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1                   A bill to be entitled  
2           An act relating to research and development tax credits;  
3           amending s. 220.02, F.S.; revising legislative intent to  
4           include the research and development tax credit in the  
5           ordered list according to which credits against corporate  
6           income tax or franchise tax are applied; creating s.  
7           220.194, F.S.; providing definitions; providing a research  
8           and development tax credit of a specified amount for  
9           application by a business enterprise against the corporate  
10          income tax or franchise tax under certain circumstances;  
11          providing a limitation on the amount of research and  
12          development tax credit that may be applied by a business  
13          enterprise against tax liability in a taxable year;  
14          authorizing carryforward of the tax credit for a specified  
15          period; authorizing the sale or assignment of the credit  
16          to another business enterprise under certain  
17          circumstances; limiting the total amount of research and  
18          development tax credit available annually to all business  
19          enterprises; providing for the filing of applications for  
20          granting and approval of the tax credit by the Department  
21          of Revenue; providing for priority in granting the tax  
22          credit; authorizing the department to adopt rules;  
23          providing applicability; providing an effective date.

24  
25          WHEREAS, research and development have become the  
26          underlying source of wealth in the 21st century by generating  
27          ideas and technologies that encourage productivity and economic  
28          growth, and

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29 WHEREAS, corporations generate the main body of growth-  
30 stimulating innovations, and

31 WHEREAS, research and development tax credits provide  
32 incentives for corporate research and development beyond  
33 expected levels, and

34 WHEREAS, research shows that the federal research and  
35 development tax credit is an effective tool for stimulating  
36 additional research and development, which in turn leads to  
37 faster economic growth, and

38 WHEREAS, state research and development tax credit programs  
39 are nearly as important to corporate research and development as  
40 the federal research and development tax credit program, and

41 WHEREAS, the typical state research and development tax  
42 credit program increases general, corporate-funded research and  
43 development within a state, often enhancing the state's  
44 competitiveness by enabling a state to draw research and  
45 development activity away from other states, and

46 WHEREAS, this state needs a state research and development  
47 tax credit program to ensure economic competitiveness, and

48 WHEREAS, more than half of the states of this nation have a  
49 research and development tax credit program, and

50 WHEREAS, Florida lags behind the rest of the nation in  
51 important corporate research and development activities because  
52 the state does not have a research and development tax credit,  
53 and

54 WHEREAS, the Legislature must create a research and  
55 development tax credit in order to encourage corporate research  
56 and development activity within this state, level the playing

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57 field with the state's regional and national economic  
 58 competitors, support the state's vibrant innovation economy, and  
 59 attract high-wage, professional research jobs to this state,  
 60 NOW, THEREFORE,

61  
 62 Be It Enacted by the Legislature of the State of Florida:

63  
 64 Section 1. Subsection (8) of section 220.02, Florida  
 65 Statutes, is amended to read:

66 220.02 Legislative intent.—

67 (8) It is the intent of the Legislature that credits  
 68 against either the corporate income tax or the franchise tax be  
 69 applied in the following order: those enumerated in s. 631.828,  
 70 those enumerated in s. 220.191, those enumerated in s. 220.181,  
 71 those enumerated in s. 220.183, those enumerated in s. 220.182,  
 72 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
 73 those enumerated in s. 220.184, those enumerated in s. 220.186,  
 74 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
 75 those enumerated in s. 220.185, those enumerated in s. 220.1875,  
 76 those enumerated in s. 220.192, those enumerated in s. 220.193,  
 77 those enumerated in s. 288.9916, those enumerated in s.  
 78 220.1899, ~~and~~ those enumerated in s. 220.1896, and those  
 79 enumerated in s. 220.194.

80 Section 2. Section 220.194, Florida Statutes, is created  
 81 to read:

82 220.194 Research and development tax credit.—

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

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84 (a) "Base amount" means the average of the business  
85 enterprise's qualified research expenses in this state allowed  
86 under 26 U.S.C. s. 41 for the 4 taxable years preceding the  
87 taxable year for which the credit is being determined. The  
88 qualified research expenses taken into account in computing the  
89 base amount shall be determined on a basis consistent with the  
90 determination of qualified research expenses for the credit  
91 year.

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

94 (c) "Business enterprise" means any corporation as defined  
95 in s. 220.03(1)(e) that is also a target industry business as  
96 defined in s. 288.106(2)(t).

97 (d) "Qualified research expenses" means research expenses  
98 qualifying for the credit under 26 U.S.C. s. 41 for in-house  
99 research expenses incurred in this state or contract research  
100 expenses incurred in this state. The term does not include  
101 research conducted outside this state or research that is  
102 excluded under 26 U.S.C. s. 41.

103 (2) TAX CREDIT.—Subject to the limitations contained in  
104 paragraph (e), a business enterprise is eligible for a credit  
105 against the tax imposed by this chapter if the business  
106 enterprise has qualified research expenses in this state in the  
107 calendar year exceeding the base amount and, for the same  
108 calendar year, claims and is allowed a research credit for such  
109 qualified research expenses under 26 U.S.C. s. 41.

110 (a) The tax credit shall be 10 percent of the excess  
111 qualified research expenses over the base amount. However, the

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112 maximum tax credit for a business enterprise that has not been  
113 in existence for the entire base period is reduced by 25 percent  
114 for each taxable year for which the business enterprise, or a  
115 predecessor corporation that was a business enterprise, did not  
116 exist during the base period.

117 (b) The credit taken in any single tax year may not exceed  
118 50 percent of the business enterprise's remaining net income tax  
119 liability under this chapter after all other credits have been  
120 applied under s. 220.02(8).

121 (c) Any unused credit authorized under this section may be  
122 carried forward and claimed by the taxpayer for up to 5 years  
123 after the close of the taxable year in which the qualified  
124 research expenses are incurred.

125 (d) Any unused credit authorized under this section may be  
126 assigned or sold to another business enterprise if a claim for  
127 the allowance has not been filed within 1 calendar year after  
128 the date on which the department approved the credit. The  
129 business enterprise selling the tax credit and the purchaser or  
130 assignee must file an application, waivers of confidentiality,  
131 and affidavits to transfer the credit on a form provided by the  
132 department and obtain the prior approval of the department for  
133 such transfer. The department may not unreasonably withhold such  
134 approval. The purchaser or assignee must use the tax credit in  
135 the taxable year in which the purchase or assignment of the  
136 credit is made. The transfer or purchase of any amount of the  
137 tax credit may not be exchanged for less than 75 percent of the  
138 credit's value.

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

146        (3) RULES.—The department may adopt rules to administer  
147 this section, including, but not limited to, rules prescribing  
148 forms, application procedures and dates, and notification or  
149 other procedures for the sale or assignment of a credit, and may  
150 establish guidelines for making an affirmative showing of  
151 qualification for a credit and any evidence needed to  
152 substantiate a claim for credit under this section.

153        Section 3. This act shall take effect July 1, 2011, and is  
154 effective for tax years beginning on or after January 1, 2012.