The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/SB 1224

INTRODUCER: Committee on Military Affairs, Space, and Domestic Security and Senator Altman

SUBJECT: Corporate Tax Credits and Refunds

DATE: March 21, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	**Fav/CS**
2.	Pugh	Cooper	CM	**Pre-meeting**
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [x] Statement of Substantial Changes
B. AMENDMENTS........................ [ ] Technical amendments were recommended
[ ] Amendments were recommended
[ ] Significant amendments were recommended

I. Summary:

The retirement of the Space Shuttle next year, and cancellation of its successor Constellation program, is projected to leave in its wake the loss of as many as 9,000 Florida jobs directly associated with the program. Economic development agencies are developing strategies to counter this job loss by recruiting new aerospace companies or encouraging expansion of existing companies.

CS/SB 1224 creates two corporate income tax credits, available for tax years beginning on or after October 1, 2015, for certified spaceflight businesses that meet specified job-creation and investment levels. These incentives are:

- A <u>non-transferrable tax credit</u> equal to 50 percent of the net corporate income tax liability in a given tax year. Total tax credits available will be capped at $10 million per state fiscal year, with individual businesses eligible for a maximum $1 million each year.
- A <u>transferable corporate income tax credit</u> based on a certified spaceflight business' net operating losses, and which can be sold to any other Florida corporate income taxpayer. Total tax credits available under this tax credit will be $25 million per state fiscal year, with individual businesses eligible for a maximum $2.5 million each year.

The bill directs the Governor's Office of Tourism, Trade, and Economic Development (OTTED) to implement a process to certify spaceflight businesses for these tax credits, based on certain documentation filed with an application. Space Florida will assist OTTED in the certification process. OTTED also will notify the Department of Revenue (DOR) of the eligible taxpayers and the amount of tax credits available to them.

Finally, the bill removes the maximum amount of tax refunds a recipient of either the Qualified Defense Contractor and Spaceflight Business tax refund program or the Qualified Target Industry tax refund program may receive.

CS/SB 1224 creates s. 220.194, F.S., and substantially amends ss. 14.2015, 213.053, 220.02, 220.13, 220.16, 288.1045, and 288.106, F.S.

II. Present Situation:

Background on the Commercial Space Launch Industry[1]

The retirement of the Space Shuttle next year, and the cancellation of its successor Constellation program, is projected to leave in its wake the loss of as many as 9,000 Florida jobs directly associated with the program. State and regional economic development and workforce training agencies are developing strategies to address the job loss, ranging from the recruitment of new companies to offering retraining in related fields. Space Florida, the state's aerospace policy and economic development entity, is working to recruit the fledgling commercial spaceflight industry, both in the U.S. and internationally, to this state. Currently, aerospace companies can utilize, depending on their location and investment, 13 state business incentives and at least four business sales-tax exemptions specified in statute.

Space transportation is the movement of, or means of moving, objects such as communications and observation satellites, to, from, or in space. In recent years, commercial launches have comprised at least 25 percent of all launches conducted worldwide. Commercial space transportation is carried out by vehicles owned and operated by private companies or organizations. The majority of such launches carry satellites and other payloads owned by private companies and procured through a competitive bidding process, although government payloads are occasionally launched commercially.

Commercial launches today are provided by expendable launch vehicles, which are used only once. But many companies and entrepreneurs are working to develop reusable launch vehicles that could be used multiple times at a cost savings.

Another growing part of the commercial space transportation industry in the United States is the development of private or state-operated launch, re-entry, and processing sites known as "spaceports." Florida, Virginia, New Mexico, and Texas are among the states developing commercial spaceports. These spaceports can provide space transportation service providers and their customers with an alternative to the traditional U.S. federal launch sites and ranges operated by either the U.S. Air Force or the National Aeronautics and Space Administration (NASA).

[1] Summarized from information posted at website of FAA's Office of Commercial Space Transportation. See: http://ast.faa.gov./about/office_org/headquarters_offices/ast/industry/.

Prior to the early 1980s, there was no commercial space transportation industry. Only the United States launched commercial satellites, and these were launched on vehicles owned by the government, including the Space Shuttle. The first commercial U.S. launch occurred on March 29, 1989, when a Starfire orbital vehicle carrying the CONSORT 1 payload of materials for anti-gravity experiments developed by the University of Alabama blasted off from the White Sands Missile Range in New Mexico.[2]

The commercial launch industry has grown dramatically, in part due to the development of the European commercial launch services organization Arianespace[3] and the ban on commercial payloads flying aboard the Space Shuttle after the *Challenger* disaster. By 2006, U.S. commercial space transportation accounted for more than $139 billion in total economic activity, more than double the amount in 1999.[4]

Internationally, revenues from commercial launches are increasing. Estimated revenues from the 28 commercial launches worldwide were $1.97 billion, with $700 million in revenues generated by European launches, $581 million from Russian launches, $215 million from U.S. launches, and $475 million from other international sites.[5] The number of commercial launches varies each year, depending on the demand for launch services and other factors.

The Office of Commercial Space Transportation within the Federal Aviation Administration (FAA) is the U.S. government organization responsible for regulating and facilitating the safe operations and international competitiveness of the U.S. commercial space transportation industry. The FAA's launch regulations and licensing procedures apply to all commercial launches taking place within U.S. territory, and for launches being conducted abroad by U.S. companies. In general, the FAA does not license launches by U.S. government organizations and certain classes of small rockets.

Florida's attempts to attract more commercial space business

According to Space Florida's research,[6] the state is losing commercial launches to international competitors because of two factors: lower costs and greater assurance of launch dates. Some of the factors Space Florida cites that make it less expensive to launch overseas include:

- The fact that no military approval is needed;
- Lower safety standards;
- Lower labor costs; and
- Availability of missiles to launch the payloads.

Similarly, other nations offer commercial satellite companies a firm launch date, which is important to their business plans. With commercial satellites generating revenue soon after

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[2] See http://www.ncbi.nlm.nih.gov/pubmed/11537544.
[3] More information is available at: http://www.arianespace.com/index/index.asp.
[4] The Economic Impact of Commercial Space Transportation on the U.S. Economy. April 2008. Available at: http://ast.faa.gov./news/updates/media/EcoImpactReport2008.pdf.
[5] Commercial Space Transportation Year in Review: 2008. Published by the FAA. Information found on page 9. Available at http://www.faa.gov/about/office_org/headquarters_offices/ast/media/2008%20Year%20in%20Review.pdf.
[6] Excerpt from Space Florida White Paper: *Perception vs. Reality*. On file with Space Florida.

launch, any delay in a launch date can have significant effects on a business' financial bottom line.

Space Florida's efforts to make the state more attractive to commercial launch companies include:

- Entering into an agreement with the U.S. Air Force 45th Space Wing to lease Space Launch Complex 36 (SLC-36). Space Florida plans to renovate SLC-36 into a multi-use launch facility, using $14.5 million in state funds appropriated in FY 2008-2009.[7]
- Helping facilitate the Air Force's assignment of Space Launch Complex 40 (SLC-40) to the privately owned company SpaceX prior to its demolition. SpaceX received SLC-40 with its more than $250 million in existing infrastructure and buildings, won bid contracts from NASA in excess of $1.6 billion, and has received more than $2 million in cash and in-kind support from Space Florida.
- Marketing state-owned space infrastructure, which includes LC-46; the 50,000-square-foot Reusable Launch Vehicle (RLV) hangar; and the $30 million Space Life Sciences Lab, home to International Space Station research and associated life sciences and biological research.
- Developing plans for "Exploration Park," planned as a mixed-use, multi-tenant technology and commerce park supporting both government and commercial space activities. Space Florida recently selected a general contractor to design and build the complex in phases. It will be located near the existing Space Life Sciences Lab, and on non-restricted property within Kennedy Space Center.

These facilities are within Florida's main "spaceport" property at Kennedy Space Center and Cape Canaveral. Certain designated areas in Gulf, Okaloosa, Santa Rosa, and Walton counties also are considered "spaceport territory," pursuant to s. 331.304, F.S. Space Florida also has the authority, pursuant to s. 331.329, F.S., to annex land for spaceport purposes.

Additionally, in January 2010, Cecil Field near Jacksonville received a launch operator's license from the Federal Aviation Administration, allowing it to support horizontal space launches from its runways.[8] Cecil Field's license makes it the nation's seventh commercial spaceport. It will allow horizontal launches of vehicles, such as Virgin Galactic's prototype SpaceShipTwo tourist space vehicle, to take off and land like planes at the site's12,500-foot runway.

In a move to put Florida in the forefront of the embryonic "space tourist" business, the Legislature passed the Spaceflight Informed Consent Act in 2008.[9] Mirrored after a Virginia law, this legislation provides immunity from litigation for a spaceflight entity if one of its passengers is injured or dies during a flight, so long as a required warning is given to and signed by the passenger. The immunity does not apply if the spaceflight entity commits gross negligence or

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[7] Space Florida has spent approximately $3.7 million for improvements to SLC-36 and is seeking legislative permission to use some of the remaining $10.8 million on other projects according to conversations with Space Florida staff. More information is available in the analysis for CS/SB 1776, 2010 legislative session, available at http://www.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s1776.cm.pdf.

[8] General information about Cecil Field is available at http://www.jaa.aero/AirSys/CF.aspx. Spaceport information is available at many sites, including http://www.cecilfieldspaceport.com/. Both sites last visited March 16, 2011.

[9] Chapter 2008-180, L.O.F. (Section 331.501, F.S.)

willful or wanton disregard for the safety of the passenger; has actual knowledge or reasonably should have known of a dangerous condition; or intentionally injures the passenger.

A 2009 report on how the 50 states are supporting commercial space activities indicated that Florida and Virginia have the most attractive incentives.[10]

Florida's current aerospace incentives
The state of Florida offers three aerospace-specific financial incentives, along with a number of general business incentives, of which aerospace companies can take advantage, depending on their location and investment.

The Legislature created the Qualified Defense Contractor Tax Refund[11] program in 1993 in response to the state's concerns that reductions in federal defense spending could result in losses of high-wage, high-technology jobs in Florida. The program has been amended several times in the intervening years, most recently in 2008, when it was extended to eligible space flight businesses participating in aerospace activities. It is now called the Qualified Defense Contract and Spaceflight Business (QDSC) Refund Program. It sunsets June 30, 2014.

QDSC's basic incentive is a tax refund based on $3,000 per retained or created job, which pays an annual wage of at least 115 percent of the area's average annual wage and meets other conditions of the business' agreement with OTTED. The per-job tax credit increases to $6,000 if the business is located within a rural county or an enterprise zone, with a $1,000 per job bonus if the job pays an annual average wage at least equal to 150 percent of the area's private-sector wage and a $2,000 per job bonus if the average annual wage is at least 200 percent of the area's average private-sector wage.

No qualified business may receive more than $2.5 million in tax refunds in any one tax year, or $5 million total.

This tax incentive targets the following types of projects: consolidation of certain Department of Defense (DoD) contracts; conversion of DoD production jobs to non-defense production jobs; and projects involving the reuse of defense-related facilities for specific activities; the manufacturing, processing, and assembly of space flight vehicles; and a number of other activities related to space flight.

A qualified defense contract or spaceflight business may claim refunds from one or more of the following taxes paid:

- Sales and use taxes;
- Documentary stamp taxes;
- Emergency excise taxes;
- Ad valorem taxes;
- Corporate income taxes;

[10] State Support for Commercial Space Activities. Published by the FAA in 2009. Available at http://www.faa.gov/about/office_org/headquarters_offices/ast/media/State%20Support%20for%20Commercial%20Space%20Activities.pdf. Last visited March 16, 2011.
[11] Section 288.1045, F.S.

- Insurance premium taxes;
- Intangible personal property taxes; and
- Certain state communications taxes under ch. 202, F.S.

Since its inception, 44 QDSC applications have been received, and 30 have been approved. There are five active QDSC projects, which have committed to create or retain 1,504 jobs over the years with a committed average wage of nearly $53,780. These five companies have received a total of $5.9 million in tax refunds.[12]

According to the 2010 state incentives report prepared by Enterprise Florida, Inc., three new QDSC applications were received in fiscal year 2010. Two applications were under review at Enterprise Florida at the end of the fiscal year and one was approved in early FY 2011. No QDSC applications were approved in FY 2010.

The Qualified Target Industry (QTI) Incentive Tax Refund Program[13] was created by the Legislature in 1994 as part of a retooling of Florida's economic development efforts. The QTI program was designed to encourage the recruitment or creation of higher-paying, higher-skilled jobs for Floridians, by awarding eligible businesses refunds of certain state or local taxes paid in exchange for creating jobs. The amount of refund is based on the wages paid, number of jobs created, and where in the state the eligible business chooses to locate or expand.

The target industry list includes a wide range of businesses that meet specific criteria and fall within the following industry categories: manufacturing facilities; finance and insurance services; wholesale trade; information industries; professional, scientific and technical services; management services; and administrative and support services. Businesses with space-related operations have the opportunity to meet the criteria for several of these categories.

The QTI program offers a tax refund of $3,000 per created job, which pays an annual wage of at least 115 percent of the area's average annual wage and meets other conditions of the business' agreement with OTTED. The per-job tax credit increases to $6,000 if the business is located within a rural county or an enterprise zone. Under this program, businesses are eligible for a number of bonus incentives if they meet certain criteria. For example, a business can receive a $1,000 per job bonus if the job pays an annual average wage at least equal to 150 percent of the area's private-sector wage and a $2,000 per job bonus if the average annual wage is at least 200 percent of the area's average private-sector wage.

A qualified target industry business may not receive more than $1.5 million in refunds in a single fiscal year, or more than $2.5 million if the project is located in an enterprise zone. Additionally, a qualified target industry business may not receive more than $5 million in refund payments in all fiscal years, or more than $7.5 million if the project is located in an enterprise zone. Taxes eligible for refund are the same as for the QDSC program, listed above.

[12] 2010 Incentives Report, prepared by EFI. Information on page 19. Available at http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf. Site last visited March 18, 2011.
[13] Section 288.106, F.S.

As of June 30, 2010,[14] 959 business projects have been recommended for the QTI incentive; 926 have been approved by the former Department of Commerce or OTTED; and 791 have entered into QTI agreements with the state. Of those 791 projects, 243 remain "active," meaning they are eligible to receive tax refunds through the QTI program. These 243 projects have committed to create 38,412 jobs, paying an average wage of $45,772. QTI is set to expire on June 30, 2020.

The other space-centric incentives are two related sales-tax exemptions:

- One is for machinery and equipment used in aerospace, defense, and semiconductor facilities, in s. 212.08(5)(j), F.S. Eligible machinery and equipment must be used to design, manufacture, assemble, process, compound, or produce technology products for sale. Such products, for aerospace, include space launch or space flight vehicles, missiles, satellites, payloads, avionics and control systems. In FY 2011-2012, this exemption is expected to have an estimated negative impact on state general revenue of $2 million;[15] there is no breakout specific to space-related manufacturers.
- The second incentive is found in s. 212.08(5)(b)1. and 2., F.S., and is for machinery and equipment used in spaceport activities, defined as activities directed or sponsored by Space Florida on spaceport property, or by new businesses anywhere in the state that manufacture tangible personal property. This refund is approved by DOR. In FY 2011-2012, this exemption is expected to have an estimated negative impact on state revenue of $13.1 million.[16] There is no available breakout specifying that portion of the total credits claimed attributable to aerospace activities on spaceport property.

As mentioned above, aerospace or spaceflight businesses also could be eligible, based on their location, job creation, and investment, for the following general business incentives:

- Brownfield Redevelopment Bonus Refund Program;
- Capital Investment Tax Credit;
- Contaminated Site Rehabilitation Tax Credit;
- High Impact Performance Incentive Grant; Incumbent Worker Training Program;
- Innovation Incentive Program;
- Quick Action Closing Fund;
- Quick Response Training Program;
- Rural Job Tax Credit Program;
- Economic Development Transportation Fund, or the "road fund;" and
- Urban High-Crime Area Job Tax Credit Program.

Space workforce and economic impact issues

The Brevard Workforce Development Board, Inc., (BWDB) estimates that Space Shuttle-related activity in Florida supports a workforce level of approximately 9,000 employees (6,340 United Space Alliance employees and 2,895 sub-tier and related support contractor employees). The majority of this workforce is located at or near the Kennedy Space Center. However, the total

[14] 2010 Incentives Report, prepared by EFI. Information on page 15. Available at http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf. Site last visited March 18, 2011.
[15] 2011 Florida Tax Handbook. Page 157. Available at http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2011.pdf. Last visited March 20, 2011.
[16] Ibid.

economic impact of the space shuttle program is statewide, and there is a specific shuttle-related supplier base of some 1,046 companies throughout the state.

The most recent information compiled by the BWDB[17] indicates that most of the 9,000 Space Shuttle employees will likely be impacted by shuttle's retirement and the cancellation of the shuttle's successor, Constellation.

NASA's operations in Florida are a major economic driver.[18] The total amount of NASA spending (so-called "outside money") for KSC-related activities was $1.96 billion, including $1.1 billion in wages in FY 2007-2008. Counting indirect spending, the total economic impact of NASA to Florida was estimated at $4.1 billion in production output, $2.1 billion in household income, 40,802 jobs, and $103 million in state and local tax revenues. The study also found that 98 percent of the output impact and 99 percent of the jobs and wage impacts occur in the seven-county Central Florida region[19] around KSC.

III. Effect of Proposed Changes:

CS/SB 1224 creates two corporate income tax credits intended to attract spaceflight businesses to Florida or to encourage Florida companies performing similar work to expand or diversify into aerospace-related goods and services. It also creates an application and certification process to determine businesses' eligibility for the credits, and mechanisms for OTTED and DOR to enforce compliance. Finally, the bill requires an annual report to the Governor and the Legislature on the new program's activities.

Section 1 amends s. 14.2015, F.S., to add the administration of the spaceflight business tax credit program to OTTED's responsibilities.

Section 2 amends s. 213.053, F.S., to allow DOR to be able to share confidential tax data about certified spaceflight businesses to OTTED or Space Florida.

Section 3 amends s. 220.02, F.S., to add the spaceflight business tax credits last in the list of credits that may be taken against Florida corporate income tax liability.

Section 4 amends s. 220.13, F.S., to account for the tax credits as an adjustment to taxpayer's reported income.

Section 5 amends s. 220.16, F.S., to adjust a taxpayer's non-business income to include payments received for selling tax credits pursuant to s. 220.194(3)(b), F.S.

Section 6 creates s. 220.194, F.S., establishing two tax credits, definitions for terms used in the bill, the credit approval and certification process for spaceflight businesses and the tax credit administration and enforcement process.

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[17] On file with the Senate Commerce Committee.
[18] Information in the paragraph was obtained from the report, "Economic Impact of NASA in Florida, FY 2008." Available at http://www.nasa.gov/centers/kennedy/pdf/318131main_economic-impact08.pdf. Last visited March 16, 2011.
[19] The report lists those seven counties as Brevard, Flagler, Lake, Orange, Osceola, Seminole, and Volusia.

Definitions

Key definitions include:

- "Spaceflight business" is defined as a business that:
  - Is registered with the Secretary of State to do business in Florida; and
  - Is currently engaged in a spaceflight project.
- "Spaceflight project" means any of the following activities performed in Florida:
  - Designing, manufacturing, testing, or assembling a space vehicle or components thereof;
  - Providing a launch service, payload processing service, or reentry service; or
  - Providing the payload for a launch vehicle or reentry space vehicle, administrative support, and tourism activities related to these activities.

  A spaceflight business may participate in more than one spaceflight project at a time.
- "New employee" means a Florida resident who begins or maintains full-time employment in Florida with a spaceflight business on or after October 1, 2011. The term does not include a person who is a partner, majority stockholder, or owner of the business or a person who is employed in a temporary construction job or principally involved with the construction of real property.
- "New job" means the full-time employment of an employee in a manner that is consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation. To meet the requirement for certification specified in subsection (5)(b) of the bill, a new job must:
  - Pay new employees at least 115 percent of the statewide or countywide average annual private-sector wage for the 3 taxable years immediately preceding filing an application for certification;
  - Require a new employee to perform duties on a regular full-time basis in this state for an average of at least 36 hours per week each month for the 3 taxable years immediately preceding filing an application for certification; and
  - Not be held by a person who has previously been included as a new employee on an application for any credit authorized by this section.

Application to enter the program and earn credits

For the purposes of applying for and eventually claiming either of the tax incentives created in this act, a spaceflight business must first file an application with OTTED requesting approval to earn credits. This initial application may occur as soon as CS/SB 1224 becomes law. A business can file only one such application per year. The application must include the following information: a complete description of the proposed project, number of current employees, and the amount and type of credits for which the business is seeking. OTTED may consult with Space Florida about the applicant's qualifications.

OTTED has 60 days from receipt of a completed application to issue a notice of intent to allocate the amount of credits that may be earned by the applying spaceflight business. Approval of credits is on a first-come, first-served basis.

Application process to claim credits
At least 3 years later, in 2015, the business must file another application with OTTED to be certified to actually claim the credits it was initially allocated. To be certified, the business must pay a $250 application fee and document that it has:

- Created, filled and retained at least 35 new jobs <u>in Florida for Florida residents</u> directly associated with an individual spaceflight project within the 3 years prior to claiming a credit. The minimum 35 new jobs must be in addition to the jobs listed on the business' eligibility application to OTTED.
- Invested a total of at least $15 million in an individual spaceflight project in Florida during the 3 years prior to claiming the credit.

The application also must include: certain information about the business; the total amount and types of credits sought; whether it intends to transfer the credits based on its net operating loss; a copy of an audit prepared by a Florida-licensed certified public accountant that identifies the portion of the business's activities related to spaceflight activities in Florida; and any other documentation deemed necessary by OTTED.

OTTED will review and evaluate each tax credit claim application based on the aforementioned documentation, and forward its recommendation to OTTED's executive director, who must approve or deny the claim application within 30 days, and notify DOR within 10 days about the approvals. OTTED also must provide a letter of certification to the successful applicant, and inform an unsuccessful applicant of the reasons for denial.

Tax Credits
The corporate income tax credits created in CS/SB 1224 are available to be approved upon application and thereafter taken by a certified business for taxable years beginning on or after January 1 of the calendar year preceding the start of the applicable state fiscal year, commencing October 1, 2015. The tax credits are:

- A <u>non-transferrable corporate income tax credit</u> equal to 50 percent of a spaceflight business's corporate income tax liability. The per-business cap is $1 million, and OTTED may not approve more than $10 million of these credits during a single state fiscal year.
- A <u>transferable corporate income tax credit</u> based on a spaceflight business's net operating losses.[20] The amount of this transferrable tax credit is 100 percent of the certified spaceflight business' net operating losses that would otherwise be available to be taken on a Florida return. This credit may be transferred in exchange for monetary compensation to one or more other ch. 220, F.S., taxpayers. This tax credit is capped at $2.5 million per business per tax, and OTTED may not approve more than $25 million of these credits during a single state fiscal year.

<u>A certified spaceflight business may claim only one of these tax credits per year and may only claim each credit once.</u> Under no circumstance will a certified spaceflight business be allowed to claim a tax credit in excess of its tax liability.

[20] For this second tax credit, the spaceflight business must meet two additional criteria: it must have incurred operating losses and it must not be at least 50-percent owned or controlled by another company, or a consolidated group of affiliated corporations, that have shown positive net income in any of the 3 previous calendar years through ongoing operations.

Also, a certified spaceflight business cannot claim these tax credits if it decides to file a consolidated tax return. This prevents a parent or affiliated company with a larger corporate income tax liability from taking advantage of the spaceflight business's tax credit.

Process to transfer credits
A certified spaceflight business is allowed to transfer all or part of approved credits to a Florida corporation by a written agreement. Any ownership interest in the project or its infrastructure is not transferred along with the tax credit.

The transferring spaceflight business must provide DOR with a written document, approved by OTTED, that:

- Identifies the transferee's name, address, and federal taxpayer identification number;
- States the date that the transfer is effective;
- Identifies the tax period in which the transferred credits will be claimed; and
- The amount of tax credits to be transferred.

Upon receipt of the approved transfer statement, DOR shall provide the transferee and OTTED with a certificate reflecting the tax credit amounts transferred. A copy of the certificate must be attached to each tax return for which the transferee seeks to apply the credits.

DOR responsibilities
Also created in this section are a number of technical provisions related to DOR's ability to audit the certified spaceflight businesses; the procedures for revocation and recapture of tax credits; requirements for filing amended tax returns where warranted; and DOR's ability to assess additional taxes, penalties, and interest against taxpayers filing inaccurate or fraudulent tax returns.

Rulemaking and reporting requirements
OTTED, in consultation with Space Florida, is directed to adopt rules related to its administration of this program, including the application forms and the application and certification process. DOR is directed to adopt rules related to necessary forms, reporting requirements, transfer of credit requirements, and what constitutes the minimum portion of a credit that can be transferred.

All certified spaceflight businesses must file an annual report with OTTED about the progress of its project(s). OTTED, in cooperation with Space Florida and DOR, must submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, beginning November 30, 2014, about the activities of the spaceflight business incentives program.

Section 7 amends s. 288.1045, F.S., to delete a provision which restricts a qualified applicant from receiving more than $5 million in tax refunds in all fiscal years it participates in the QDSC Tax Refund Program.

Section 8 amends s. 288.106, F.S., to delete a provision which restricts a qualified target industry business from receiving more than $5 million in refund payments in all fiscal years it participates in the QTI program, or more than $7.5 million if the project is located in an enterprise zone.

Section 9 provides that this act will take effect upon becoming law, except that the credits created by the legislation may not be claimed prior to October 1, 2015.

Other Potential Implications:
QTI and QDSC are designed to give new or expanding businesses in targeted industry sectors an initial boost to their hiring as they become established within the marketplace. Removing the lifetime cap on the amount of QTI and QDSC refunds a qualified business can receive from the State Treasury could have the effect of the same companies either staying in the programs longer than the 4 years that is the typical term of their agreements with OTTED, or returning to the program multiple times for future expansions or changes to their business plans. Because of the annual statutory funding cap of $35 million, this could reduce the access of other, newer businesses that meet the same criteria into these programs.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) reviewed the bill as filed and on March 11, 2011, adopted annualized negative impacts of $10 million for the non-transferable credit and $25 million for the transferable credit. The REC determined that the cash impact would be zero for FYs 2011-2012 through 2013-2014.

B. Private Sector Impact:

Indeterminate, but positive. The tax credits in CS/SB 1224 may be attractive to spaceflight businesses interested in relocating to Florida or in expanding their existing facilities or markets.

C. Government Sector Impact:

Indeterminate. CS/SB 1224 increases the workload of OTTED and DOR, so it is possible these agencies may require additional FTEs and updated software.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Military Affairs, Space, and Domestic Security on March 17, 2011:

- Deletes the provisions in ss. 288.1045 and 288.106, F.S., which institute limits on the amount of refunds a qualified business can receive for all fiscal years for the QDSC and QTI tax refund programs.
- Changes the date for the first tax period in which a tax credit may be claimed to correspond with the effective date of the bill.

B. Amendments:

None.