

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1244

INTRODUCER: Senator Calatayud

SUBJECT: Research and Development Tax Credit

DATE: March 7, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 1244 increases the combined amount of tax credits which may be awarded to qualified businesses for research and development under s. 220.196, F.S., from \$9 million to \$50 million in any calendar year and provides that the increase first applies to the 2026 allocation of tax credits for expenses incurred in the 2025 calendar year.

The Revenue Estimating Conference (REC) has not considered the bill. However, the REC reviewed a substantially similar bill in 2022, and it was determined that the bill would reduce General Revenue receipts by \$41 million in Fiscal Year 2022-2023 and by \$41 million in future years.

The bill takes effect July 1, 2025.

II. Present Situation:

Federal Tax Credit

The U.S. Research and Experimentation Tax Credit (R&D)¹ was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage American taxpayers' investment and savings during an

¹ The U.S. Research and Experimentation Tax Credit is also known as the Research and Development Tax Credit, 26 U.S.C. § 41, Credit for increasing research activities.

economic recession.² In 2015, the Protecting Americans from Tax Hikes (PATH) Act permanently extended the R&D after 16 temporary extensions.³

In September 2021, the Internal Revenue Service (IRS) issued a *Memorandum* containing new guidance for taxpayers applying for a research credit refund. The memorandum described new requirements for increased documentation and more detailed information, including a declaration under the penalty of perjury verifying that the information and facts provided by the taxpayer are accurate.⁴ To qualify as a valid research credit claim request, the taxpayer, at a minimum must:

- Identify all the business components to which the I.R.C. § 41 research credit claim relates for that year.
- For each business component,
 - Identify all research activities performed;
 - Identify all individuals who performed each research activity; and
 - Identify all the information each individual sought to discover.
- Provide the total qualified employee wage expenses, total qualified supply expenses, and total qualified contract research expenses for the claim year.⁵

These changes remained in a grace period until January 10, 2022. Then, they transitioned to a one-year transition period, which was subsequently extended for an additional two years through January 10, 2025. During this period, the IRS provided taxpayers 45 days to perfect research credit claims for refund prior to a final determination by the IRS.⁶

Florida Tax Credit

Florida law authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses.⁷ Under the federal definition, a qualified research expense includes in-house research expenses, including any wages paid or incurred to employees, supplies used in the conduct of qualified research, and any amounts paid or incurred to another person for the right to use computers in the conduct of qualified research.⁸

A business is eligible for the tax credit if it:

- Has qualified research expenses in Florida in the taxable year exceeding the base amount;⁹

² Francisco Moris, National Science Foundation Report, *The U.S. Research and Experimentation Tax Credit in the 1990s* (July 2005), available at <https://wayback.archive-it.org/5902/20150627200929/http://www.nsf.gov/statistics/infbrief/nsf05316/> (last visited March 7, 2025).

³ U.S. Department of Treasury, Office of Tax Analysis, *Research and Experimentation (R&E) Credit*, Oct. 12, 2016, available at <https://home.treasury.gov/system/files/131/RE-Credit.pdf> (last visited March 7, 2025).

⁴ Internal Revenue Service, Office of the Chief Counsel, *Memorandum Relating to I.R.C. § 41 Research Credit Refund Claims* (September 17, 2021), available at <https://www.irs.gov/pub/irs-lafa/20214101f.pdf> (last visited March 7, 2025).

⁵ *Id.*

⁶ Internal Revenue Service, *Research Credit Claims (Section 41) on Amended Returns Frequently Asked Questions*, available at <https://www.irs.gov/businesses/corporations/research-credit-claims-section-41-on-amended-returns-frequently-asked-questions#:~:text=The%20IRS%20provided%20a%20grace,Research%20Credit%20claims%20for%20refund.> (last visited March 7, 2025).

⁷ Section 220.196(1)(c), F.S. “Qualified research expenses” is defined as research expenses qualifying for the credit under federal law for in-house research expenses incurred in Florida or contract research expenses incurred in Florida.

⁸ See 26 U.S.C. § 41(b). Credit for increasing qualified research; qualified research expenses.

⁹ “Base amount” means the average of the business’ qualified research expenses in Florida allowed under 26 U.S.C s. 41 for the preceding 4 taxable years. Section 220.196(1)(a), F.S.

- Claims, and is allowed, a research credit for such qualified expenses under federal law for the same taxable year; and
- Is a qualified target industry as defined in former s. 288.106(2)(n) (2022), F.S.,¹⁰ specifically manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials sciences, or nanotechnology.¹¹

The tax credit is 10 percent of the difference between the current tax year's R&D expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed for fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.¹² The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied.¹³ Any unused credits may be carried forward by the business for up to five years following the year in which the qualified research expenses were incurred.¹⁴

Currently, the maximum amount of R&D credits that may be approved by the Department of Revenue (DOR) during any calendar year is \$9 million. Applications for the credit may be filed with the DOR on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.¹⁵ Eligible taxpayers are notified of the amount of credit allocated to them and the year for which the credit may be claimed.

According to the DOR's 2024 R&D Allocation Report (the latest report available), for calendar year 2023, the DOR received 153 applications requesting a total of \$88,468,627 in credit. Of the 153 applications, 141 were approved, with the applicants receiving an allocation of the available \$9 million in credit. Each applicant received approximately 10.9 percent of the amount of credit determined in their applications. The 141 approved applications requested \$82,659,847 in credit.¹⁶

III. Effect of Proposed Changes:

The bill amends s. 220.196, F.S., to increase the total amount of annual R&D credits available each calendar year from \$9 million to \$50 million in any calendar year and provides that the increase first applies to the 2026 allocation of tax credits for expenses incurred in the 2025 calendar year.

The bill removes obsolete language relating to the 2018 calendar year.

¹⁰ A target industry business is defined as a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to criteria developed by the Department of Commerce. Former s. 288.106(2)(n), F.S. The Qualified Target Industry Tax Refund Program was repealed in 2023 by ch. 2023-173, Laws of Fla.

¹¹ See s. 220.196(2)(a)3., F.S.

¹² Section 220.196(2)(b), F.S.

¹³ Section 220.196(2)(c), F.S.

¹⁴ Section 220.196(2)(d), F.S.

¹⁵ Section 220.196(2)(e), F.S.

¹⁶ Department of Revenue, *Research and Development Tax Credit for Florida Corporate Income Tax, 2024 Allocation Report*, available at <https://floridarevenue.com/taxes/Documents/flCitRDCredit.pdf> (last visited March 7, 2025).

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature requiring counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. This bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a shared state tax. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The REC has not reviewed the bill. However, a substantially similar bill was reviewed in 2022. The REC estimated that the bill would reduce General Revenue Fund receipts by \$41 million in Fiscal Year 2022-2023 and \$41 million in future years.¹⁷

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

¹⁷ Revenue Estimating Conference, CS/SB 952, Increase of R&D Tax Credit Cap (2022), available at https://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/_pdf/page273-274.pdf (last visited March 7, 2025).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 220.196 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.