

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

29 requiring a business to submit an application to the  
30 office for approval to earn credits; specifying the  
31 required contents of the application; requiring the office  
32 to approve or deny an application within 60 days after  
33 receipt; specifying the approval process; requiring a  
34 spaceflight business to submit an application for  
35 certification to the office; specifying the required  
36 contents of an application for certification; specifying  
37 the approval process; requiring the office to submit a  
38 copy of an approved certification to the department;  
39 providing procedures for transferring a tax credit to a  
40 taxpayer; authorizing the department to perform audits and  
41 investigations necessary to verify the accuracy of returns  
42 relating to the tax credit; specifying circumstances under  
43 which the office may revoke or modify a certification that  
44 grants eligibility for tax credits; requiring a certified  
45 spaceflight business to file an amended return and pay any  
46 required tax within 60 days after receiving notice that  
47 previously approved tax credits have been revoked or  
48 modified; authorizing the department to assess additional  
49 taxes, interest, or penalties; authorizing the office and  
50 the department to adopt rules; requiring the office to  
51 submit an annual report to the Governor and Legislature  
52 regarding the Florida Space Business Incentives Act;  
53 amending s. 288.1045, F.S.; increasing the maximum amount  
54 of tax refund a defense or space flight contractor may  
55 receive; amending s. 288.106, F.S.; increasing the maximum  
56 amount of tax refund a qualified target industry business

CS/HB 873

2011

57        may receive; providing for application; providing an  
58        effective date.

59  
60    Be It Enacted by the Legislature of the State of Florida:

61  
62        Section 1. Paragraph (f) of subsection (2) of section  
63    14.2015, Florida Statutes, is amended to read:

64        14.2015 Office of Tourism, Trade, and Economic  
65    Development; creation; powers and duties.—

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

74        (f)~~1.~~ Administer the Florida Enterprise Zone Act under ss.  
75    290.001-290.016, the community contribution tax credit program  
76    under ss. 220.183 and 624.5105, the tax refund program for  
77    qualified target industry businesses under s. 288.106, the tax-  
78    refund program for qualified defense contractors and space  
79    flight business contractors under s. 288.1045, contracts for  
80    transportation projects under s. 288.063, the sports franchise  
81    facility programs under ss. 288.1162 and 288.11621, the  
82    professional golf hall of fame facility program under s.  
83    288.1168, the expedited permitting process under s. 403.973, the  
84    Rural Community Development Revolving Loan Fund under s.

CS/HB 873

2011

288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, the corporate income tax credits for spaceflight projects under s. 220.194, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

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

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

Section 2. Paragraph (cc) is added to subsection (8) of section 213.053, Florida Statutes, to read:

CS/HB 873

2011

213.053 Confidentiality and information sharing.—

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

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

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

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

220.02 Legislative intent.—

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

CS/HB 873

2011

141 220.1899, ~~and~~ those enumerated in s. 220.1896, and those  
142 enumerated in s. 220.194.

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

145 220.13 "Adjusted federal income" defined.—

146 (1) The term "adjusted federal income" means an amount  
147 equal to the taxpayer's taxable income as defined in subsection  
148 (2), or such taxable income of more than one taxpayer as  
149 provided in s. 220.131, for the taxable year, adjusted as  
150 follows:

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

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

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

166 3. In the case of a regulated investment company or real  
167 estate investment trust, an amount equal to the excess of the  
168 net long-term capital gain for the taxable year over the amount

CS/HB 873

2011

169 of the capital gain dividends attributable to the taxable year.

170 4. That portion of the wages or salaries paid or incurred  
171 for the taxable year which is equal to ~~the amount of~~ the credit  
172 allowable for the taxable year under s. 220.181. This  
173 subparagraph expires ~~shall expire~~ on the date specified in s.  
174 290.016 for the expiration of the Florida Enterprise Zone Act.

175 5. That portion of the ad valorem school taxes paid or  
176 incurred for the taxable year which is equal to ~~the amount of~~  
177 the credit allowable for the taxable year under s. 220.182. 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 6. The amount of emergency excise tax paid or accrued as a  
181 liability to this state under chapter 221 which tax is  
182 deductible from gross income in the computation of taxable  
183 income for the taxable year.

184 7. That portion of assessments to fund a guaranty  
185 association incurred for the taxable year which is equal to ~~the~~  
186 ~~amount of~~ the credit allowable for the taxable year.

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

192 9. The amount taken as a credit for the taxable year under  
193 s. 220.1895.

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

CS/HB 873

2011

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

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

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

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

15. The costs to acquire a tax credit pursuant to s. 288.1254(5) which ~~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 pursuant to s. 220.194.

(b) *Subtractions.*—

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

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

b. The net capital loss allowable for federal income tax

CS/HB 873

2011

purposes under s. 1212 of the Internal Revenue Code for the taxable year;7

c. The excess charitable contribution deduction allowable for federal income tax purposes under s. 170(d)(2) of the Internal Revenue Code for the taxable year;7 and

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

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

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

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

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

However, as to any amount subtracted under this subparagraph, there shall be added to such taxable income all expenses

CS/HB 873

2011

253 deducted on the taxpayer's return for the taxable year which are  
254 attributable, directly or indirectly, to such subtracted amount.  
255 Further, no amount may ~~shall~~ be subtracted with respect to  
256 dividends paid or deemed paid by a Domestic International Sales  
257 Corporation.

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

265 4. ~~There shall be subtracted from such taxable income~~ Any  
266 amount of nonbusiness income included therein shall be  
267 subtracted from such taxable income.

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

279 6. Notwithstanding any other provision of this code,  
280 except with respect to amounts subtracted pursuant to

CS/HB 873

2011

subparagraphs 1. and 3., any increment of any apportionment factor which is directly related to an increment of gross receipts or income which is deducted, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor. Further, all valuations made for apportionment factor purposes shall be made on a basis consistent with the taxpayer's method of accounting for federal income tax purposes.

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

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

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

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

220.194 Corporate income tax credits for spaceflight projects.—

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

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

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

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

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

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

315        (d) "New employee" means a state resident who begins or  
316 maintains full-time employment in this state with a spaceflight  
317 business on or after October 1, 2011. The term does not include  
318 a person who is a partner, majority stockholder, or owner of the  
319 business or a person who is employed in a temporary construction  
320 job or primarily involved with the construction of real  
321 property.

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

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

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

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

340       (f) "Office" means the Office of Tourism, Trade, and  
341 Economic Development.

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

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

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

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

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

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

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

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

362       1. Designing, manufacturing, testing, or assembling a  
363 space vehicle or components thereof;

364       2. Providing a launch service, payload processing service,

CS/HB 873

2011

or reentry service; or

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

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

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

(4) TAX CREDITS.—

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

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

2. A certified spaceflight business may transfer, in whole or in part, its Florida net operating loss that would otherwise be available to be taken on a return filed under this chapter. The maximum transferable tax credit amount that may be approved per taxpayer for a taxable year is \$2.5 million; the total tax credits that may be approved for any state fiscal year pursuant

393 to this subparagraph may not exceed \$25 million. However, any  
394 outstanding credit that is carried forward by a transferee may  
395 not be used to calculate the annual limit.

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

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

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

402 (III) Not be 50 percent or more owned or controlled,  
403 directly or indirectly, by another corporation that has  
404 demonstrated positive net income in any of the 3 previous  
405 taxable years of ongoing operations; and

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

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

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

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

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

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

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

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

432 (e) The certified spaceflight business or transferee must  
433 demonstrate to the satisfaction of the office and the department  
434 that it is eligible to take the credits approved under this  
435 section.

436 (5) APPLICATION AND CERTIFICATION.—

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

information contained in the application is true and correct.

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

2. The office has 60 days after the receipt of a completed application within which to issue a notice of intent to deny or approve an application for credits. If a business does not receive approval for a tax credit due to the exhaustion of the annual total tax credit authorizations, the business may reapply the following year and shall have priority over other applicants notwithstanding the first-come, first-served policy. The office shall determine the eligibility of an applicant and approve the credits that the applicant may later be certified to take. The office must ensure that the corporate income tax credits approved each fiscal year for all applicants does not exceed the limits provided in this section.

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

1. The application must include:

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

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

477 (I) The taxpayer is a spaceflight business.

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

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

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

489 (II) Invested a total of at least \$15 million in this  
490 state on a spaceflight project during its immediately preceding  
491 3 taxable years; and

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

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

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

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

503 h. Any other information necessary to demonstrate that the  
504 applicant meets the job creation, investment, and other

CS/HB 873

2011

505 requirements of this section.

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

517 (6) TRANSFERABILITY OF CREDIT.—

518 (a) A certified spaceflight business allowed to transfer  
519 an approved credit, in whole or in part, to a taxpayer by  
520 written agreement may do so without transferring any ownership  
521 interest in the property generating the credit or any interest  
522 in the entity owning such property. The transferee may apply the  
523 credits against the tax with the same effect as if the  
524 transferee had incurred the eligible costs.

525 (b) In order to perfect the transfer, the transferor shall  
526 provide the department with a written transfer statement that  
527 has been approved by the office notifying the department of the  
528 transferor's intent to transfer the tax credits to the  
529 transferee; the date that the transfer is effective; the  
530 transferee's name, address, and federal taxpayer identification  
531 number; the tax period; and the amount of tax credits to be  
532 transferred. Upon receipt of the approved transfer statement,

533 the department shall provide the transferee and the office with  
534 a certificate reflecting the tax credit amounts transferred. A  
535 copy of the certificate must be attached to each tax return for  
536 which the transferee seeks to apply the credits.

537 (7) AUDIT AUTHORITY; RECAPTURE OF CREDITS.—

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

547 (b) Grounds for forfeiture of previously claimed tax  
548 credits approved under this section exist if the department  
549 determines, as a result of an audit or examination, or from  
550 information received from the office, that a certified  
551 spaceflight business, or in the case of transferred tax credits,  
552 a taxpayer received tax credits for which the certified  
553 spaceflight business or taxpayer was not entitled. The  
554 spaceflight business or transferee must file an amended return  
555 reflecting the disallowed credits and paying any tax due as a  
556 result of the amendment.

557 (c) If an amendment to, recomputation of, or  
558 redetermination of a certified spaceflight business's Florida  
559 corporate income tax return changes an item entered into the  
560 computation of a claimed credit, the taxpayer must notify the

561 department by filing an amended return. The amount of any credit  
562 award not supported by the amended return shall be deemed a  
563 deficiency that must be remitted with the amended return and is  
564 subject to s. 220.23. The spaceflight business is also liable  
565 for a penalty equal to the credit claimed or transferred,  
566 reduced in proportion to the amount of the net operating loss  
567 certified for transfer which is disallowed over the amount of  
568 the net operating loss certified for the credit. The certified  
569 business and its successors must maintain all records necessary  
570 to support the reported net operating loss.

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

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

588 (f) The department may assess an additional tax, penalty,

CS/HB 873

2011

589 or interest pursuant to s. 95.091.

590 (8) RULES.—

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

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

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

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

607 3. The minimum portion of the credit which is available  
608 for transfer.

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

615 Section 7. Paragraph (c) of subsection (2) of section  
616 288.1045, Florida Statutes, is amended to read:

CS/HB 873

2011

288.1045 Qualified defense contractor and space flight  
business tax refund program.—

(2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

(c) A qualified applicant may not receive more than \$7 ~~\$5~~  
million in tax refunds pursuant to this section in all fiscal  
years.

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

288.106 Tax refund program for qualified target industry  
businesses.—

(3) TAX REFUND; ELIGIBLE AMOUNTS.—

(c) A qualified target industry business may not receive  
refund payments of more than 25 percent of the total tax refunds  
specified in the tax refund agreement under subparagraph  
(5)(a)1. in any fiscal year. Further, a qualified target  
industry business may not receive more than \$1.5 million in  
refunds under this section in any single fiscal year, or more  
than \$2.5 million in any single fiscal year if the project is  
located in an enterprise zone. A qualified target industry  
business may not receive more than \$7 ~~\$5~~ million in refund  
payments under this section in all fiscal years, or more than  
\$7.5 million if the project is located in an enterprise zone.

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