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1 A bill to be entitled
2 An act relating to small business growth; amending s.
3 220.02, F.S.; revising the order in which credits
4 against the corporate income tax or franchise tax may
5 be taken to include certain credits relating to a
6 corporation's execution of a business contract with a
7 small business; amending s. 220.13, F.S.; redefining
8 the term "adjusted federal income" to include the
9 amount of such tax credits; creating s. 220.1945,
10 F.S.; providing definitions; providing tax credits for
11 use by a corporation against the state corporate
12 income tax in an amount equal to a specified
13 percentage of the corporation's payments to a small
14 business providing goods or services to the
15 corporation pursuant to a contract; providing
16 qualification criteria; requiring a business to submit
17 an application to the Department of Economic
18 Opportunity for approval to earn credits; providing
19 application requirements; providing procedures and
20 requirements for department approval; specifying the
21 amount of the tax credit; prohibiting tax credits from
22 being carried forward or backward or being transferred
23 or sold; providing criminal and administrative
24 penalties for fraudulently claiming tax credits;
25 authorizing the Department of Economic Opportunity and
26 the Department of Revenue to adopt rules; providing an
27 effective date.
28

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

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

33 220.02 Legislative intent.—

34 (8) It is the intent of the Legislature that credits
 35 against either the corporate income tax or the franchise tax be
 36 applied in the following order: those enumerated in s. 631.828,
 37 those enumerated in s. 220.191, those enumerated in s. 220.181,
 38 those enumerated in s. 220.183, those enumerated in s. 220.182,
 39 those enumerated in s. 220.1895, those enumerated in s. 220.195,
 40 those enumerated in s. 220.184, those enumerated in s. 220.186,
 41 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 42 those enumerated in s. 220.185, those enumerated in s. 220.1875,
 43 those enumerated in s. 220.192, those enumerated in s. 220.193,
 44 those enumerated in s. 288.9916, those enumerated in s.
 45 220.1899, those enumerated in s. 220.1896, those enumerated in
 46 s. 220.194, ~~and~~ those enumerated in s. 220.196, and those
 47 enumerated in s. 220.1945.

48 Section 2. Paragraph (a) of subsection (1) of section
 49 220.13, Florida Statutes, is amended to read:

50 220.13 "Adjusted federal income" defined.—

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

56 (a) Additions.—There shall be added to such taxable

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57 income:

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

63 2. The amount of interest which is excluded from taxable
64 income under s. 103(a) of the Internal Revenue Code or any other
65 federal law, less the associated expenses disallowed in the
66 computation of taxable income under s. 265 of the Internal
67 Revenue Code or any other law, excluding 60 percent of any
68 amounts included in alternative minimum taxable income, as
69 defined in s. 55(b)(2) of the Internal Revenue Code, if the
70 taxpayer pays tax under s. 220.11(3).

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

75 4. That portion of the wages or salaries paid or incurred
76 for the taxable year which is equal to the amount of the credit
77 allowable for the taxable year under s. 220.181. This
78 subparagraph shall expire on the date specified in s. 290.016
79 for the expiration of the Florida Enterprise Zone Act.

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

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85 6. The amount taken as a credit under s. 220.195 which is
86 deductible from gross income in the computation of taxable
87 income for the taxable year.

88 7. That portion of assessments to fund a guaranty
89 association incurred for the taxable year which is equal to the
90 amount of the credit allowable for the taxable year.

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

96 9. The amount taken as a credit for the taxable year under
97 s. 220.1895.

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

101 11. The amount taken as a credit for the taxable year
102 under s. 220.1875. The addition in this subparagraph is intended
103 to ensure that the same amount is not allowed for the tax
104 purposes of this state as both a deduction from income and a
105 credit against the tax. This addition is not intended to result
106 in adding the same expense back to income more than once.

107 12. The amount taken as a credit for the taxable year
108 under s. 220.192.

109 13. The amount taken as a credit for the taxable year
110 under s. 220.193.

111 14. Any portion of a qualified investment, as defined in
112 s. 288.9913, which is claimed as a deduction by the taxpayer and

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113 taken as a credit against income tax pursuant to s. 288.9916.

114 15. The costs to acquire a tax credit pursuant to s.
115 288.1254(5) that are deducted from or otherwise reduce federal
116 taxable income for the taxable year.

117 16. The amount taken as a credit for the taxable year
118 pursuant to s. 220.194.

119 17. The amount taken as a credit for the taxable year
120 under s. 220.196. The addition in this subparagraph is intended
121 to ensure that the same amount is not allowed for the tax
122 purposes of this state as both a deduction from income and a
123 credit against the tax. The addition is not intended to result
124 in adding the same expense back to income more than once.

125 18. The amount taken as a credit for the taxable year
126 pursuant to s. 220.1945.

127 Section 3. Section 220.1945, Florida Statutes, is created
128 to read:

129 220.1945 Corporate tax credit for corporations contracting
130 with small businesses.-

131 (1) For the purposes of the credit provided in this
132 section, the term:

133 (a) "Business contract" means a written agreement between
134 a corporation and a small business.

135 (b) "Corporation" means a business that employs 300 or
136 more full-time employees in this state, not including a
137 financial organization as defined in s. 220.15(6) or a bank,
138 savings association, international banking facility, or banking
139 organization as defined in s. 220.62.

140 (c) "Department" means the Department of Economic

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141 Opportunity.

142 (d) "Job" means a full-time position as consistent with
143 terms used by the Department of Economic Opportunity and the
144 United States Department of Labor for purposes of unemployment
145 compensation tax administration and employment estimation
146 resulting directly from a business operation in this state.

147 (e) "New employee" means a person who begins a full-time
148 job within a small business but does not include any person who
149 has been employed during the preceding 12 months in a full-time
150 job within the small business.

151 (f)1. "Small business" means a business that employs 25 or
152 fewer full-time employees in the state and 25 or fewer full-time
153 employees outside of the state.

154 2. A business that initially qualifies as a small business
155 under subparagraph 1. remains qualified as a small business if,
156 as a result of the business's fulfillment of the requirements of
157 subparagraph (3)(c)4., the business employs more than 25 full-
158 time employees.

159 (2) Upon an affirmative showing by a corporation and a
160 small business to the satisfaction of the department that the
161 requirements of this section have been met, the corporation is
162 eligible for a credit against its corporate income tax liability
163 under s. 220.11.

164 (3) In order to qualify for the credits provided in this
165 section:

166 (a) A corporation must execute a business contract for the
167 purchase of goods or services with a small business. The terms
168 of the business contract must include, but are not limited to,

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169 the following:

170 1. The corporation must pay at least \$100,000 to the small
171 business for goods or services within 1 year after the business
172 contract is signed by both the corporation and the small
173 business.

174 2. The small business must hire, within 60 days after the
175 business contract is signed by both the corporation and the
176 small business, at least two new employees for 1 year.

177 (b) The corporation and the small business must be
178 unrelated parties that were not engaged in a contractual
179 business relationship with each other before July 1, 2012.

180 (c) The corporation and the small business must file with
181 the department, within 90 days after the business contract is
182 signed by both the corporation and the small business, an
183 application including, but not limited to, the following:

184 1. A business contract signed by both the corporation and
185 the small business.

186 2. The names, addresses, and salary or hourly wages paid
187 to all employees of the small business within the past year.

188 3. The names, addresses, and salary or hourly wages paid
189 to any new employees of the small business after the signing of
190 the business contract by both the corporation and the small
191 business.

192 4. Evidence demonstrating to the department that the total
193 number of jobs at the small business grew by at least two after
194 the date the business contract was signed by both the
195 corporation and the small business.

196 (4) The department shall review the initial application

197 and, if necessary, notify the corporation and small business of
 198 any omissions and request additional information. An application
 199 is complete upon receipt of all requested information. The
 200 department shall provisionally certify, within 10 working days,
 201 all complete applications containing the information required
 202 under this section. A copy of the provisional certification
 203 shall be transmitted to the executive director of the Department
 204 of Revenue. The department shall also inform the corporation and
 205 the small business in writing within 10 working days after the
 206 date that the department provisionally certifies an application.

207 (5) (a) Within 60 days after satisfying the terms of the
 208 business contract, the corporation and the small business must
 209 notify the department, in writing, that:

210 1. All of the conditions required under this section have
 211 been met.

212 2. The corporation intends to claim the credit authorized
 213 under this section against its corporate income tax liability
 214 under s. 220.11 on the first return due after receipt of final
 215 approval from the department.

216 (b) It is the responsibility of the corporation and the
 217 small business to affirmatively demonstrate to the satisfaction
 218 of the department that the conditions of this section have been
 219 met.

220 (6) (a) After final certification by the department, the
 221 corporation may take a credit against its corporate income tax
 222 liability under s. 220.11 equal to 10 percent of the payments
 223 made to the small business during the taxable year under the
 224 terms of the business contract.

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225 (b) A corporation may not claim a tax credit in excess of
226 its corporate income tax liability under s. 220.11. If the
227 credit granted under this section is not fully taken in any
228 single year because of insufficient tax liability on the part of
229 the corporation, the unused amount may not be carried forward or
230 backward.

231 (c) The credits earned under this section may not be sold
232 or transferred.

233 (7) Any corporation that fraudulently claims to be
234 qualified for tax credits under this section commits a
235 misdemeanor of the second degree, punishable as provided in s.
236 775.082 or s. 775.083. In addition, the corporation is
237 administratively liable for repayment of any tax credits
238 fraudulently taken plus a mandatory penalty of 100 percent of
239 the credit plus interest at the rate provided in this chapter.

240 (8) The department and the Department of Revenue may adopt
241 rules to administer this section.

242 Section 4. This act shall take effect January 1, 2013.