A bill to be entitled

An act relating to the capital investment tax credit; amending s. 220.191, F.S.; revising the definition of the term "qualifying project"; deleting a provision prohibiting the use of tax credits by certain affiliated companies or related entities under certain circumstances; providing a maximum amount of capital investment tax credits that may be granted annually; providing an effective date.

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

Section 1. Paragraph (g) of subsection (1) and paragraphs (a) and (c) of subsection (3) of section 220.191, Florida Statutes, are amended, and subsection (9) is added to that section to read:

220.191 Capital investment tax credit.—

(1) DEFINITIONS.—For purposes of this section:

(g) "Qualifying project" means a facility in this state meeting one or more of the following criteria:

1. A new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the Department of Economic Opportunity pursuant to s. 288.108(6), including, but not limited to, aviation, aerospace, automotive, and silicon technology industries.

However, between July 1, 2011, and June 30, 2014, the requirement that a facility be in a high-impact sector is waived for any otherwise eligible business from another state which locates all or a portion of its business to a Disproportionally Affected County. For purposes of this section, the term "Disproportionally Affected County" means Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County.

2. A new or expanded facility in this state <u>that</u> ~~which~~ is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2) and <u>that</u> ~~which~~ is induced by this credit to create ~~or retain at least 1,000 jobs in this state, provided that~~ at least 100 ~~of those~~ jobs <u>paying</u> ~~are new, pay~~ an annual average wage of at least <u>115</u> ~~130~~ percent of the average private sector wage in the area as defined in s. 288.106(2), and make a cumulative capital investment of at least $100 million. ~~Jobs may be considered retained only if there is significant evidence that the loss of jobs is imminent. Notwithstanding subsection (2), annual credits against the tax imposed by this chapter may not exceed 50 percent of the increased annual corporate income tax liability or the premium tax liability generated by or arising out of a project qualifying under this subparagraph. A facility that qualifies under this subparagraph for an annual credit against the tax imposed by this chapter may take the tax credit for a period not to exceed 5 years.~~

3. A new or expanded facility in this state that is engaged in a target industry designated pursuant to the procedure specified in s. 288.106(2) and that is induced by this credit to create at least 1,000 jobs paying an annual wage of at least 100 percent of the average private sector wage in the area as defined in s. 288.106(2), and make a cumulative capital investment of at least $100 million.

4.~~3.~~ A new or expanded headquarters facility in this state which locates in an enterprise zone and brownfield area and is induced by this credit to create at least 1,500 jobs which on average pay at least 200 percent of the statewide average annual private sector wage, as published by the Department of Economic Opportunity, and which new or expanded headquarters facility makes a cumulative capital investment in this state of at least $250 million.

5. An existing facility that makes a cumulative capital investment in this state of at least $25 million.

(3)(a) Notwithstanding subsection (2), an annual credit against the tax imposed by this chapter shall be granted to a qualifying business which establishes a qualifying project pursuant to subparagraph (1)(g)4. ~~(1)(g)3.~~, in an amount equal to the lesser of $15 million or 5 percent of the eligible capital costs made in connection with a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The tax credit shall be granted against the corporate income tax liability of the qualifying business and as further provided in paragraph (c). The total tax credit provided pursuant to this subsection shall be equal to no more than 100 percent of the eligible capital costs of the qualifying project.

(c) The credit granted under this subsection may be used in whole or in part by the qualifying business or any corporation that is either a member of that qualifying business's affiliated group of corporations, is a related entity taxable as a cooperative under subchapter T of the Internal Revenue Code, or, if the qualifying business is an entity taxable as a cooperative under subchapter T of the Internal Revenue Code, is related to the qualifying business. Any entity related to the qualifying business may continue to file as a member of a Florida-nexus consolidated group pursuant to a prior election made under s. 220.131(1), Florida Statutes (1985), even if the parent of the group changes due to a direct or indirect acquisition of the former common parent of the group. Any credit can be used by any of the affiliated companies or related entities referenced in this paragraph to the same extent as it could have been used by the qualifying business. ~~However, any such use shall not operate to increase the amount of the credit or extend the period within which the credit must be used.~~

(9) The total amount of tax credits granted under this section may not exceed $50 million annually.

Section 2. This act shall take effect July 1, 2014.