~either~~ the corporate income tax or the franchise tax  
32 shall be applied in the following order: those enumerated in s.  
33 631.828, those enumerated in s. 220.191, those enumerated in s.  
34 220.181, those enumerated in s. 220.183, those enumerated in s.  
35 220.182, those enumerated in s. 220.1895, those enumerated in s.  
36 221.02, those enumerated in s. 220.184, those enumerated in s.  
37 220.186, those enumerated in s. 220.1845, those enumerated in s.  
38 220.19, those enumerated in s. 220.185, those enumerated in s.  
39 220.187, those enumerated in s. 220.192, ~~and~~ those enumerated in  
40 s. 220.193, and those enumerated in s. 220.1811.

41           Section 2. Paragraph (a) of subsection (1) of section  
42 220.13, Florida Statutes, is amended to read:

43           220.13 "Adjusted federal income" defined.—

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

49           (a) *Additions.*—There shall be added to such taxable income:

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

55           2. The amount of interest which is excluded from taxable  
56 income under s. 103(a) of the Internal Revenue Code or any other  
57 federal law, less the associated expenses disallowed in the  
58 computation of taxable income under s. 265 of the Internal

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

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

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

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

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

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

84 8. In the case of a nonprofit corporation which holds a  
85 pari-mutuel permit and which is exempt from federal income tax  
86 as a farmers' cooperative, an amount equal to the excess of the  
87 gross income attributable to the pari-mutuel operations over the

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88 attributable expenses for the taxable year.

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

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

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

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

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

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

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

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

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

112 220.1811 Aerospace sector jobs tax credit and tuition  
113 reimbursement tax credit.—

114 (1) DEFINITIONS.—As used in this section, the term:

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

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117 s. 331.303.

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

120 1. Is first employed or reemployed by an aerospace business  
121 on or after January 1, 2010;

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

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

130 4. Is not an owner, partner, or majority stockholder of an  
131 aerospace business; and

132 5. Is employed for at least 3 months.

133 (c) "Tuition reimbursed to a qualified employee" means a  
134 lump-sum payment by an aerospace business to a qualified  
135 employee, which may not exceed the average annual tuition, as  
136 reported by the Board of Governors of the State University  
137 System, for a Florida resident who is a full-time undergraduate  
138 student enrolled in a public college or university. The term  
139 does not include the cost of books, fees, or room and board.

140 (2) AEROSPACE SECTOR JOBS TAX CREDIT.—

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

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

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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 exceed  
155 \$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 may  
166 be claimed by an aerospace business for 50 percent of tuition  
167 reimbursed to a qualified employee in a tax year.

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

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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 maximum  
180 amount of credits under this section which may be claimed by any  
181 single aerospace business in a calendar year is \$200,000.

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

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

189 (7) APPLICATION FOR TAX CREDITS.—

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

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

196 2. For each employee for which a tax credit is sought:

197 a. The employee's name and documentation that the employee  
198 is a qualified employee.

199 b. The salary or hourly wages, including the hourly wages  
200 subject to unemployment tax paid to the qualified employee.

201 c. The location of the university from which the qualified  
202 employee received his or her degree.

203 d. A statement of whether the applicant is seeking an

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204 aerospace sector jobs tax credit or a tuition reimbursement tax  
205 credit.

206 (b) The applicant for a tax credit has the burden of  
207 demonstrating to the satisfaction of the department that it  
208 meets the requirements of this section.

209 (8) LIMITS ON THE CARRY OVER OF TAX CREDITS.—An aerospace  
210 business may not carry over more tax credits in an amended  
211 return than were claimed on the original return for the taxable  
212 year. This subsection does not limit increases in the amount of  
213 credit claimed on an amended return due to the use of any credit  
214 amount previously carried over pursuant to paragraph (2)(e) or  
215 paragraph (3)(c).

216 (9) PENALTIES.—

217 (a) Any person who fraudulently claims this credit is  
218 liable for repayment of the credit, plus a mandatory penalty in  
219 the amount of 200 percent of the credit, plus interest at the  
220 rate provided in s. 220.807, and commits a felony of the third  
221 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
222 775.084.

223 (b) Any person who makes an underpayment of tax as a result  
224 of a grossly overstated claim for this credit commits a felony  
225 of the third degree, punishable as provided in s. 775.082, s.  
226 775.083, or s. 775.084. As used in this paragraph, the term  
227 “grossly overstated claim” means a claim in an amount in excess  
228 of 100 percent of the amount of credit allowable under this  
229 section.

230 (10) RULEMAKING.—The department may adopt rules to  
231 prescribe any necessary forms required to claim a tax credit  
232 under this section and to provide guidelines and procedures

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233 required to administer this section.

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

240 Section 4. This act shall take effect January 1, 2010, and  
241 applies to tax years beginning on or after that date.