

By the Committee on Military Affairs, Space, and Domestic Security; and Senator Altman

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1 A bill to be entitled
2 An act relating to corporate tax credits and refunds;
3 amending s. 14.2015, F.S.; authorizing the Office of
4 Tourism, Trade, and Economic Development to administer
5 corporate income tax credits for spaceflight projects;
6 amending s. 213.053, F.S.; authorizing the Department
7 of Revenue to share information relating to corporate
8 income tax credits for spaceflight projects with the
9 Office of Tourism, Trade, and Economic Development;
10 amending s. 220.02, F.S.; revising the order in which
11 credits against the corporate income tax or franchise
12 tax may be taken to include credits for spaceflight
13 projects; amending s. 220.13, F.S.; requiring that the
14 amount taken as a credit for a spaceflight project be
15 added to taxable income; prohibiting a deduction from
16 taxable income for any net operating loss taken as a
17 credit against corporate income taxes or transferred;
18 amending s. 220.16, F.S.; requiring that the amount of
19 payments received in exchange for transferring a net
20 operating loss for spaceflight projects be allocated
21 to the state; creating s. 220.194, F.S.; providing a
22 short title; providing legislative purpose; defining
23 terms; authorizing a certified spaceflight business to
24 take or transfer corporate income tax credits related
25 to spaceflight projects carried out in this state;
26 specifying tax credit amounts and business eligibility
27 criteria; providing limitations; requiring a business
28 to demonstrate to the satisfaction of the office and
29 the department its eligibility to claim a tax credit;

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30 requiring a business to submit an application to the
31 office for approval to earn credits; specifying the
32 required contents of the application; requiring the
33 office to approve or deny an application within 60
34 days after receipt; specifying the approval process;
35 requiring a spaceflight business to submit an
36 application for certification to the office;
37 specifying the required contents of an application for
38 certification; specifying the approval process;
39 requiring the office to submit a copy of an approved
40 certification to the department; providing procedures
41 for transferring a tax credit to a taxpayer;
42 authorizing the department to perform audits and
43 investigations necessary to verify the accuracy of
44 returns relating to the tax credit; specifying
45 circumstances under which the office may revoke or
46 modify a certification that grants eligibility for tax
47 credits; requiring a certified spaceflight business to
48 file an amended return and pay any required tax within
49 60 days after receiving notice that previously
50 approved tax credits have been revoked or modified;
51 authorizing the department to assess additional taxes,
52 interest, or penalties; authorizing the office and the
53 department to adopt rules; requiring the office to
54 submit an annual report to the Governor and
55 Legislature regarding the Florida Space Business
56 Incentives Act; repealing s. 288.1045(2)(c), F.S.,
57 relating to a limitation on the maximum amount of tax
58 refund a defense or space flight contractor may

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59 receive; amending s. 288.106, F.S.; deleting a
60 provision that limits the maximum amount of tax
61 refunds a qualified target industry may receive;
62 providing for application; providing an effective
63 date.

64

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

66

67 Section 1. Paragraph (f) of subsection (2) of section
68 14.2015, Florida Statutes, is amended to read:

69 14.2015 Office of Tourism, Trade, and Economic Development;
70 creation; powers and duties.-

71 (2) The purpose of the Office of Tourism, Trade, and
72 Economic Development is to assist the Governor in working with
73 the Legislature, state agencies, business leaders, and economic
74 development professionals to formulate and implement coherent
75 and consistent policies and strategies designed to provide
76 economic opportunities for all Floridians. To accomplish such
77 purposes, the Office of Tourism, Trade, and Economic Development
78 shall:

79 (f)~~1-~~ Administer the Florida Enterprise Zone Act under ss.
80 290.001-290.016, the community contribution tax credit program
81 under ss. 220.183 and 624.5105, the tax refund program for
82 qualified target industry businesses under s. 288.106, the tax-
83 refund program for qualified defense contractors and space
84 flight business contractors under s. 288.1045, contracts for
85 transportation projects under s. 288.063, the sports franchise
86 facility programs under ss. 288.1162 and 288.11621, the
87 professional golf hall of fame facility program under s.

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88 288.1168, the expedited permitting process under s. 403.973, the
89 Rural Community Development Revolving Loan Fund under s.
90 288.065, the Regional Rural Development Grants Program under s.
91 288.018, the Certified Capital Company Act under s. 288.99, the
92 Florida State Rural Development Council, the Rural Economic
93 Development Initiative, the corporate income tax credits for
94 spaceflight projects under s. 220.194, and other programs that
95 are specifically assigned to the office by law, by the
96 appropriations process, or by the Governor.

97 1. Notwithstanding any other provisions of law, the office
98 may expend interest earned from the investment of program funds
99 deposited in the Grants and Donations Trust Fund to contract for
100 the administration of the programs, or portions of the programs,
101 enumerated in this paragraph or assigned to the office by law,
102 by the appropriations process, or by the Governor. Such
103 expenditures are ~~shall be~~ subject to review under chapter 216.

104 2. The office may enter into contracts in connection with
105 the fulfillment of its duties concerning the Florida First
106 Business Bond Pool under chapter 159, tax incentives under
107 chapters 212 and 220, tax incentives under the Certified Capital
108 Company Act in chapter 288, foreign offices under chapter 288,
109 the Enterprise Zone program under chapter 290, the Seaport
110 Employment Training program under chapter 311, the Florida
111 Professional Sports Team License Plates under chapter 320,
112 Spaceport Florida under chapter 331, Expedited Permitting under
113 chapter 403, and in carrying out other functions that are
114 specifically assigned to the office by law, by the
115 appropriations process, or by the Governor.

116 Section 2. Paragraph (cc) is added to subsection (8) of

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117 section 213.053, Florida Statutes, to read:

118 213.053 Confidentiality and information sharing.—

119 (8) Notwithstanding any other provision of this section,
120 the department may provide:

121 (cc) Information relating to tax credits taken under s.
122 220.194 to the Office of Tourism, Trade, and Economic
123 Development or to Space Florida.

124

125 Disclosure of information under this subsection shall be
126 pursuant to a written agreement between the executive director
127 and the agency. Such agencies, governmental or nongovernmental,
128 shall be bound by the same requirements of confidentiality as
129 the Department of Revenue. Breach of confidentiality is a
130 misdemeanor of the first degree, punishable as provided by s.
131 775.082 or s. 775.083.

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

134 220.02 Legislative intent.—

135 (8) It is the intent of the Legislature that credits
136 against ~~either~~ the corporate income tax or the franchise tax be
137 applied in the following order: those enumerated in s. 631.828,
138 those enumerated in s. 220.191, those enumerated in s. 220.181,
139 those enumerated in s. 220.183, those enumerated in s. 220.182,
140 those enumerated in s. 220.1895, those enumerated in s. 221.02,
141 those enumerated in s. 220.184, those enumerated in s. 220.186,
142 those enumerated in s. 220.1845, those enumerated in s. 220.19,
143 those enumerated in s. 220.185, those enumerated in s. 220.1875,
144 those enumerated in s. 220.192, those enumerated in s. 220.193,
145 those enumerated in s. 288.9916, those enumerated in s.

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146 220.1899, ~~and~~ those enumerated in s. 220.1896, and those
147 enumerated in s. 220.194.

148 Section 4. Paragraphs (a) and (b) of subsection (1) of
149 section 220.13, Florida Statutes, are amended to read:

150 220.13 "Adjusted federal income" defined.—

151 (1) The term "adjusted federal income" means an amount
152 equal to the taxpayer's taxable income as defined in subsection
153 (2), or such taxable income of more than one taxpayer as
154 provided in s. 220.131, for the taxable year, adjusted as
155 follows:

156 (a) Additions.—~~The following~~ ~~There~~ shall be added to such
157 taxable income:

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

163 2. The amount of interest which is excluded from taxable
164 income under s. 103(a) of the Internal Revenue Code or any other
165 federal law, less the associated expenses disallowed in the
166 computation of taxable income under s. 265 of the Internal
167 Revenue Code or any other law, excluding 60 percent of any
168 amounts included in alternative minimum taxable income, as
169 defined in s. 55(b)(2) of the Internal Revenue Code, if the
170 taxpayer pays tax under s. 220.11(3).

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

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175 4. That portion of the wages or salaries paid or incurred
176 for the taxable year which is equal to ~~the amount of~~ the credit
177 allowable for the taxable year under s. 220.181. This
178 subparagraph expires ~~shall expire~~ on the date specified in s.
179 290.016 for the expiration of the Florida Enterprise Zone Act.

180 5. That portion of the ad valorem school taxes paid or
181 incurred for the taxable year which is equal to ~~the amount of~~
182 the credit allowable for the taxable year under s. 220.182. This
183 subparagraph expires ~~shall expire~~ on the date specified in s.
184 290.016 for the expiration of the Florida Enterprise Zone Act.

185 6. The amount of emergency excise tax paid or accrued as a
186 liability to this state under chapter 221 which tax is
187 deductible from gross income in the computation of taxable
188 income for the taxable year.

189 7. That portion of assessments to fund a guaranty
190 association incurred for the taxable year which is equal to ~~the~~
191 ~~amount of~~ the credit allowable for the taxable year.

192 8. In the case of a nonprofit corporation that ~~which~~ holds
193 a pari-mutuel permit and ~~which~~ is exempt from federal income tax
194 as a farmers' cooperative, an amount equal to the excess of the
195 gross income attributable to the pari-mutuel operations over the
196 attributable expenses for the taxable year.

197 9. The amount taken as a credit for the taxable year under
198 s. 220.1895.

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

202 11. The amount taken as a credit for the taxable year under
203 s. 220.1875. The addition in this subparagraph is intended to

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204 ensure that the same amount is not allowed for the tax purposes
205 of this state as both a deduction from income and a credit
206 against the tax. This addition is not intended to result in
207 adding the same expense back to income more than once.

208 12. The amount taken as a credit for the taxable year under
209 s. 220.192.

210 13. The amount taken as a credit for the taxable year under
211 s. 220.193.

212 14. Any portion of a qualified investment, as defined in s.
213 288.9913, which is claimed as a deduction by the taxpayer and
214 taken as a credit against income tax pursuant to s. 288.9916.

215 15. The costs to acquire a tax credit pursuant to s.
216 288.1254(5) which ~~that~~ are deducted from or otherwise reduce
217 federal taxable income for the taxable year.

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

220 (b) *Subtractions.*—

221 1. The following ~~There~~ shall be subtracted from such
222 taxable income:

223 a. The net operating loss deduction allowable for federal
224 income tax purposes under s. 172 of the Internal Revenue Code
225 for the taxable year, except that any net operating loss that is
226 taken as a credit to corporate income taxes owed or that is
227 transferred pursuant to s. 220.194(6) may not be deducted by the
228 seller;

229 b. The net capital loss allowable for federal income tax
230 purposes under s. 1212 of the Internal Revenue Code for the
231 taxable year;~~;~~

232 c. The excess charitable contribution deduction allowable

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233 for federal income tax purposes under s. 170(d)(2) of the
234 Internal Revenue Code for the taxable year;7 and

235 d. The excess contributions deductions allowable for
236 federal income tax purposes under s. 404 of the Internal Revenue
237 Code for the taxable year.

238

239 However, a net operating loss and a capital loss may not ~~shall~~
240 ~~never~~ be carried back as a deduction to a prior taxable year,
241 but all deductions attributable to such losses shall be deemed
242 net operating loss carryovers and capital loss carryovers,
243 respectively, and treated in the same manner, to the same
244 extent, and for the same time periods as are prescribed for ~~such~~
245 carryovers in ss. 172 and 1212, respectively, of the Internal
246 Revenue Code.

247 2. The following ~~There~~ shall be subtracted from such
248 taxable income ~~any amount~~ to the extent included therein ~~the~~
249 ~~following~~:

250 a. Dividends treated as received from sources without the
251 United States, as determined under s. 862 of the Internal
252 Revenue Code.

253 b. All amounts included in taxable income under s. 78 or s.
254 951 of the Internal Revenue Code.

255

256 However, as to any amount subtracted under this subparagraph,
257 there shall be added to such taxable income all expenses
258 deducted on the taxpayer's return for the taxable year which are
259 attributable, directly or indirectly, to such subtracted amount.
260 Further, no amount may ~~shall~~ be subtracted with respect to
261 dividends paid or deemed paid by a Domestic International Sales

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262 Corporation.

263 3. In computing "adjusted federal income" for taxable years
264 beginning after December 31, 1976, ~~there shall be allowed as a~~
265 ~~deduction~~ the amount of wages and salaries paid or incurred
266 within this state for the taxable year for which no deduction is
267 allowed pursuant to s. 280C(a) of the Internal Revenue Code,
268 ~~(relating to credit for employment of certain new employees,~~
269 ~~shall be allowed as a deduction)~~.

270 4. ~~There shall be subtracted from such taxable income~~ Any
271 amount of nonbusiness income included therein shall be
272 subtracted from such taxable income.

273 5. ~~There shall be subtracted~~ Any amount of taxes of foreign
274 countries allowable as credits for taxable years beginning on or
275 after September 1, 1985, under s. 901 of the Internal Revenue
276 Code to any corporation that ~~which~~ derived less than 20 percent
277 of its gross income or loss for its taxable year ended in 1984
278 shall be subtracted from sources within the United States, as
279 described in s. 861(a)(2)(A) of the Internal Revenue Code, not
280 including credits allowed under ss. 902 and 960 of the Internal
281 Revenue Code, withholding taxes on dividends within the meaning
282 of sub-subparagraph 2.a., and withholding taxes on royalties,
283 interest, technical service fees, and capital gains.

284 6. Notwithstanding any other provision of this code, except
285 with respect to amounts subtracted pursuant to subparagraphs 1.
286 and 3., any increment of any apportionment factor which is
287 directly related to an increment of gross receipts or income
288 which is deducted, subtracted, or otherwise excluded in
289 determining adjusted federal income shall be excluded from both
290 the numerator and denominator of such apportionment factor.

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291 Further, all valuations made for apportionment factor purposes
292 shall be made on a basis consistent with the taxpayer's method
293 of accounting for federal income tax purposes.

294 Section 5. Subsection (5) is added to section 220.16,
295 Florida Statutes, to read:

296 220.16 Allocation of nonbusiness income.—Nonbusiness income
297 shall be allocated as follows:

298 (5) The amount of payments received in exchange for
299 transferring a net operating loss authorized by s. 220.194 is
300 allocable to the state.

301 Section 6. Section 220.194, Florida Statutes, is created to
302 read:

303 220.194 Corporate income tax credits for spaceflight
304 projects.—

305 (1) SHORT TITLE.—This section may be cited as the "Florida
306 Space Business Incentives Act."

307 (2) PURPOSE.—The purpose of this section is to create
308 incentives to attract launch, payload, research and development,
309 and other space business to this state.

310 (3) DEFINITIONS.—As used in this section, the term:

311 (a) "Administrative support" means that 51 percent or more
312 of an activity supports a certified spaceflight business.

313 (b) "Certified" means that a spaceflight business has been
314 certified by the office as meeting all of the requirements
315 necessary to obtain at least one of the approved tax credits
316 available under this section, including approval to transfer a
317 credit.

318 (c) "Department" means the Department of Revenue.

319 (d) "New employee" means a state resident who begins or

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320 maintains full-time employment in this state with a spaceflight
321 business on or after October 1, 2011. The term does not include
322 a person who is a partner, majority stockholder, or owner of the
323 business or a person who is employed in a temporary construction
324 job or primarily involved with the construction of real
325 property.

326 (e) "New job" means the full-time employment of an employee
327 in a manner that is consistent with terms used by the Agency for
328 Workforce Innovation and the United States Department of Labor
329 for purposes of unemployment compensation tax administration and
330 employment estimation. In order to meet the requirement for
331 certification specified in paragraph (5) (b), a new job must:

332 1. Pay new employees at least 115 percent of the statewide
333 or countywide average annual private-sector wage for the 3
334 taxable years immediately preceding filing an application for
335 certification;

336 2. Require a new employee to perform duties on a regular
337 full-time basis in this state for an average of at least 36
338 hours per week each month for the 3 taxable years immediately
339 preceding filing an application for certification; and

340 3. Not be held by a person who has previously been included
341 as a new employee on an application for any credit authorized
342 under this section.

343 (f) "Office" means the Office of Tourism, Trade, and
344 Economic Development.

345 (g) "Payload" means an object built or assembled in this
346 state to be placed into earth's upper atmospheres or space.

347 (h) "Reentry" means to return or attempt to return an
348 object from earth's upper atmospheres or space.

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349 (i) "Reentry service" means an activity conducted in this
350 state related to preparing a reentry vehicle and any payload for
351 reentry and the reentry.

352 (j) "Space vehicle" means any spacecraft, satellite, space
353 station, upper-stage, launch vehicle, reentry vehicle, and
354 related ground-support systems and equipment.

355 (k) "Spaceflight business" means a business that:

356 1. Is registered with the Secretary of State to do business
357 in this state; and

358 2. Is currently engaged in a spaceflight project. A
359 spaceflight business may participate in more than one
360 spaceflight project at a time and may conduct work on a
361 commercial, governmental, or United States defense-related
362 spaceflight project.

363 (l) "Spaceflight project" means any of the following
364 activities performed in this state:

365 1. Designing, manufacturing, testing, or assembling a space
366 vehicle or components thereof;

367 2. Providing a launch service, payload processing service,
368 or reentry service; or

369 3. Providing the payload for a launch vehicle or reentry
370 space vehicle, administrative support, and tourism activities
371 related to these activities.

372 (m) "Taxpayer" has the same meaning as provided in s.
373 220.03.

374 (n) "Total tax credits" means, for any state fiscal year,
375 the sum of the tax credits approved for taxpayers whose taxable
376 year begins on or after January 1 of the calendar year preceding
377 the start of the applicable state fiscal year.

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378 (4) TAX CREDITS.—

379 (a) If approved and certified pursuant to subsection (5),
380 the following tax credits may be taken on a final return for a
381 taxable year beginning on or after October 1, 2015:

382 1. A certified spaceflight business may take a
383 nontransferable corporate income tax credit for up to 50 percent
384 of the business's tax liability under this chapter for the
385 taxable year in which the credit is taken. The maximum
386 nontransferable tax credit amount that may be approved per
387 taxpayer for a taxable year is \$1 million, and the total tax
388 credits that may be approved for any state fiscal year pursuant
389 to this subparagraph may not exceed \$10 million.

390 2. A certified spaceflight business may transfer, in whole
391 or in part, its Florida net operating loss that would otherwise
392 be available to be taken on a return filed under this chapter.
393 The maximum transferable tax credit amount that may be approved
394 per taxpayer for a taxable year is \$2.5 million; the total tax
395 credits that may be approved for any state fiscal year pursuant
396 to this subparagraph may not exceed \$25 million. However, any
397 outstanding credit that is carried forward by a transferee may
398 not be used to calculate the annual limit.

399 a. In order to transfer the credit, the business must:

400 (I) Have been approved to transfer the tax credit for the
401 taxable year in which it is transferred;

402 (II) Have incurred a qualifying net operating loss on
403 activity in this state directly associated with one or more
404 space flight projects in any of its 3 previous taxable years;

405 (III) Not be 50 percent or more owned or controlled,
406 directly or indirectly, by another corporation that has

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407 demonstrated positive net income in any of the 3 previous
408 taxable years of ongoing operations; and

409 (IV) Not be part of a consolidated group of affiliated
410 corporations, as filed for federal income tax purposes, which in
411 the aggregate demonstrated positive net income in any of the 3
412 previous taxable years.

413 b. The amount that may be claimed and transferred by a
414 business is equal to:

415 (I) One hundred percent of the net operating loss that
416 could otherwise be claimed on a return filed under this chapter
417 during its first full year of operations in this state.

418 (II) One hundred percent of the net operating loss that
419 could otherwise be claimed on a return filed under this chapter
420 during its second full year of operations in this state.

421 (III) One hundred percent of the net operating loss that
422 could otherwise be claimed on a return filed under this chapter
423 during its third full year of operations in this state.

424 (b) Each business may be approved for only one credit per
425 state fiscal year and may not claim any credit more than once.

426 (c) Unless transferred pursuant to this section, credits
427 may be granted only against the corporate income tax liability
428 generated by or arising out of a spaceflight project in this
429 state, as documented in the certified spaceflight business's
430 annual audit prepared by a certified public accountant licensed
431 to do business in this state and as verified by the office.

432 (d) A certified spaceflight business may not file a
433 consolidated return in order to claim the tax incentives
434 described in this subsection.

435 (e) The certified spaceflight business or transferee must

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436 demonstrate to the satisfaction of the office and the department
437 that it is eligible to take the credits approved under this
438 section.

439 (5) APPLICATION AND CERTIFICATION.—

440 (a) In order to claim a tax credit under this section, a
441 spaceflight business must first submit an application to the
442 office for approval to earn credits. The application must be
443 filed by the date established by the office. In addition to any
444 information that the office may require, the applicant must
445 provide a complete description of the activity in this state
446 which demonstrates to the office the applicant's likelihood to
447 be certified to take or transfer a credit. The applicant must
448 also provide a description of the total amount and type of
449 credits for which approval is sought. The office may consult
450 with Space Florida regarding the qualifications of an applicant.
451 The applicant shall provide an affidavit certifying that all
452 information contained in the application is true and correct.

453 1. Approval of the credits shall be provided on a first-
454 come, first-served basis, based on the date the completed
455 applications are received by the office. A taxpayer may not
456 submit more than one completed application per state fiscal
457 year. The office may not accept an incomplete placeholder
458 application, and the submission of such an application will not
459 secure a place in the first-come, first-served application line.

460 2. The office has 60 days after the receipt of a completed
461 application within which to issue a notice of intent to deny or
462 approve an application for credits. If a business does not
463 receive approval for a tax credit due to the exhaustion of the
464 annual total tax credit authorizations, the business may reapply

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465 the following year and shall have priority over other applicants
466 notwithstanding the first-come, first-served policy. The office
467 shall determine the eligibility of an applicant and approve the
468 credits that the applicant may later be certified to take. The
469 office must ensure that the corporate income tax credits
470 approved each fiscal year for all applicants does not exceed the
471 limits provided in this section.

472 (b) In order to take, and thereafter, if applicable, to
473 transfer an approved credit, a spaceflight business must submit
474 an application for certification to the office along with a
475 nonrefundable \$250 fee.

476 1. The application must include:

477 a. The name and physical in-state address of the taxpayer.

478 b. Documentation demonstrating to the satisfaction of the
479 office that:

480 (I) The taxpayer is a spaceflight business.

481 (II) The business has engaged in a qualifying spaceflight
482 project before taking a credit under this section.

483 c. In addition to any requirement specific to a credit,
484 documentation that the business has:

485 (I) Created 35 new jobs in this state directly associated
486 with spaceflight projects during its immediately preceding 3
487 taxable years. The business shall be deemed to have created new
488 jobs if the number of jobs on the application for certification
489 is greater than the total number of full-time jobs located in
490 this state as stated on an application for approval to earn
491 credits;

492 (II) Invested a total of at least \$15 million in this state
493 on a spaceflight project during its immediately preceding 3

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494 taxable years; and

495 d. The total amount and types of credits sought.

496 e. An acknowledgment that a transfer of a tax credit is to
497 be accomplished pursuant to subsection (5).

498 f. A copy of an audit or audits of the preceding 3 taxable
499 years, prepared by a certified public accountant licensed to
500 practice in this state, which identifies that portion of the
501 business's activities in this state related to spaceflight
502 projects in this state.

503 g. An acknowledgement that the business must file an annual
504 report on the spaceflight project's progress with the office.

505 h. Any other information necessary to demonstrate that the
506 applicant meets the job creation, investment, and other
507 requirements of this section.

508 2. Within 60 days after receipt of the application for
509 certification, the office shall evaluate the application and
510 recommend the business for certification or denial. The
511 executive director of the office must approve or deny the
512 application within 30 days after receiving the recommendation.
513 If approved, the office must provide a letter of certification
514 to the applicant consistent with any restrictions imposed. If
515 the office denies any part of the requested credit, the office
516 must inform the applicant of the grounds for the denial. A copy
517 of the certification shall be submitted to the department within
518 10 days after the executive director's approval.

519 (6) TRANSFERABILITY OF CREDIT.—

520 (a) A certified spaceflight business allowed to transfer an
521 approved credit, in whole or in part, to a taxpayer by written
522 agreement may do so without transferring any ownership interest

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523 in the property generating the credit or any interest in the
524 entity owning such property. The transferee may apply the
525 credits against the tax with the same effect as if the
526 transferee had incurred the eligible costs.

527 (b) In order to perfect the transfer, the transferor shall
528 provide the department with a written transfer statement that
529 has been approved by the office notifying the department of the
530 transferor's intent to transfer the tax credits to the
531 transferee; the date that the transfer is effective; the
532 transferee's name, address, and federal taxpayer identification
533 number; the tax period; and the amount of tax credits to be
534 transferred. Upon receipt of the approved transfer statement,
535 the department shall provide the transferee and the office with
536 a certificate reflecting the tax credit amounts transferred. A
537 copy of the certificate must be attached to each tax return for
538 which the transferee seeks to apply the credits.

539 (7) AUDIT AUTHORITY; RECAPTURE OF CREDITS.-

540 (a) In addition to its existing audit and investigative
541 authority, the department may perform any additional financial
542 and technical audits and investigations, including examining the
543 accounts, books, and financial records of the tax credit
544 applicant, which are necessary for verifying the accuracy of the
545 return and to ensure compliance with this section. If requested
546 by the department, the office and Space Florida must provide
547 technical assistance for any technical audits or examinations
548 performed under this subsection.

549 (b) Grounds for forfeiture of previously claimed tax
550 credits approved under this section exist if the department
551 determines, as a result of an audit or examination, or from

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552 information received from the office, that a certified
553 spaceflight business, or in the case of transferred tax credits,
554 a taxpayer received tax credits for which the certified
555 spaceflight business or taxpayer was not entitled. The
556 spaceflight business or transferee must file an amended return
557 reflecting the disallowed credits and paying any tax due as a
558 result of the amendment.

559 (c) If an amendment to, recomputation of, or
560 redetermination of a certified spaceflight business's Florida
561 corporate income tax return changes an item entered into the
562 computation of a claimed credit, the taxpayer must notify the
563 department by filing an amended return. The amount of any credit
564 award not supported by the amended return shall be deemed a
565 deficiency that must be remitted with the amended return and is
566 subject to s. 220.23. The spaceflight business is also liable
567 for a penalty equal to the credit claimed or transferred,
568 reduced in proportion to the amount of the net operating loss
569 certified for transfer which is disallowed over the amount of
570 the net operating loss certified for the credit. The certified
571 business and its successors must maintain all records necessary
572 to support the reported net operating loss.

573 (d) The office may revoke or modify a certification
574 granting eligibility for tax credits if it finds that the
575 certified spaceflight business made a false statement or
576 representation in any application, record, report, plan, or
577 other document filed in an attempt to receive tax credits under
578 this section. The office shall immediately notify the department
579 of any revoked or modified orders affecting previously granted
580 tax credits. The certified spaceflight business must also notify

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581 the department of any change in its claimed tax credit.

582 (e) The certified spaceflight business must file with the
583 department an amended return or other report required by the
584 department by rule and pay any required tax and interest within
585 60 days after the certified business receives notification from
586 the office that previously approved tax credits have been
587 revoked or modified. If the revocation or modification order is
588 contested, the spaceflight business must file the amended return
589 or other report within 60 days after a final order is issued.

590 (f) The department may assess an additional tax, penalty,
591 or interest pursuant to s. 95.091.

592 (8) RULES.—

593 (a) The office, in consultation with Space Florida, shall
594 adopt rules to administer this section, including rules relating
595 to application forms for credit approval and certification, and
596 the application and certification procedures, guidelines, and
597 requirements necessary to administer this section.

598 (b) The department may adopt rules to administer this
599 section, including rules relating to:

600 1. The forms required to claim a tax credit under this
601 section, the requirements and basis for establishing an
602 entitlement to a credit, and the examination and audit
603 procedures required to administer this section.

604 2. The implementation and administration of provisions
605 allowing the transfer of a net operating loss as a tax credit,
606 including rules that prescribe forms, reporting requirements,
607 and specific procedures, guidelines, and requirements necessary
608 to perform the transfer.

609 3. The minimum portion of the credit which is available for

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610 transfer.

611 (9) ANNUAL REPORT.—Beginning in 2014, the office, in
612 cooperation with Space Florida and the department, shall submit
613 an annual report summarizing activities relating to the Florida
614 Space Business Incentives Act established under this section to
615 the Governor, the President of the Senate, and the Speaker of
616 the House of Representatives by each November 30.

617 Section 7. Paragraph (c) of subsection (2) of section
618 288.1045, Florida Statutes, is repealed.

619 Section 8. Paragraph (c) of subsection (3) of section
620 288.106, Florida Statutes, is amended to read:

621 288.106 Tax refund program for qualified target industry
622 businesses.—

623 (3) TAX REFUND; ELIGIBLE AMOUNTS.—

624 (c) A qualified target industry business may not receive
625 refund payments of more than 25 percent of the total tax refunds
626 specified in the tax refund agreement under subparagraph
627 (5)(a)1. in any fiscal year. Further, a qualified target
628 industry business may not receive more than \$1.5 million in
629 refunds under this section in any single fiscal year, or more
630 than \$2.5 million in any single fiscal year if the project is
631 located in an enterprise zone. ~~A qualified target industry~~
632 ~~business may not receive more than \$5 million in refund payments~~
633 ~~under this section in all fiscal years, or more than \$7.5~~
634 ~~million if the project is located in an enterprise zone.~~

635 Section 9. This act shall take effect upon becoming a law,
636 except that the tax credits authorized by this act may not be
637 applied to returns filed for any tax period before October 1,
638 2015.