

1 A bill to be entitled
2 An act relating to tax credits; amending s. 220.02, F.S.;
3 revising the priority of tax credits that may be taken
4 against the corporate income tax or the franchise tax;
5 amending s. 220.13, F.S.; redefining the term "adjusted
6 federal income" to include the amount of certain tax
7 credits; creating s. 220.1811, F.S.; authorizing
8 aerospace-sector jobs tax credits and tuition
9 reimbursement tax credits; defining terms; authorizing a
10 tax credit to aerospace businesses based on the salary or
11 tuition reimbursed to certain employees; specifying the
12 maximum annual amount of tax credits for an aerospace
13 business; limiting the annual amount of tax credits
14 available; prohibiting a business from claiming an
15 aerospace-sector jobs tax credit and a tuition
16 reimbursement tax credit, or any other state tax credit or
17 tax incentive refund, for the same employee; providing for
18 the Department of Revenue to approve applications for tax
19 credits; prohibiting increases in the amount of unused tax
20 credits carried over in amended tax returns; providing
21 fines and criminal penalties for certain unlawful claims
22 of tax credits; authorizing the Department of Revenue to
23 adopt rules; providing for the expiration of the tax
24 credit program; providing for applicability; providing an
25 effective date.

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

CS/HB 143

2011

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

31 220.02 Legislative intent.—

32 (8) ~~It is the intent of the Legislature that~~ Credits
33 against ~~either~~ the corporate income tax or the franchise tax
34 shall be applied in the following order: those enumerated in s.
35 631.828, those enumerated in s. 220.191, those enumerated in s.
36 220.181, those enumerated in s. 220.183, those enumerated in s.
37 220.182, those enumerated in s. 220.1895, those enumerated in s.
38 221.02, those enumerated in s. 220.184, those enumerated in s.
39 220.186, those enumerated in s. 220.1845, those enumerated in s.
40 220.19, those enumerated in s. 220.185, those enumerated in s.
41 220.1875, those enumerated in s. 220.192, those enumerated in s.
42 220.193, those enumerated in s. 288.9916, those enumerated in s.
43 220.1899, ~~and~~ those enumerated in s. 220.1896, and those
44 enumerated in s. 220.1811.

45 Section 2. Paragraph (a) of subsection (1) of section
46 220.13, Florida Statutes, is amended to read:

47 220.13 "Adjusted federal income" defined.—

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

53 (a) *Additions.*—There shall be added to such taxable
54 income:

55 1. The amount of any tax upon or measured by income,
56 excluding taxes based on gross receipts or revenues, paid or

57 accrued as a liability to the District of Columbia or any state
58 of the United States which is deductible from gross income in
59 the computation of taxable income for the taxable year.

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

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

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

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

82 6. The amount of emergency excise tax paid or accrued as a
83 liability to this state under chapter 221 which tax is
84 deductible from gross income in the computation of taxable

CS/HB 143

2011

85 income for the taxable year.

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

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

94 9. The amount taken as a credit for the taxable year under
95 s. 220.1895.

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

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

105 12. The amount taken as a credit for the taxable year
106 under s. 220.192.

107 13. The amount taken as a credit for the taxable year
108 under s. 220.193.

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

112 15. The costs to acquire a tax credit pursuant to s.

CS/HB 143

2011

288.1254(5) that are deducted from or otherwise reduce federal taxable income for the taxable year.

16. The amount taken as a credit for the taxable year under s. 220.1811.

Section 3. Section 220.1811, Florida Statutes, is created to read:

220.1811 Aerospace-sector jobs tax credit and tuition reimbursement tax credit.—

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

(a) "Aerospace business" means a business located in this state which is engaged in aerospace, as defined in s. 331.303.

(b) "Qualified employee" means a resident of this state who:

1. Is first employed or reemployed by an aerospace business on or after January 1, 2012;

2. Received an undergraduate or graduate degree from a college or university that is accredited by a national accrediting body; received a technical degree or certification related to aerospace from a technical training institution; or completed an aerospace development workforce training program coordinated by Workforce Florida, Inc.;

3. Is not an owner, partner, or majority stockholder of an aerospace business; and

4. Is employed for at least 6 months.

(c) "Tuition reimbursed to a qualified employee" means a lump-sum payment by an aerospace business to a qualified employee, which may not exceed the average annual tuition, as reported by the Board of Governors of the State University

141 System, for a Florida resident who is a full-time undergraduate
142 student enrolled in a public college or university. The term
143 does not include the cost of books, fees, or room and board.

144 (2) AEROSPACE-SECTOR JOBS TAX CREDIT.—

145 (a) A credit against the tax imposed under this chapter
146 may be claimed by an aerospace business for compensation paid to
147 a qualified employee.

148 (b) The credit authorized by this subsection shall equal
149 10 percent of the compensation paid for the first through fifth
150 years of employment in this state by an aerospace business.

151 (c) The credit authorized by this subsection may not
152 exceed \$12,500 annually for each qualified employee.

153 (d) This credit applies only with respect to wages subject
154 to unemployment tax.

155 (e) If the credit is not fully used in any one year, the
156 unused amount may be carried forward for a period not to exceed
157 5 years. The carryover credit may be used in a subsequent year
158 if the tax imposed by this chapter for such year exceeds the
159 credit for such year after applying the other credits and unused
160 credit carryovers in the order provided in s. 220.02(8).

161 (3) TUITION REIMBURSEMENT TAX CREDIT.—

162 (a) A credit against the tax imposed under this chapter
163 may be claimed by an aerospace business for 50 percent of
164 tuition reimbursed to a qualified employee in a tax year.

165 (b) The credit may be claimed only if the qualified
166 employee was awarded an undergraduate or graduate degree, a
167 technical certification, or a certification from a training
168 program coordinated by Workforce Florida, Inc., within 1 year

169 after commencing employment with the business requesting the
170 credit, and may be claimed within 4 years after employment of
171 the qualified employee.

172 (c) If this credit is not fully used in any one year, the
173 unused amount may be carried forward for a period not to exceed
174 5 years. The carryover credit may be used in a subsequent year
175 if the tax imposed under this chapter for such year exceeds the
176 credit for such year after applying the other credits and unused
177 credit carryovers in the order provided in s. 220.02(8).

178 (4) MAXIMUM CREDITS FOR AN AEROSPACE BUSINESS.—The maximum
179 amount of credits under this section which may be claimed by any
180 single aerospace business in a calendar year is \$200,000.

181 (5) ANNUAL LIMIT ON TAX CREDITS.—The total amount of
182 credits that may be granted under this section is \$2 million in
183 any calendar year. A credit that is claimed after the \$2 million
184 limit is reached shall be disallowed.

185 (6) DUPLICATION OF TAX CREDITS.—A business may not claim
186 an aerospace-sector jobs tax credit and a tuition reimbursement
187 tax credit, or any other state tax credit or tax incentive
188 refund, for the same qualified employee.

189 (7) APPLICATION FOR TAX CREDITS.—

190 (a) An aerospace business must apply to the department for
191 authorization to claim an aerospace-sector jobs tax credit or a
192 tuition reimbursement tax credit. The application must be filed
193 under oath and include:

194 1. The name and address of the business and documentation
195 that the business is an aerospace business.

196 2. For each employee for which a tax credit is sought:

197 a. The employee's name and documentation that the employee
198 is a qualified employee.

199 b. The salary or hourly wages, including the hourly wages
200 subject to unemployment tax paid to the qualified employee.

201 c. The location of the community college, college,
202 university, technical institution, or training program
203 coordinated by Workforce Florida, Inc., from which the qualified
204 employee received his or her degree or certification.

205 d. A statement as to whether the applicant is seeking an
206 aerospace-sector jobs tax credit or a tuition reimbursement tax
207 credit.

208 (b) The applicant for a tax credit has the burden of
209 demonstrating to the satisfaction of the department that it
210 meets the requirements of this section.

211 (8) LIMITS ON THE CARRY OVER OF TAX CREDITS.—An aerospace
212 business may not carry over more tax credits in an amended
213 return than were claimed on the original return for the taxable
214 year. This subsection does not limit increases in the amount of
215 credit claimed on an amended return due to the use of any credit
216 amount previously carried over pursuant to paragraph (2)(e) or
217 paragraph (3)(c).

218 (9) PENALTIES.—

219 (a) Any person who fraudulently claims a credit under this
220 section is liable for repayment of the credit, plus a mandatory
221 penalty in the amount of 200 percent of the credit, plus
222 interest at the rate provided in s. 220.807, and commits a
223 felony of the third degree, punishable as provided in s.
224 775.082, s. 775.083, or s. 775.084.

225 (b) Any person who makes an underpayment of tax as a
226 result of a grossly overstated claim for this credit commits a
227 felony of the third degree, punishable as provided in s.
228 775.082, s. 775.083, or s. 775.084. As used in this paragraph,
229 the term "grossly overstated claim" means a claim in an amount
230 in excess of 100 percent of the amount of credit allowable under
231 this section.

232 (10) RULEMAKING.—The department may adopt rules to
233 prescribe any necessary forms required to claim a tax credit
234 under this section and to provide guidelines and procedures
235 required to administer this section.

236 (11) EXPIRATION.—This section, except paragraphs (2)(e)
237 and (3)(c) and subsection (8), expires December 31, 2021. An
238 aerospace business may not claim a new tax credit under this
239 section after that date. However, an aerospace business may
240 claim tax credits carried over pursuant to paragraph (2)(e) or
241 paragraph (3)(c).

242 Section 4. This act shall take effect January 1, 2012, and
243 applies to tax years beginning on or after that date.