

By Senator Haridopolos

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1 A bill to be entitled
2 An act relating to corporate income tax; creating s.
3 220.194, F.S.; establishing credits against the
4 corporate income tax for certain taxpayers that
5 operate or provide investments for a spaceflight
6 project; providing definitions for purposes of the tax
7 credits; establishing eligibility requirements for the
8 tax credits; allowing for the carryforward of tax
9 credits under certain circumstances; providing
10 application and certification requirements; requiring
11 the Office of Tourism, Trade, and Economic Development
12 to determine the eligibility of taxpayers; providing
13 for the expiration and renewal of a taxpayer's
14 eligibility for tax credits; providing for
15 administration and auditing of tax credits by the
16 Department of Revenue; requiring the return and
17 deposit of tax credits under certain circumstances;
18 requiring the office to consult with Space Florida and
19 adopt rules for tax credit applications and
20 certifications; authorizing the department to adopt
21 rules for tax administration, claims and transfers of
22 tax credits, auditing, and reporting; amending s.
23 14.2015, F.S.; revising the duties of the office to
24 include administration of the tax credits created by
25 the act; amending s. 220.02, F.S.; revising
26 legislative intent relating to the order for applying
27 tax credits; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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

220.194 Corporate income tax credits for spaceflight projects.-

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

(a) "Eligible costs" means all costs, fees, charges, expenses, and amounts incurred by a spaceflight business that are related to development of a spaceflight project.

(b) "Job" means a full-time equivalent position resulting directly from a spaceflight project.

(c) "Launch" means to place or attempt to place a launch vehicle or reentry vehicle and any payload from Earth into a suborbital trajectory, into Earth orbit in outer space, or otherwise into outer space.

(d) "Launch service" means an activity related to the preparation of a launch vehicle and any payload for launch and the conduct of a launch.

(e) "Outer space" means an altitude of at least 50 miles above the Earth's surface.

(f) "Payload" means an object that a spaceflight business undertakes to place in outer space by means of a launch vehicle or reentry vehicle, including components of the vehicle specifically designed or adapted for the object.

(g) "Reentry" means to return or attempt to return a reentry vehicle and any payload from Earth orbit, or from outer space, to Earth.

(h) "Reentry service" means an activity related to the preparation of a reentry vehicle and any payload for reentry and

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59 conduct of the reentry.

60 (i) "Spaceflight business" means a business that has its
61 principal place of business in the state and that designs or
62 manufactures a launch vehicle, reentry vehicle, or components
63 thereof; that provides a launch service or reentry service; or
64 that provides the payload for a launch vehicle or reentry
65 vehicle.

66 (j) "Spaceflight project" means an activity performed in a
67 spaceport territory by a spaceflight business related to the
68 launch or reentry of a launch vehicle or reentry vehicle. The
69 term includes a launch service or reentry service.

70 (k) "Spaceport territory" has the same meaning as defined
71 in s. 331.303.

72 (l) "Successful launch" means a launch that successfully
73 places a launch vehicle or reentry vehicle and any payload from
74 Earth into a suborbital trajectory, into Earth orbit in outer
75 space, or otherwise into outer space.

76 (m) "Taxpayer" has the same meaning as defined in s.
77 220.03.

78 (2) TAX CREDITS.—For tax years beginning on or after
79 January 1, 2010:

80 (a) A credit against the tax imposed by this chapter in an
81 amount equal to the eligible costs, and the ad valorem taxes
82 paid in a spaceport territory, shall be granted to a spaceflight
83 business that:

84 1. Creates and maintains at least 25 net new jobs in a
85 spaceport territory during the previous 3 years; and

86 2. Invests a cumulative total of at least \$45 million in
87 any spaceflight projects during the previous 3 years.

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88 (b) A credit against the tax imposed by this chapter shall
89 be granted to a spaceflight business eligible for credit under
90 paragraph (a) whose spaceflight project resulted in a successful
91 launch within the previous 10 years and that incurs net
92 operating losses. If credit granted under this paragraph is not
93 fully used in any one tax year because of insufficient tax
94 liability, the unused amount may be carried forward as provided
95 in this paragraph. The amount of the credit is equal to:

96 1. One hundred percent of the net operating losses incurred
97 by a spaceflight business during the first year of operations in
98 any spaceport territory. The unused amount of the credit may be
99 carried forward for up to 10 years.

100 2. One hundred percent of the net operating losses incurred
101 by a spaceflight business during its second year of operations
102 in any spaceport territory. The unused amount of the credit may
103 be carried forward for up to 7 years.

104 3. One hundred percent of the net operating losses incurred
105 by a spaceflight business during its third year of operations in
106 any spaceport territory. The unused amount of the credit may be
107 carried forward for up to 6 years.

108 4. Fifty percent of the net operating losses incurred by a
109 spaceflight business during its fourth or subsequent year of
110 operations in any spaceport territory. The unused amount of the
111 credit may be carried forward for up to 5 years.

112
113 A taxpayer or subsequent transferee allowed a tax credit under
114 this paragraph may transfer any part of the credit to any
115 taxpayer by written agreement. The transferee is entitled to
116 apply the credits against the tax with the same effect as if the

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117 transferee had incurred the net operating losses.

118 (c) A credit against the tax imposed by this chapter shall
119 be granted to a spaceflight business that creates and maintains
120 at least one net new job in a spaceport territory. The amount of
121 the credit is equal to 10 percent of the annual wages paid by
122 the spaceflight business to each employee in a new job, not to
123 exceed \$7,500 per employee. Credit for each new job may be
124 claimed for 5 years.

125 (d) A credit against the tax imposed by this chapter shall
126 be granted to a taxpayer that invests a cumulative total of
127 machinery and equipment of at least \$500,000 in any spaceflight
128 projects. The amount of the credit is equal to 7.5 percent of
129 the annual investment of machinery and equipment, not to exceed
130 50 percent of the taxpayer's tax liability. If credit granted
131 under this paragraph is not fully used in any one tax year
132 because of insufficient tax liability, the unused amount may be
133 carried forward for up to 5 years.

134 (e) Except as provided in paragraph (d), or unless
135 transferred as provided in paragraph (b), credits awarded under
136 this section may only be granted against the corporate income
137 tax liability generated by or arising out of a spaceflight
138 project.

139 (f) Carryforward credit may be used in a subsequent year if
140 the tax imposed by this chapter for that year exceeds the credit
141 for which the taxpayer is eligible in that year after applying
142 the other credits and unused carryovers in the order provided by
143 s. 220.02(8).

144 (g) A taxpayer that files a Florida consolidated return as
145 a member of an affiliated group under s. 220.131(1) may be

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146 allowed the credit on a consolidated return basis up to the
147 amount of tax imposed upon the consolidated group.

148 (h) It is the responsibility of the taxpayer to
149 affirmatively demonstrate to the satisfaction of the Department
150 of Revenue that the taxpayer is eligible for credit under this
151 section.

152 (3) APPLICATION AND CERTIFICATION.—To claim credit under
153 this section, a taxpayer must submit under oath to the Office of
154 Tourism, Trade, and Economic Development an application for tax
155 credit which includes the name and address of the taxpayer, the
156 total amount of credits sought, and information necessary to
157 demonstrate that the taxpayer meets the job creation,
158 investment, and other requirements of this section. The director
159 of the Office of Tourism, Trade, and Economic Development shall
160 determine the taxpayer's eligibility for the credits sought and
161 certify the determination to the Department of Revenue. The
162 taxpayer must attach the director's certification to the tax
163 return on which the credit is claimed.

164 (4) SPACEFLIGHT BUSINESS; EXPIRATION OF CREDIT; RENEWAL.—
165 Eligibility of a spaceflight business for credit under this
166 section shall expire 10 years after the director of the Office
167 of Tourism, Trade, and Economic Development certifies that the
168 spaceflight business is eligible for credit or 10 years after
169 the last successful launch that results from a spaceflight
170 project, whichever occurs later. A spaceflight business whose
171 eligibility expires under this subsection may renew its
172 eligibility upon a successful launch that results from a
173 spaceflight project.

174 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

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175 (a) In addition to its existing audit and investigative
176 authority, the Department of Revenue may perform any additional
177 financial and technical audits and investigations, including
178 examining the accounts, books, and records of the tax credit
179 applicant, that are necessary to verify the eligible costs
180 included in the tax credit return and to ensure compliance with
181 this section. The Office of Tourism, Trade, and Economic
182 Development shall provide technical assistance when requested by
183 the Department of Revenue on any technical audits or
184 examinations performed under this subsection.

185 (b) It is grounds for forfeiture of previously claimed and
186 received tax credits if the Department of Revenue determines, as
187 a result of either an audit or examination or from information
188 received from the Office of Tourism, Trade, and Economic
189 Development, that a taxpayer received tax credits under this
190 section to which the taxpayer was not entitled. The taxpayer is
191 responsible for returning forfeited tax credits to the
192 Department of Revenue, and any returned funds shall be deposited
193 in the General Revenue Fund.

194 (c) The Office of Tourism, Trade, and Economic Development
195 may revoke or modify any written decision granting eligibility
196 for tax credits under this section if it is discovered that the
197 tax credit applicant submitted any false statement,
198 representation, or certification in any application, record,
199 report, plan, or other document filed in an attempt to receive
200 tax credits under this section. The Office of Tourism, Trade,
201 and Economic Development shall immediately notify the Department
202 of Revenue of any revoked or modified orders affecting
203 previously granted tax credits. Additionally, the taxpayer must

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204 notify the Department of Revenue of any change in its tax credit
205 claimed.

206 (d) The taxpayer shall file with the Department of Revenue
207 an amended return or other report as the department prescribes
208 by rule and shall pay any required tax and interest within 60
209 days after the taxpayer receives notification from the Office of
210 Tourism, Trade, and Economic Development that previously
211 approved tax credits have been revoked or modified. If the
212 revocation or modification order is contested, the taxpayer
213 shall file an amended return or other report as provided in this
214 paragraph within 60 days after a final order is issued following
215 proceedings.

216 (e) A notice of deficiency may be issued by the Department
217 of Revenue at any time within 3 years after the taxpayer
218 receives formal notification from the Office of Tourism, Trade,
219 and Economic Development that previously approved tax credits
220 have been revoked or modified. If a taxpayer fails to notify the
221 Department of Revenue of any changes to its tax credit claimed,
222 a notice of deficiency may be issued at any time.

223 (6) RULES.—

224 (a) The Office of Tourism, Trade, and Economic Development,
225 in consultation with Space Florida, shall adopt rules under ss.
226 120.536(1) and 120.54 to administer this section, including
227 rules relating to the forms for certification of a taxpayer's
228 eligibility to claim a tax credit under this section and the
229 application and certification procedures, guidelines, and
230 requirements necessary to administer this section.

231 (b) The Department of Revenue may adopt rules under ss.
232 120.536(1) and 120.54 to administer this section, including

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233 rules relating to:

234 1. The forms required to claim a tax credit under this
235 section, the requirements and basis for establishing an
236 entitlement to a credit, and the examination and audit
237 procedures required to administer this section.

238 2. The implementation and administration of the provisions
239 allowing a transfer of a tax credit, including rules prescribing
240 forms, reporting requirements, and specific procedures,
241 guidelines, and requirements necessary to transfer a tax credit.

242 Section 2. Paragraph (f) of subsection (2) of section
243 14.2015, Florida Statutes, is amended to read:

244 14.2015 Office of Tourism, Trade, and Economic Development;
245 creation; powers and duties.-

246 (2) The purpose of the Office of Tourism, Trade, and
247 Economic Development is to assist the Governor in working with
248 the Legislature, state agencies, business leaders, and economic
249 development professionals to formulate and implement coherent
250 and consistent policies and strategies designed to provide
251 economic opportunities for all Floridians. To accomplish such
252 purposes, the Office of Tourism, Trade, and Economic Development
253 shall:

254 (f)1. Administer the Florida Enterprise Zone Act under ss.
255 290.001-290.016, the community contribution tax credit program
256 under ss. 220.183 and 624.5105, the tax refund program for
257 qualified target industry businesses under s. 288.106, the tax-
258 refund program for qualified defense contractors and space
259 flight business contractors under s. 288.1045, contracts for
260 transportation projects under s. 288.063, the sports franchise
261 facility program under s. 288.1162, the professional golf hall

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262 of fame facility program under s. 288.1168, the expedited
263 permitting process under s. 403.973, the Rural Community
264 Development Revolving Loan Fund under s. 288.065, the Regional
265 Rural Development Grants Program under s. 288.018, the Certified
266 Capital Company Act under s. 288.99, the Florida State Rural
267 Development Council, the Rural Economic Development Initiative,
268 the corporate income tax credits for spaceflight projects under
269 s. 220.194, and other programs that are specifically assigned to
270 the office by law, by the appropriations process, or by the
271 Governor. Notwithstanding any other provisions of law, the
272 office may expend interest earned from the investment of program
273 funds deposited in the Grants and Donations Trust Fund to
274 contract for the administration of the programs, or portions of
275 the programs, enumerated in this paragraph or assigned to the
276 office by law, by the appropriations process, or by the
277 Governor. Such expenditures shall be subject to review under
278 chapter 216.

279 2. The office may enter into contracts in connection with
280 the fulfillment of its duties concerning the Florida First
281 Business Bond Pool under chapter 159, tax incentives under
282 chapters 212 and 220, tax incentives under the Certified Capital
283 Company Act in chapter 288, foreign offices under chapter 288,
284 the Enterprise Zone program under chapter 290, the Seaport
285 Employment Training program under chapter 311, the Florida
286 Professional Sports Team License Plates under chapter 320,
287 Spaceport Florida under chapter 331, Expedited Permitting under
288 chapter 403, and in carrying out other functions that are
289 specifically assigned to the office by law, by the
290 appropriations process, or by the Governor.

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

293 220.02 Legislative intent.—

294 (8) It is the intent of the Legislature that credits
295 against either the corporate income tax or the franchise tax be
296 applied in the following order: those enumerated in s. 631.828,
297 those enumerated in s. 220.191, those enumerated in s. 220.181,
298 those enumerated in s. 220.183, those enumerated in s. 220.182,
299 those enumerated in s. 220.1895, those enumerated in s. 221.02,
300 those enumerated in s. 220.184, those enumerated in s. 220.186,
301 those enumerated in s. 220.1845, those enumerated in s. 220.19,
302 those enumerated in s. 220.185, those enumerated in s. 220.187,
303 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
304 220.193, and those enumerated in s. 220.194.

305 Section 4. This act shall take effect July 1, 2009.