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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/25/2008	.	
	.	
	.	

1 The Committee on Commerce (Oelrich) recommended the following
 2 **amendment:**

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. Section 220.194, Florida Statutes, is created
 8 to read:

9 220.194 Research and development tax credit.--

10 (1) (a) The Legislature finds that research and development
 11 has become the underlying source of wealth in the 21st century
 12 by generating ideas and technologies that encourage productivity
 13 and economic growth. Furthermore, companies generate the main
 14 body of growth-stimulating innovations, making current ideas and

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15 technologies more market-sensitive than other sources of
16 research and development.

17 (b) The Legislature further finds that research and
18 development tax credits provide incentives for corporate
19 research and development beyond expected levels. Research
20 demonstrates that the federal research and development tax
21 credit an effective tool for stimulating additional research and
22 development, which in turn leads to faster economic growth, and
23 state research and development tax credit programs are nearly as
24 important to corporate research and development as the federal
25 research and development tax credit program. Also, the typical
26 state research and development tax credit program increases
27 general, company-funded research and development within a state,
28 often enhancing the state's competitiveness by enabling it to
29 draw research and development activity away from other states.

30 (c) Additionally, the Legislature finds that this state
31 needs a state research and development tax credit program to
32 ensure economic competition. More than half of the states of
33 this nation have a research and development tax credit program.
34 Without a state research and development tax credit program,
35 Florida lags behind the rest of the nation in important
36 corporate research and development.

37 (d) There is created within the Department of Revenue the
38 research and development tax credit program for the purposes of
39 encouraging corporate research and development activity within
40 the state, sharpening the state's competitive edge by leveling
41 the playing field with the state's regional and national
42 economic competitors, supporting the state's vibrant innovation



43 economy, and attracting high-wage, professional research jobs to
44 this state.

45 (2) DEFINITIONS.--As used in this section, the term:

46 (a) "Base amount" means the amount resulting from the
47 following calculation:

48 1. The average of the business enterprise's qualified
49 research expenses in this state allowed under section 41 of the
50 Internal Revenue Code for the 4 taxable years preceding the
51 taxable year for which the credit is being determined.

52 2. The qualified research expenses taken into account in
53 computing the base amount shall be determined on a basis
54 consistent with the determination of qualified research expenses
55 for the credit year.

56 (b) "Business enterprise" means any corporation that is
57 engaged in the manufacturing, transportation and warehousing,
58 telecommunications, tourism, or research and development
59 industries in this state, including retail businesses.

60 (c) "Qualified research expenses" means research expenses
61 qualifying for the credit under section 41 of the Internal
62 Revenue Code and allocated for in-house research expenses
63 incurred in this state or contract research expenses incurred in
64 this state. The term does not include research conducted outside
65 this state, research that is excluded under section 41 of the
66 Internal Revenue Code, or research conducted by a business
67 enterprise that is not within its principal business activity.

68 (d) "Manufacturing industry" means corporations clearly
69 engaged in manufacture which, during all years of the base

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70 period reports, list the principal business activity codes for
71 manufacturing on their federal income tax returns.

72 (e) "Transportation and warehousing industry" means
73 corporations clearly engaged in transportation or warehousing
74 business which, during all years of the base period reports,
75 list the principal business activity codes for transportation
76 and warehousing on their federal income tax returns.

77 (f) "Telecommunications industry" means corporations
78 clearly engaged in the telecommunications business which, during
79 all years of the base period reports, list the principal
80 business activity codes for telecommunications on their federal
81 income tax returns.

82 (g) "Tourism industry" means corporations clearly engaged
83 in the tourism business which, during all years of the base
84 period reports, list the principal business activity codes for
85 arts, entertainment, and recreation or accommodations on their
86 federal income tax returns.

87 (h) "Retail industry" means corporations clearly engaged
88 in the retail business which, during all years of the base
89 period reports, list the principal business activity codes for
90 retail trade on their federal income tax returns.

91 (i) "Research and development industry" means a
92 corporation clearly engaged in the research and development
93 business which, during all years of the base period reports,
94 list the principal business activity codes for scientific
95 research and development services on their federal income tax
96 returns.



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97 (j) "Base period" means the 4 taxable years preceding the
98 taxable year for which the credit is being determined. If a
99 corporation has not been in existence for the entire base
100 period, then the credit shall be reduced by 25 percent for each
101 of those years unless the corporation establishes that its
102 predecessor was a corporation meeting the requirements of
103 paragraph (b) during that part of the base period.

104 (3) TAX CREDIT.--Subject to the limitations contained in
105 paragraph (e), a business enterprise is eligible for a credit
106 against the tax imposed by this chapter if such business
107 enterprise has qualified research expenses in this state in the
108 calendar year exceeding the base amount and, for the same
109 calendar year, claims and is allowed a research credit for such
110 qualified research expenses under section 41 of the Internal
111 Revenue Code.

112 (a) The tax credit shall be 10 percent of the excess
113 qualified research expenses over the base amount.

114 (b) The credit taken in any single tax year may not exceed
115 50 percent of the business enterprise's remaining net income tax
116 liability under this chapter after all other credits have been
117 applied under s. 220.02(8).

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

122 (d) Any unused credit authorized pursuant to this section
123 may be assigned or sold to another taxpayer as defined in s.
124 220.03 in this state if a claim for the allowance has not been

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125 filed within 1 calendar year following the date on which the
126 department approved the credit. The business enterprise and the
127 purchaser or assignee must file an application, waivers of
128 confidentiality, and affidavits to transfer the credit on a form
129 provided by the department and obtain the prior approval of the
130 department for such transfer. The department may not
131 unreasonably withhold such approval. The purchaser or assignee
132 must use the tax credit in the taxable year in which the
133 purchase or assignment of the credit is made. The transfer or
134 purchase of any amount of the tax credit may not be exchanged
135 for less than 75 percent of the credit's value.

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

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

150 Section 2. Subsection (8) of section 220.02, Florida
151 Statutes, is amended to read:

152 220.02 Legislative Intent.--



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153 (8) It is the intent of the Legislature that credits
 154 against either the corporate income tax or the franchise tax be
 155 applied in the following order: those enumerated in s. 631.828,
 156 those enumerated in s. 220.191, those enumerated in s. 220.181,
 157 those enumerated in s. 220.183, those enumerated in s. 220.182,
 158 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 159 those enumerated in s. 220.184, those enumerated in s. 220.186,
 160 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 161 those enumerated in s. 220.185, those enumerated in s. 220.187,
 162 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
 163 220.193, and those enumerated in s. 220.194.

164 Section 3. This act shall take effect July 1, 2008, and is
 165 effective for tax years beginning on or after January 1, 2009.
 166

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

168 And the title is amended as follows:

169 Delete everything before the enacting clause
 170 and insert:

171 A bill to be entitled
 172 An act relating to tax credits for research and
 173 development; creating s. 220.194, F.S.; providing
 174 legislative findings; creating the research and
 175 development tax credit program; providing purposes for the
 176 program; defining the terms "base amount," "business
 177 enterprise," "qualified research expenses," "manufacturing
 178 industry," "transportation and warehousing industry,"
 179 "telecommunications industry," "tourism industry," "retail
 180 industry," "research and development industry," and "base



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181 period"; providing eligibility requirements for research
182 and development tax credits; providing limitations
183 regarding eligibility; providing an amount for such
184 credit; providing a maximum amount of credit that may be
185 taken during a single tax year; providing that any unused
186 credit may be carried forward for a specified period;
187 authorizing the sale or assignment of unused credit to
188 certain taxpayers under certain conditions; requiring that
189 a party to a sale or assignment file certain information
190 and documents with the department; requiring that parties
191 to a sale or assignment obtain the department's approval
192 before completing such sale or assignment; prohibiting the
193 department from unreasonable withholding such approval;
194 providing requirements for the use tax credits sold or
195 assigned; limiting the total amount of tax credits that
196 may be assigned in a calendar year; providing that
197 applications for credits may be filed on or after a
198 specified date; providing that such credits shall be
199 granted in the order in which applications are received;
200 authorizing the department to adopt rules; amending s.
201 220.02, F.S.; revising legislative intent to include the
202 research and development tax credit in the ordered list
203 according to which credits against corporate income tax or
204 franchise tax are applied; providing an effective date.