

By the Committee on Finance and Tax; and Senator Altman

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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; creating s. 220.1811,
8 F.S.; authorizing aerospace-sector jobs tax credits
9 and tuition reimbursement tax credits; defining terms;
10 authorizing a tax credit to aerospace businesses based
11 on the salary or tuition reimbursed to certain
12 employees; specifying the maximum annual amount of tax
13 credits for an aerospace business; limiting the annual
14 amount of tax credits available; prohibiting a
15 business from claiming an aerospace-sector jobs tax
16 credit and a tuition reimbursement tax credit for the
17 same employee; providing for the Department of Revenue
18 to approve applications for tax credits; prohibiting
19 increases in the amount of unused tax credits carried
20 over in amended tax returns; providing fines and
21 criminal penalties for certain unlawful claims of tax
22 credits; authorizing the Department of Revenue to
23 adopt rules; providing for the expiration of the tax
24 credit program; providing for applicability; providing
25 an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Subsection (8) of section 220.02, Florida

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30 Statutes, is amended to read:

31 220.02 Legislative intent.—

32 (8) ~~It is the intent of the Legislature that~~ Credits
33 against ~~either~~ the corporate income tax or the franchise tax
34 shall be applied in the following order: those enumerated in s.
35 631.828, those enumerated in s. 220.191, those enumerated in s.
36 220.181, those enumerated in s. 220.183, those enumerated in s.
37 220.182, those enumerated in s. 220.1895, those enumerated in s.
38 221.02, those enumerated in s. 220.184, those enumerated in s.
39 220.186, those enumerated in s. 220.1845, those enumerated in s.
40 220.19, those enumerated in s. 220.185, those enumerated in s.
41 220.187, those enumerated in s. 220.192, those enumerated in s.
42 220.193, ~~and~~ those enumerated in s. 288.9916, and those
43 enumerated in s. 220.1811.

44 Section 2. Paragraph (a) of subsection (1) of section
45 220.13, Florida Statutes, is amended to read:

46 220.13 "Adjusted federal income" defined.—

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

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

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

58 2. The amount of interest which is excluded from taxable

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59 income under s. 103(a) of the Internal Revenue Code or any other
60 federal law, less the associated expenses disallowed in the
61 computation of taxable income under s. 265 of the Internal
62 Revenue Code or any other law, excluding 60 percent of any
63 amounts included in alternative minimum taxable income, as
64 defined in s. 55(b)(2) of the Internal Revenue Code, if the
65 taxpayer pays tax under s. 220.11(3).

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

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

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

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

84 7. That portion of assessments to fund a guaranty
85 association incurred for the taxable year which is equal to the
86 amount of the credit allowable for the taxable year.

87 8. In the case of a nonprofit corporation that ~~which~~ holds

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88 a pari-mutuel permit and ~~which~~ is exempt from federal income tax
89 as a farmers' cooperative, an amount equal to the excess of the
90 gross income attributable to the pari-mutuel operations over the
91 attributable expenses for the taxable year.

92 9. The amount taken as a credit for the taxable year under
93 s. 220.1895.

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

97 11. The amount taken as a credit for the taxable year under
98 s. 220.187.

99 12. The amount taken as a credit for the taxable year under
100 s. 220.192.

101 13. The amount taken as a credit for the taxable year under
102 s. 220.193.

103 14. Any portion of a qualified investment, as defined in s.
104 288.9913, which is claimed as a deduction by the taxpayer and
105 taken as a credit against income tax pursuant to s. 288.9916.

106 15. The amount taken as a credit for the taxable year under
107 s. 220.1811.

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

110 220.1811 Aerospace-sector jobs tax credit and tuition
111 reimbursement tax credit.—

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

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

116 (b) "Qualified employee" means a resident of this state

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117 who:

118 1. Is first employed or reemployed by an aerospace business
119 on or after January 1, 2011;

120 2. Received an undergraduate or graduate degree from a
121 college or university that is accredited by a national
122 accrediting body; a technical degree or certification related to
123 aerospace from a technical training institution; or completed an
124 aerospace development workforce training program coordinated by
125 Workforce Florida, Inc.;

126 3. Is not an owner, partner, or majority stockholder of an
127 aerospace business; and

128 4. Is employed for at least 6 months.

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

136 (2) AEROSPACE-SECTOR JOBS TAX CREDIT.—

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

140 (b) The credit authorized by this subsection shall equal 10
141 percent of the compensation paid for the first through fifth
142 years of employment in this state by an aerospace business.

143 (c) The credit authorized by this subsection may not exceed
144 \$12,500 annually for each qualified employee.

145 (d) This credit applies only with respect to wages subject

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146 to unemployment tax.

147 (e) If the credit is not fully used in any one year, the
148 unused amount may be carried forward for a period not to exceed
149 5 years. The carryover credit may be used in a subsequent year
150 if the tax imposed by this chapter for such year exceeds the
151 credit for such year after applying the other credits and unused
152 credit carryovers in the order provided in s. 220.02(8).

153 (3) TUITION REIMBURSEMENT TAX CREDIT.—

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

157 (b) The credit may be claimed only if the qualified
158 employee was awarded an undergraduate or graduate degree, a
159 technical certification, or a certification from a training
160 program coordinated by Workforce Florida, Inc., within 1 year
161 after commencing employment with the business requesting the
162 credit, and may be claimed within 4 years after employment of
163 the qualified employee.

164 (c) If this credit is not fully used in any one year, the
165 unused amount may be carried forward for a period not to exceed
166 5 years. The carryover credit may be used in a subsequent year
167 if the tax imposed under this chapter for such year exceeds the
168 credit for such year after applying the other credits and unused
169 credit carryovers in the order provided in s. 220.02(8).

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

173 (5) ANNUAL LIMIT ON TAX CREDITS.—The total amount of
174 credits that may be granted under this section is \$2 million in

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175 any calendar year. A credit that is claimed after the \$2 million
176 limit is reached shall be disallowed.

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

180 (7) APPLICATION FOR TAX CREDITS.—

181 (a) An aerospace business must apply to the department for
182 authorization to claim an aerospace-sector jobs tax credit or a
183 tuition reimbursement tax credit. The application must be filed
184 under oath and include:

185 1. The name and address of the business and documentation
186 that the business is an aerospace business.

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

188 a. The employee's name and documentation that the employee
189 is a qualified employee.

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

192 c. The location of the community college, college,
193 university, technical institution, or training program
194 coordinated by Workforce Florida, Inc., from which the qualified
195 employee received his or her degree or certification.

196 d. A statement as to whether the applicant is seeking an
197 aerospace-sector jobs tax credit or a tuition reimbursement tax
198 credit.

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

202 (8) LIMITS ON THE CARRY OVER OF TAX CREDITS.—An aerospace
203 business may not carry over more tax credits in an amended

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204 return than were claimed on the original return for the taxable
205 year. This subsection does not limit increases in the amount of
206 credit claimed on an amended return due to the use of any credit
207 amount previously carried over pursuant to paragraph (2)(e) or
208 paragraph (3)(c).

209 (9) PENALTIES.—

210 (a) Any person who fraudulently claims this credit is
211 liable for repayment of the credit, plus a mandatory penalty in
212 the amount of 200 percent of the credit, plus interest at the
213 rate provided in s. 220.807, and commits a felony of the third
214 degree, punishable as provided in s. 775.082, s. 775.083, or s.
215 775.084.

216 (b) Any person who makes an underpayment of tax as a result
217 of a grossly overstated claim for this credit commits a felony
218 of the third degree, punishable as provided in s. 775.082, s.
219 775.083, or s. 775.084. As used in this paragraph, the term
220 “grossly overstated claim” means a claim in an amount in excess
221 of 100 percent of the amount of credit allowable under this
222 section.

223 (10) RULEMAKING.—The department may adopt rules to
224 prescribe any necessary forms required to claim a tax credit
225 under this section and to provide guidelines and procedures
226 required to administer this section.

227 (11) EXPIRATION.—This section, except paragraphs (2)(e) and
228 (3)(c) and subsection (8), expires December 31, 2020. An
229 aerospace business may not claim a new tax credit under this
230 section after that date. However, an aerospace business may
231 claim tax credits carried over pursuant to paragraph (2)(e) or
232 paragraph (3)(c).

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233 Section 4. This act shall take effect January 1, 2011, and
234 applies to tax years beginning on or after that date.