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

26  
27   Be It Enacted by the Legislature of the State of Florida:  
28

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

31 220.194 Corporate income tax credits for spaceflight  
 32 projects.--

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

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

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

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

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

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

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

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

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

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

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

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

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

74 (m) "Taxpayer" has the same meaning as defined in s.  
75 220.03.

76 (2) TAX CREDITS.--For tax years beginning on or after  
77 January 1, 2010:

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

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

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

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

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

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

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

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

110  
111 A taxpayer or subsequent transferee allowed a tax credit under  
112 this paragraph may transfer any part of the credit to any  
113 taxpayer by written agreement. The transferee is entitled to  
114 apply the credits against the tax with the same effect as if the  
115 transferee had incurred the net operating losses.

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

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

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

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

142 (g) A taxpayer that files a Florida consolidated return as  
143 a member of an affiliated group under s. 220.131(1) may be  
144 allowed the credit on a consolidated return basis up to the  
145 amount of tax imposed upon the consolidated group.

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

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

162 (4) SPACEFLIGHT BUSINESS; EXPIRATION OF CREDIT;  
163 RENEWAL.--Eligibility of a spaceflight business for credit under  
164 this section shall expire 10 years after the director of the

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165 Office of Tourism, Trade, and Economic Development certifies  
166 that the spaceflight business is eligible for credit or 10 years  
167 after the last successful launch that results from a spaceflight  
168 project, whichever occurs later. A spaceflight business whose  
169 eligibility expires under this subsection may renew its  
170 eligibility upon a successful launch that results from a  
171 spaceflight project.

172 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF  
173 CREDITS.--

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

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

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

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

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



220 Department of Revenue of any changes to its tax credit claimed,  
 221 a notice of deficiency may be issued at any time.

222 (6) RULES.--

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

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

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,

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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.