

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.

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

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

29 | 220.02 Legislative intent.—

30 | (8) It is the intent of the Legislature that credits
 31 | against either the corporate income tax or the franchise tax be
 32 | applied in the following order: those enumerated in s. 631.828,
 33 | those enumerated in s. 220.191, those enumerated in s. 220.181,
 34 | those enumerated in s. 220.183, those enumerated in s. 220.182,
 35 | those enumerated in s. 220.1895, those enumerated in s. 221.02,
 36 | those enumerated in s. 220.184, those enumerated in s. 220.186,
 37 | those enumerated in s. 220.1845, those enumerated in s. 220.19,
 38 | those enumerated in s. 220.185, those enumerated in s. 220.1875,
 39 | those enumerated in s. 220.192, those enumerated in s. 220.193,
 40 | those enumerated in s. 288.9916, those enumerated in s.
 41 | 220.1899, ~~and~~ those enumerated in s. 220.1896, and those
 42 | enumerated in s. 220.194.

43 | Section 2. Section 220.194, Florida Statutes, is created
 44 | to read:

45 | 220.194 Research and development tax credit.—

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

47 | (a) "Base amount" means the average of the business
 48 | enterprise's qualified research expenses in this state allowed
 49 | under 26 U.S.C. s. 41 for the 4 taxable years preceding the
 50 | taxable year for which the credit is being determined. The
 51 | qualified research expenses taken into account in computing the
 52 | base amount shall be determined on a basis consistent with the
 53 | determination of qualified research expenses for the credit
 54 | year.

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

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

60 (d) "Qualified research expenses" means research expenses
 61 qualifying for the credit under 26 U.S.C. s. 41 for in-house
 62 research expenses incurred in this state or contract research
 63 expenses incurred in this state. The term does not include
 64 research conducted outside this state or research that is
 65 excluded under 26 U.S.C. s. 41.

66 (2) TAX CREDIT.—Subject to the limitations contained in
 67 paragraph (e), a business enterprise is eligible for a credit
 68 against the tax imposed by this chapter if the business
 69 enterprise has qualified research expenses in this state in the
 70 calendar year exceeding the base amount and, for the same
 71 calendar year, claims and is allowed a research credit for such
 72 qualified research expenses under 26 U.S.C. s. 41.

73 (a) The tax credit shall be 10 percent of the excess
 74 qualified research expenses over the base amount. However, the
 75 maximum tax credit for a business enterprise that has not been
 76 in existence for the entire base period is reduced by 25 percent
 77 for each taxable year for which the business enterprise, or a
 78 predecessor corporation that was a business enterprise, did not
 79 exist during the base period.

80 (b) The credit taken in any single tax year may not exceed
 81 50 percent of the business enterprise's remaining net income tax
 82 liability under this chapter after all other credits have been
 83 applied under s. 220.02(8).

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

88 (d) Any unused credit authorized under this section may be
89 assigned or sold to another business enterprise if a claim for
90 the allowance has not been filed within 1 calendar year after
91 the date on which the department approved the credit. The
92 business enterprise selling the tax credit and the purchaser or
93 assignee must file an application, waivers of confidentiality,
94 and affidavits to transfer the credit on a form provided by the
95 department and obtain the prior approval of the department for
96 such transfer. The department may not unreasonably withhold such
97 approval. The purchaser or assignee must use the tax credit in
98 the taxable year in which the purchase or assignment of the
99 credit is made. The transfer or purchase of any amount of the
100 tax credit may not be exchanged for less than 75 percent of the
101 credit's value.

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

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

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112 | other procedures for the sale or assignment of a credit, and may
113 | establish guidelines for making an affirmative showing of
114 | qualification for a credit and any evidence needed to
115 | substantiate a claim for credit under this section.

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