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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Budget Subcommittee on Finance and Tax
(Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

220.13 "Adjusted federal income" defined.—

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



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

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

19 2. The amount of interest which is excluded from taxable
20 income under s. 103(a) of the Internal Revenue Code or any other
21 federal law, less the associated expenses disallowed in the
22 computation of taxable income under s. 265 of the Internal
23 Revenue Code or any other law, excluding 60 percent of any
24 amounts included in alternative minimum taxable income, as
25 defined in s. 55(b)(2) of the Internal Revenue Code, if the
26 taxpayer pays tax under s. 220.11(3).

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

31 4. That portion of the wages or salaries paid or incurred
32 for the taxable year which is equal to the amount of the credit
33 allowable for the taxable year under s. 220.181. This
34 subparagraph shall expire on the date specified in s. 290.016
35 for the expiration of the Florida Enterprise Zone Act.

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

41 6. The amount of emergency excise tax paid or accrued as a



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42 liability to this state under chapter 221 which tax is
43 deductible from gross income in the computation of taxable
44 income for the taxable year.

45 7. That portion of assessments to fund a guaranty
46 association incurred for the taxable year which is equal to the
47 amount of the credit allowable for the taxable year.

48 8. In the case of a nonprofit corporation which holds a
49 pari-mutuel permit and which is exempt from federal income tax
50 as a farmers' cooperative, an amount equal to the excess of the
51 gross income attributable to the pari-mutuel operations over the
52 attributable expenses for the taxable year.

53 9. The amount taken as a credit for the taxable year under
54 s. 220.1895.

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

58 11. The amount taken as a credit for the taxable year under
59 s. 220.1875. The addition in this subparagraph is intended to
60 ensure that the same amount is not allowed for the tax purposes
61 of this state as both a deduction from income and a credit
62 against the tax. This addition is not intended to result in
63 adding the same expense back to income more than once.

64 12. The amount taken as a credit for the taxable year under
65 s. 220.192.

66 13. The amount taken as a credit for the taxable year under
67 s. 220.193.

68 14. Any portion of a qualified investment, as defined in s.
69 288.9913, which is claimed as a deduction by the taxpayer and
70 taken as a credit against income tax pursuant to s. 288.9916.



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71 15. The costs to acquire a tax credit pursuant to s.
72 288.1254(5) that are deducted from or otherwise reduce federal
73 taxable income for the taxable year.

74 16. The amount taken as a credit for the taxable year under
75 s. 220.194.

76 Section 2. Section 220.194, Florida Statutes, is created to
77 read:

78 220.194 Research and development tax credit.—

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

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

88 (b) "Business enterprise" means any corporation as defined
89 in s. 220.03 which meets the definition of a target industry
90 business as defined in s. 288.106.

91 (c) "Qualified research expenses" mean research expenses
92 qualifying for the credit under 26 U.S.C. s. 41 for in-house
93 research expenses incurred in this state or contract research
94 expenses incurred in this state. The term does not include
95 research conducted outside this state or research expenses that
96 do not qualify for a credit under 26 U.S.C. s. 41.

97 (2) TAX CREDIT.—Subject to the limitations contained in
98 paragraph (e), a business enterprise is eligible for a credit
99 against the tax imposed by this chapter if the business



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100 enterprise has qualified research expenses in this state in the
101 taxable year exceeding the base amount and, for the same taxable
102 year, claims and is allowed a research credit for such qualified
103 research expenses under 26 U.S.C. s. 41.

104 (a) The tax credit shall be 10 percent of the excess
105 qualified research expenses over the base amount. However, the
106 maximum tax credit for a business enterprise that has not been
107 in existence for at least 4 taxable years immediately preceding
108 the taxable year is reduced by 25 percent for each taxable year
109 for which the business enterprise, or a predecessor corporation
110 that was a business enterprise, did not exist.

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

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

119 (d) The combined total amount of tax credits which may be
120 granted to all business enterprises under this section during
121 any calendar year is \$15 million. Applications may be filed with
122 the department on or after March 20 for qualified research
123 expenses incurred within the preceding calendar year, and
124 credits shall be granted in the order in which completed
125 applications are received.

126 (3) RECALCULATION OF CREDIT AMOUNT.—If the amount of
127 qualified research expenses is reduced as a result of a federal
128 audit or examination, the credit granted pursuant to this



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129 section must be recalculated. The taxpayer must file amended
130 returns for all affected years pursuant to s. 220.23(2), and the
131 taxpayer must pay to the department the difference between the
132 initial credit amount taken and the recalculated credit amount.

133 (4) RULES.—The department may adopt rules to administer
134 this section, including, but not limited to, rules prescribing
135 forms and application procedures and dates, and may establish
136 guidelines for making an affirmative showing of qualification
137 for a credit and any evidence needed to substantiate a claim for
138 credit under this section.

139 Section 3. Subsection (8) of section 220.02, Florida
140 Statutes, is amended to read:

141 220.02 Legislative intent.—

142 (8) It is the intent of the Legislature that credits
143 against either the corporate income tax or the franchise tax be
144 applied in the following order: those enumerated in s. 631.828,
145 those enumerated in s. 220.191, those enumerated in s. 220.181,
146 those enumerated in s. 220.183, those enumerated in s. 220.182,
147 those enumerated in s. 220.1895, those enumerated in s. 221.02,
148 those enumerated in s. 220.184, those enumerated in s. 220.186,
149 those enumerated in s. 220.1845, those enumerated in s. 220.19,
150 those enumerated in s. 220.185, those enumerated in s. 220.1875,
151 those enumerated in s. 220.192, those enumerated in s. 220.193,
152 those enumerated in s. 288.9916, those enumerated in s.
153 220.1899, ~~and~~ those enumerated in s. 220.1896, and those
154 enumerated in s. 220.194.

155 Section 4. This act shall take effect July 1, 2011, and
156 applies for taxable years beginning on or after January 1, 2012.

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158 ===== T I T L E A M E N D M E N T =====

159 And the title is amended as follows:

160 Delete everything before the enacting clause
161 and insert:

162 A bill to be entitled
163 An act relating to tax credits for research and
164 development; amending s. 220.13, F.S.; redefining the
165 term "adjusted federal income" to include the amount
166 of a certain research and development tax credit;
167 creating s. 220.194, F.S.; providing definitions;
168 providing a tax credit for certain research and
169 development expenses; providing eligibility
170 requirements for research and development tax credits;
171 providing limitations regarding eligibility; providing
172 an amount for such credit; providing a maximum amount
173 of credit that may be taken during a taxable year by a
174 business enterprise; providing that any unused credit
175 may be carried forward for a specified period;
176 limiting the total amount of tax credits which may be
177 approved by the department in a calendar year;
178 providing that applications for credits may be filed
179 on or after a specified date; requiring that the
180 credits be granted in the order in which applications
181 are received; requiring the recalculation of a credit
182 under certain circumstances; authorizing the
183 department to adopt rules; amending s. 220.02, F.S.;
184 revising legislative intent to include the research
185 and development tax credit in the ordered list
186 according to which credits against corporate income



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tax or franchise tax are applied; providing for
application; providing an effective date.