

111TH CONGRESS
2D SESSION

S. 3785

To amend the Internal Revenue Code of 1986 to encourage investment in commercial spaceflight facilities and equipment, research, and job training, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2010

Mr. NELSON of Florida (for himself and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to encourage investment in commercial spaceflight facilities and equipment, research, and job training, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commercial Space
5 Jobs and Investment Act of 2010”.

6 **SEC. 2. COMMERCIAL SPACE CAPITAL FORMATION CREDIT.**

7 (a) IN GENERAL.—Subpart B of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 is amended by inserting after section 30D the fol-
 2 lowing new section:

3 **“SEC. 30E. COMMERCIAL SPACE CAPITAL FORMATION**
 4 **CREDIT.**

5 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 6 lowed as a credit against the tax imposed by this chapter
 7 for the taxable year an amount equal to 20 percent of the
 8 qualified equity investment paid by the taxpayer during
 9 the taxable year.

10 “(b) QUALIFIED EQUITY INVESTMENT.—For pur-
 11 poses of this section—

12 “(1) IN GENERAL.—The term ‘qualified equity
 13 investment’ means any equity investment in a quali-
 14 fied commercial space entity if—

15 “(A) such investment is acquired by the
 16 taxpayer at its original issue (directly or
 17 through an underwriter) in exchange for cash,
 18 and

19 “(B) such investment is designated for
 20 purposes of this section by the qualified com-
 21 mercial space entity.

22 “(2) TREATMENT OF SUBSEQUENT PUR-
 23 CHASERS.—The term ‘qualified equity investment’
 24 includes any equity investment which would (but for
 25 paragraph (1)(A)) be a qualified equity investment

1 in the hands of the taxpayer if such investment was
 2 a qualified equity investment in the hands of a prior
 3 holder.

4 “(3) REDEMPTIONS.—A rule similar to the rule
 5 of section 1202(c)(3) shall apply for purposes of this
 6 subsection.

7 “(4) EQUITY INVESTMENT.—The term ‘equity
 8 investment’ means—

9 “(A) any stock (other than nonqualified
 10 preferred stock as defined in section 351(g)(2))
 11 in an entity which is a corporation, and

12 “(B) any capital interest in an entity
 13 which is a partnership.

14 “(c) QUALIFIED COMMERCIAL SPACE ENTITY.—For
 15 purposes of this section—

16 “(1) IN GENERAL.—The term ‘qualified com-
 17 mercial space entity’ means any domestic corpora-
 18 tion or partnership the principal trade or business of
 19 which is the commercial development of space and
 20 the principal place of business is located in a Com-
 21 mercial Space Enterprise Zone designated under
 22 subsection (g).

23 “(2) COMMERCIAL DEVELOPMENT OF SPACE.—
 24 The term ‘commercial development of space’
 25 means—

1 “(A) the development of private space
2 launch vehicles, reentry vehicles, and related
3 equipment,

4 “(B) the development, provision, and oper-
5 ation of private space launching, reentry, and
6 related services, and

7 “(C) other specific activities identified by
8 the Secretary in rules, regulations, or formal
9 guidance consistent with the purposes of this
10 section.

11 “(d) RECAPTURE OF CREDIT.—If—

12 “(1) the taxpayer fails to hold the qualified eq-
13 uity investment the 5-year period beginning on the
14 date such investment was acquired by the taxpayer,
15 or

16 “(2) during such 5-year period, the entity
17 ceases to be qualified commercial space entity,
18 then notwithstanding any other provision of this subtitle,
19 the tax imposed by this chapter on the taxpayer for the
20 taxable year beginning in the calendar year in which such
21 cessation occurred shall be increased by the amount of
22 credit allowed under subsection (a) to the taxpayer with
23 respect to such investment.

1 “(e) BASIS ADJUSTMENTS.—For purposes of this
 2 subtitle, if a credit is allowed under this section for the
 3 acquisition of any investment—

4 “(1) the increase in the basis of such invest-
 5 ment which would (but for this subsection) result
 6 from such acquisition shall be reduced by the
 7 amount of the credit so allowed, and

8 “(2) the basis of such investment shall be in-
 9 creased by the amount of any increase in tax by rea-
 10 son of subsection (d).

11 “(f) APPLICATION WITH OTHER CREDITS.—

12 “(1) BUSINESS CREDIT TREATED AS PART OF
 13 GENERAL BUSINESS CREDIT.—Except with respect
 14 to a taxpayer described in paragraph (2), the credit
 15 allowed under subsection (a) for any taxable year
 16 shall be treated as a credit listed in section 38(b) for
 17 such taxable year (and not allowed under subsection
 18 (a)).

19 “(2) PERSONAL CREDIT.—

20 “(A) IN GENERAL.—For purposes of this
 21 title, the credit allowed under subsection (a) for
 22 any taxable year to a taxpayer other than a cor-
 23 poration shall be treated as a credit allowable
 24 under subpart A for such taxable year.

1 “(B) LIMITATION BASED ON AMOUNT OF
 2 TAX.—In the case of a taxable year to which
 3 section 26(a)(2) does not apply, the credit al-
 4 lowed under subsection (a) for any taxable year
 5 by reason of the application of subparagraph
 6 (A) shall not exceed the excess of—

7 “(i) the sum of the regular tax liabil-
 8 ity (as defined in section 26(b)) plus the
 9 tax imposed by section 55, over

10 “(ii) the sum of the credits allowable
 11 under subpart A (other than this section
 12 and sections 23, 25D, 30, and 30D) and
 13 section 27 for the taxable year.

14 “(g) DESIGNATION OF COMMERCIAL SPACE ENTER-
 15 PRISE ZONES.—

16 “(1) IN GENERAL.—From among the areas
 17 nominated for designation under this subsection, the
 18 Secretary of Commerce shall designate not more
 19 than 5 Commercial Space Enterprise Zones.

20 “(2) LIMITATIONS ON DESIGNATION.—No area
 21 may be designated under paragraph (1) unless—

22 “(A) the area is nominated by a State,

23 “(B) the State provides written assurances
 24 and other documentation satisfactory to the
 25 Secretary of Commerce that—

1 “(i) the nominated area has a pres-
2 ence of high unemployment and economic
3 dislocation in public sector, space-related
4 jobs,

5 “(ii) the nominated area has a pres-
6 ence of well-developed human and capital
7 infrastructure and the capacity to effec-
8 tively use Federal tax incentives to pro-
9 mote progress in commercial space capa-
10 bility, including crew and cargo transpor-
11 tation systems, research and technology
12 development, and other potential activities
13 in low-Earth orbit, and

14 “(iii) State and local officials, busi-
15 ness community, and local population have
16 developed a unified, feasible, and effective
17 strategy for contributing to, and increas-
18 ing, United States competitiveness in the
19 commercial space sector, and

20 “(C) the Secretary of Commerce deter-
21 mines that any information furnished is reason-
22 ably accurate.

23 “(3) APPLICATION AND DESIGNATION TIM-
24 ING.—

1 “(A) ISSUANCE OF APPLICATIONS.—The
 2 Secretary of Commerce shall issue Commercial
 3 Space Enterprise Zone nomination applications
 4 and instructions not later than the date which
 5 is 45 days after the date of the enactment of
 6 the Commercial Space Jobs and Investment Act
 7 of 2010.

8 “(B) SUBMISSION OF APPLICATIONS.—A
 9 State shall submit a Commercial Space Enter-
 10 prise Zone nomination application not later
 11 than the date which is 4 months after such ap-
 12 plications are issued under subparagraph (A).

13 “(C) DESIGNATIONS.—The Secretary of
 14 Commerce shall make Commercial Space Enter-
 15 prise Zone designations not later than the date
 16 which is 3 months after the application deadline
 17 under subparagraph (B).

18 “(h) TERMINATION.—This section shall not apply to
 19 investments acquired after December 31, 2019.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 38(b) of the Internal Revenue Code
 22 of 1986 is amended by striking “plus” at the end of
 23 paragraph (35), by striking the period at the end of
 24 paragraph (36) and inserting “, plus”, and by add-
 25 ing at the end the following new paragraph:

1 “(37) the portion of the commercial space cap-
 2 ital formation credit to which section 30E(f)(1) ap-
 3 plies.”.

4 (2) Section 1016(a) of such Code is amended
 5 by striking “and” at the end of paragraph (36), by
 6 striking the period at the end of paragraph (37) and
 7 inserting “, and”, and by adding at the end the fol-
 8 lowing new paragraph:

9 “(38) to the extent provided in section
 10 30E(e)(1).”.

11 (3) The table of sections for subpart B of part
 12 IV of subchapter A of chapter 1 of such Code is
 13 amended by inserting after the item relating to sec-
 14 tion 30D the following new item:

“Sec. 30E. Commercial space capital formation credit.”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to investments acquired after the
 17 date of the enactment of this Act.

18 **SEC. 3. COMMERCIAL SPACE RESEARCH CREDIT.**

19 (a) IN GENERAL.—Section 41(b) of the Internal Rev-
 20 enue Code of 1986 is amended by adding at the end the
 21 following new paragraph:

22 “(5) COMMERCIAL SPACE RESEARCH.—

23 “(A) ENHANCED CREDIT.—In the case of
 24 any taxable year in which the qualified research
 25 expenses of the taxpayer include qualified com-

mercial space research expenses, subsection
(a)(1)—

“(i) shall be applied by first taking
into account such qualified research ex-
penses which are not qualified commercial
space research expenses, and

“(ii) shall be applied by substituting
‘30 percent’ for ‘20 percent’ in the case of
such qualified commercial space research
expenses.

“(B) QUALIFIED COMMERCIAL SPACE RE-
SEARCH EXPENSES.—For purposes of this
paragraph, the term ‘qualified commercial space
research expenses’ means qualified research ex-
penses attributable to research undertaken in a
Commercial Space Enterprise Zone designated
under section 30E(g) for the purpose of discov-
ering information—

“(i) which is technological in nature,
and

“(ii) the application of which is in-
tended to be useful in the commercial de-
velopment of space (as defined in section
30E(c)(2)).

1 “(C) TERMINATION.—This paragraph shall
2 not apply to research expenses incurred after
3 December 31, 2019.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 this section shall apply to research expenses incurred after
6 the date of the enactment of this Act.

7 **SEC. 4. SPECIAL DEPRECIATION ALLOWANCE FOR COM-**
8 **MERCIAL SPACE PROPERTY.**

9 (a) IN GENERAL.—Section 168 of the Internal Rev-
10 enue Code of 1986 is amended by adding at the end the
11 following new subsection:

12 “(o) SPECIAL ALLOWANCE FOR COMMERCIAL SPACE
13 PROPERTY.—

14 “(1) ADDITIONAL ALLOWANCE.—

15 “(A) IN GENERAL.—In the case of any
16 qualified commercial space property to which
17 this subparagraph applies—

18 “(i) the depreciation deduction pro-
19 vided by section 167(a) for the taxable
20 year in which such property is placed in
21 service shall include an allowance equal to
22 50 percent of the adjusted basis of the
23 qualified commercial space property, and

24 “(ii) the adjusted basis of the quali-
25 fied commercial space property shall be re-

duced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(B) APPLICATION.—Subparagraph (A) applies to qualified commercial space property placed in service on or after the date of the enactment of the Commercial Space Jobs and Investment Act of 2010 and before January 1, 2020, which is—

“(i) acquired by the taxpayer on or after such date of enactment and before January 1, 2020, but only if no written binding contract for the acquisition was in effect before such date of enactment, or

“(ii) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after such date of enactment and before January 1, 2020.

“(2) QUALIFIED COMMERCIAL SPACE PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified commercial space property’ means any private space launch vehicle, reentry vehicle, launch

1 support facilities, space recovery support facili-
 2 ties, and other space transportation infrastruc-
 3 ture—

4 “(i) to which this section applies,

5 “(ii) the original use of which com-
 6 mences with the taxpayer on or after such
 7 date of enactment, and

8 “(iii) substantially all of the use of
 9 which occurs in a Commercial Space En-
 10 terprise Zone designated under section
 11 30E(g) and in the active conduct of a
 12 trade or business by the taxpayer in such
 13 Zone.

14 “(B) EXCEPTIONS.—

15 “(i) BONUS DEPRECIATION PROPERTY
 16 UNDER SUBSECTION (k).—The term ‘quali-
 17 fied commercial space property’ shall not
 18 include any property to which subsection
 19 (k)(1) applies.

20 “(ii) ALTERNATIVE DEPRECIATION
 21 PROPERTY.—The term ‘qualified commer-
 22 cial space property’ shall not include any
 23 property to which the alternative deprecia-
 24 tion system under subsection (g) applies,
 25 determined without regard to paragraph

1 (7) of subsection (g) (relating to election to
2 have system apply).

3 “(iii) ELECTION OUT.—If a taxpayer
4 makes an election under this clause with
5 respect to any class of property for any
6 taxable year, this subsection shall not
7 apply to all property in such class placed
8 in service during such taxable year.

9 “(C) DEFINITIONS.—The terms ‘launch
10 vehicle’, ‘launch support facilities’, ‘space recov-
11 ery support facilities’, and ‘space transportation
12 infrastructure’ have the meanings given such
13 terms under section 502 of the National Aero-
14 nautics and Space Administration Act, Fiscal
15 Year 1993 (15 U.S.C. 5802).

16 “(3) SPECIAL RULE FOR SELF-CONSTRUCTED
17 PROPERTY.—In the case of a taxpayer manufac-
18 turing, constructing, or producing property for the
19 taxpayer’s own use, if the taxpayer begins manufac-
20 turing, constructing, or producing the property on or
21 after such date of enactment and before January 1,
22 2020, the requirements of paragraph (1)(B) shall be
23 treated as met.

24 “(4) DEDUCTION ALLOWED IN COMPUTING
25 MINIMUM TAX.—For purposes of determining alter-

1 native minimum taxable income under section 55,
 2 the deduction under subsection (a) for qualified com-
 3 mercial space property shall be determined under
 4 this section without regard to any adjustment under
 5 section 56.”.

6 (b) EFFECTIVE DATE.—The amendment made by
 7 this section shall apply to property placed in service on
 8 or after the date of the enactment of this Act, in taxable
 9 years ending after such date.

10 **SEC. 5. COMMERCIAL SPACE EDUCATION AND JOB TRAIN-**
 11 **ING CREDIT.**

12 (a) IN GENERAL.—Subpart D of part IV of sub-
 13 chapter A of chapter 1 of the Internal Revenue Code of
 14 1986 is amended by adding at the end the following:

15 **“SEC. 45S. COMMERCIAL SPACE EDUCATION AND JOB**
 16 **TRAINING CREDIT.**

17 “(a) IN GENERAL.—For the purposes of section 38,
 18 the commercial space education and job training credit de-
 19 termined under this section with respect to any eligible
 20 employer for the taxable year is an amount equal to the
 21 commercial space educational assistance program ex-
 22 penses for such taxable year.

23 “(b) DOLLAR LIMITATION.—The credit allowed
 24 under subsection (a) in any taxable year shall not exceed
 25 \$2,000 per employee of the employer that participates in

1 a commercial space educational assistance program in
2 such taxable year.

3 “(c) COMMERCIAL SPACE EDUCATIONAL ASSISTANCE
4 PROGRAM EXPENSES; OTHER DEFINITIONS.—For pur-
5 poses of this section—

6 “(1) IN GENERAL.—The term ‘commercial
7 space educational assistance program expenses’
8 means expenses paid or incurred by an eligible em-
9 ployer for a commercial space educational assistance
10 program.

11 “(2) COMMERCIAL SPACE EDUCATIONAL AS-
12 SISTANCE PROGRAM.—The term ‘commercial space
13 educational assistance program’ means an edu-
14 cational assistance program which—

15 “(A) meets the requirements of section
16 127(b) (other than paragraph (5) thereof), and

17 “(B) provides to employees of the eligible
18 employer educational assistance which seeks to
19 enhance an employee’s knowledge skills, and
20 training applicable to the commercial develop-
21 ment of space.

22 “(3) ELIGIBLE EMPLOYER.—The term ‘eligible
23 employer’ means an employer which is a qualified
24 commercial space entity (as defined in section
25 30E(c)(1)).

1 “(4) OTHER DEFINITIONS.—

2 “(A) IN GENERAL.—The terms ‘employee’,
3 ‘employer’, and ‘educational assistance’ have
4 meanings given such terms under section
5 127(c).

6 “(B) COMMERCIAL DEVELOPMENT OF
7 SPACE.—The term ‘commercial development of
8 space’ has the meaning given such term under
9 section 30E(c)(2).

10 “(d) AGGREGATION RULE.—For purposes of this sec-
11 tion, all persons treated as a single employer under sub-
12 section (a) or (b) or section 52, or subsection (m) or (o)
13 of section 414, shall be treated as one person.

14 “(e) DENIAL OF DOUBLE BENEFIT.—No deduction
15 or credit shall be allowed under any other provision of this
16 chapter for any amount taken into account in determining
17 the credit under this section.

18 “(f) ELECTION TO HAVE CREDIT NOT APPLY.—A
19 taxpayer may elect (at such time and in such manner as
20 the Secretary may by regulations prescribe) to have this
21 section not apply for any taxable year.”.

22 (b) CREDIT TO BE PART OF GENERAL BUSINESS
23 CREDIT.—Section 38(b) of the Internal Revenue Code of
24 1986, as amended by this Act, is amended by striking
25 “plus” at the end of paragraph (36), by striking the period

1 at the end of paragraph (37) and inserting “, plus”, and
 2 by adding at the end the following new paragraph:

3 “(38) the commercial space education and job
 4 training credit determined under section 45S(a).”.

5 (c) CONFORMING AMENDMENT.—Section 6501(m) of
 6 the Internal Revenue Code of 1986 is amended by insert-
 7 ing “45S(f),” before “or 51(j)”.

8 (d) CLERICAL AMENDMENT.—The table of sections
 9 for subpart D of part IV of subchapter A of chapter 1
 10 of the Internal Revenue Code of 1986 is amended by add-
 11 ing at the end the following new item:

“45S. Commercial space education and job training credit.”.

12 (e) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 the date of the enactment of this Act.

○