

1 A bill to be entitled
2 An act relating to tax credits for research and
3 development; creating s. 220.194, F.S.; providing
4 definitions; providing a tax credit for certain research
5 and development expenses; providing eligibility
6 requirements for research and development tax credits;
7 providing limitations regarding eligibility; providing an
8 amount for such credit; providing a maximum amount of
9 credit that may be taken during a single tax year;
10 providing that any unused credit may be carried forward
11 for a specified period; authorizing the sale or assignment
12 of unused credit to certain taxpayers under certain
13 conditions; requiring that a party to a sale or assignment
14 file certain information and documents with the Department
15 of Revenue; requiring that parties to a sale or assignment
16 obtain the department's approval before completing such
17 sale or assignment; prohibiting the department from
18 unreasonable withholding of such approval; providing
19 requirements for the use tax credits sold or assigned;
20 limiting the total amount of tax credits that may be
21 assigned in a calendar year; providing that applications
22 for credits may be filed on or after a specified date;
23 requiring that the credits be granted in the order in
24 which applications are received; authorizing the
25 department to adopt rules; amending s. 220.02, F.S.;
26 revising legislative intent to include the research and
27 development tax credit in the ordered list according to

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28 | which credits against corporate income tax or franchise
29 | tax are applied; providing an effective date.

30

31 | WHEREAS, research and development has become the underlying
32 | source of wealth in the 21st century by generating ideas and
33 | technologies that encourage productivity and economic growth,
34 | and

35 | WHEREAS, corporations generate the main body of growth-
36 | stimulating innovations, and

37 | WHEREAS, research and development tax credits provide
38 | incentives for corporate research and development beyond
39 | expected levels, and

40 | WHEREAS, research shows that the federal research and
41 | development tax credit is an effective tool for stimulating
42 | additional research and development, which in turn leads to
43 | faster economic growth, and

44 | WHEREAS, state research and development tax credit programs
45 | are nearly as important to corporate research and development as
46 | the federal research and development tax credit program, and

47 | WHEREAS, the typical state research and development tax
48 | credit program increases general, corporate-funded research and
49 | development within a state, often enhancing the state's
50 | competitiveness by enabling a state to draw research and
51 | development activity away from other states, and

52 | WHEREAS, this state needs a state research and development
53 | tax credit program to ensure economic competitiveness, and

54 | WHEREAS, more than half of the states of this nation have a
55 | research and development tax credit program, and

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56 WHEREAS, Florida lags behind the rest of the nation in
 57 important corporate research and development activities because
 58 the state does not have a research and development tax credit,
 59 and

60 WHEREAS, the Legislature must create a research and
 61 development tax credit in order to encourage corporate research
 62 and development activity within this state, level the playing
 63 field with the state's regional and national economic
 64 competitors, support the state's vibrant innovation economy, and
 65 attract high-wage, professional research jobs to this state,
 66 NOW, THEREFORE,

67
 68 Be It Enacted by the Legislature of the State of Florida:

69
 70 Section 1. Section 220.194, Florida Statutes, is created
 71 to read:

72 220.194 Research and development tax credit.—

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

74 (a) "Base amount" means the average of the business
 75 enterprise's qualified research expenses in this state allowed
 76 under 26 U.S.C. s. 41 for the 4 taxable years preceding the
 77 taxable year for which the credit is being determined. The
 78 qualified research expenses taken into account in computing the
 79 base amount shall be determined on a basis consistent with the
 80 determination of qualified research expenses for the credit
 81 year.

82 (b) "Base period" means the 4 taxable years preceding the
 83 taxable year for which the credit is being determined.

84 (c) "Business enterprise" means any corporation as defined
 85 in s. 220.03(1)(e) that is also a target industry business as
 86 defined in s. 288.106(1)(o).

87 (d) "Qualified research expenses" means research expenses
 88 qualifying for the credit under 26 U.S.C. s. 41 for in-house
 89 research expenses incurred in this state or contract research
 90 expenses incurred in this state. The term does not include
 91 research conducted outside this state, research that is excluded
 92 under 26 U.S.C. s. 41, or research conducted by a business
 93 enterprise that is not within its principal business activity.

94 (2) TAX CREDIT.—Subject to the limitations contained in
 95 paragraph (e), a business enterprise is eligible for a credit
 96 against the tax imposed by this chapter if the business
 97 enterprise has qualified research expenses in this state in the
 98 calendar year exceeding the base amount and, for the same
 99 calendar year, claims and is allowed a research credit for such
 100 qualified research expenses under 26 U.S.C. s. 41.

101 (a) The tax credit shall be 10 percent of the excess
 102 qualified research expenses over the base amount. However, the
 103 maximum tax credit for a business enterprise that has not been
 104 in existence for the entire base period is reduced by 25 percent
 105 for each taxable year for which the business enterprise, or a
 106 predecessor corporation that was a business enterprise, did not
 107 exist during the base period.

108 (b) The credit taken in any single tax year may not exceed
 109 50 percent of the business enterprise's remaining net income tax
 110 liability under this chapter after all other credits have been
 111 applied under s. 220.02(8).

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112 (c) Any unused credit authorized pursuant to this section
113 may be carried forward and claimed by the taxpayer for up to 5
114 years following the close of the taxable year in which the
115 qualified research expenses are incurred.

116 (d) Any unused credit authorized pursuant to this section
117 may be assigned or sold to another business enterprise if a
118 claim for the allowance has not been filed within 1 calendar
119 year following the date on which the department approved the
120 credit. The business enterprise selling the tax credit and the
121 purchaser or assignee must file an application, waivers of
122 confidentiality, and affidavits to transfer the credit on a form
123 provided by the department and obtain the prior approval of the
124 department for such transfer. The department may not
125 unreasonably withhold such approval. The purchaser or assignee
126 must use the tax credit in the taxable year in which the
127 purchase or assignment of the credit is made. The transfer or
128 purchase of any amount of the tax credit may not be exchanged
129 for less than 75 percent of the credit's value.

130 (e) The combined total amount of tax credits that may be
131 granted and approved to all business enterprises under this
132 section during any calendar year is \$15 million. Applications
133 may be filed with the department on or after March 20 for
134 qualified research expenses incurred within the preceding
135 calendar year, and credits shall be granted in the order in
136 which completed applications are received.

137 (3) RULES.—The department may adopt rules to administer
138 this section, including, but not limited to, rules prescribing
139 forms, application procedures and dates, and notification or

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140 other procedures for the sale or assignment of a credit, and may
 141 establish guidelines for making an affirmative showing of
 142 qualification for a credit and any evidence needed to
 143 substantiate a claim for credit under this section.

144 Section 2. Subsection (8) of section 220.02, Florida
 145 Statutes, is amended to read:

146 220.02 Legislative intent.—

147 (8) It is the intent of the Legislature that credits
 148 against either the corporate income tax or the franchise tax be
 149 applied in the following order: those enumerated in s. 631.828,
 150 those enumerated in s. 220.191, those enumerated in s. 220.181,
 151 those enumerated in s. 220.183, those enumerated in s. 220.182,
 152 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 153 those enumerated in s. 220.184, those enumerated in s. 220.186,
 154 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 155 those enumerated in s. 220.185, those enumerated in s. 220.187,
 156 those enumerated in s. 220.192, those enumerated in s. 220.193,
 157 ~~and~~ those enumerated in s. 288.9916, and those enumerated in s.
 158 220.194.

159 Section 3. This act shall take effect July 1, 2010, and is
 160 effective for tax years beginning on or after January 1, 2011.