

By Senator Harris

24-1042-98

See HB

1 A bill to be entitled
2 An act relating to credits against taxes;
3 amending s. 220.02, F.S.; providing the order
4 of credits against the corporate income tax or
5 franchise tax; amending s. 220.03, F.S.;
6 amending the definition of the term "child care
7 facility startup costs" and defining the term
8 "operation of a child care facility"; amending
9 s. 220.12, F.S.; revising the definition of a
10 taxpayer's net income for corporate income tax
11 purposes to delete the deduction of child care
12 facility startup costs; creating s. 220.19,
13 F.S.; authorizing a credit against the
14 corporate income tax for child care facility
15 startup costs and operation, and for payment of
16 an employee's child care costs; providing
17 limitations; requiring a recipient to refund a
18 portion of tax credits received under certain
19 conditions; providing eligibility and
20 application requirements; providing for
21 administration by the Department of Children
22 and Family Services; providing for future
23 expiration; defining the term "corporation";
24 creating s. 624.5107, F.S.; authorizing a
25 credit against insurance premium taxes for
26 child care facility startup costs and operation
27 and for payment of an employee's child care
28 costs; providing definitions; providing
29 limitations; requiring a recipient to refund a
30 portion of tax credits received under certain
31 conditions; providing eligibility and

1 application requirements; providing for
2 administration by the Department of Children
3 and Family Services; providing for future
4 expiration; providing an effective date.
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6 Be It Enacted by the Legislature of the State of Florida:
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8 Section 1. Subsection (10) of section 220.02, Florida
9 Statutes, is amended to read:

10 220.02 Legislative intent.--

11 (10) It is the intent of the Legislature that credits
12 against either the corporate income tax or the franchise tax
13 be applied in the following order: those enumerated in s.
14 ~~220.68, those enumerated in s. 631.719(1), those enumerated in~~
15 ~~s. 631.705,~~ those enumerated in s. 220.18, those enumerated in
16 s. 631.828, those enumerated in s. 220.181, those enumerated
17 in s. 220.183, those enumerated in s. 220.182, those
18 enumerated in s. 220.1895, those enumerated in s. 221.02,
19 those enumerated in s. 220.184, those enumerated in s.
20 220.186, ~~and~~ those enumerated in s. 220.188, and those
21 enumerated in s. 220.19.

22 Section 2. Paragraph (cc) of subsection (1) of section
23 220.03, Florida Statutes, is amended, and paragraph (gg) is
24 added to that subsection, to read:

25 220.03 Definitions.--

26 (1) SPECIFIC TERMS.--When used in this code, and when
27 not otherwise distinctly expressed or manifestly incompatible
28 with the intent thereof, the following terms shall have the
29 following meanings:

30 (cc) "Child care facility startup costs" means
31 expenditures for substantial renovation; for equipment,

1 including playground equipment and kitchen appliances and
2 cooking equipment; ~~for, and~~ real property, including land and
3 improvements; and for reduction of debt made in connection
4 with, used to establish a child care facility as defined by s.
5 402.302(4), or any facility providing daily care to children
6 who are mildly ill, which is located in this the state on the
7 taxpayer's premises or within 5 miles of the employees'
8 workplace and used exclusively by the employees of the
9 taxpayer.

10 (gg) "Operation of a child care facility" means
11 operation of a child care facility as defined by s.
12 402.302(4), or any facility providing daily care to children
13 who are mildly ill, which is located in this state within 5
14 miles of at least one place of business of the taxpayer and
15 which is used by the employees of the taxpayer.

16 Section 3. Section 220.12, Florida Statutes, is
17 amended to read:

18 220.12 "Net income" defined.--For purposes of this
19 code, a taxpayer's net income for a taxable year shall be its
20 adjusted federal income, or that share of its adjusted federal
21 income for such year which is apportioned to this state under
22 s. 220.15, plus nonbusiness income allocated to this state
23 pursuant to s. 220.16, ~~less child care facility startup costs~~
24 ~~as defined by s. 220.03(1)(dd)~~, less the exemption allowed by
25 s. 220.14.

26 Section 4. Section 220.19, Florida Statutes, is
27 created to read:

28 220.19 Child care tax credits.--

29 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

30 (a)1. A credit of 50 percent of the startup costs of
31 child care facilities operated by a corporation for its

1 employees is allowed against any tax due for a taxable year
2 under this chapter. A credit against such tax is also allowed
3 for the operation of a child care facility by a corporation
4 for its employees, which credit is in the amount of \$50 per
5 month for each child enrolled in the facility.

6 2. A credit is allowed against any tax due for a
7 taxable year under this chapter for any taxpayer that makes
8 payments directly to a child care facility, as defined by s.
9 402.302, which is licensed in accordance with s. 402.305, or
10 to any facility providing daily care to children who are
11 mildly ill, which payments are made in the name of and for the
12 benefit of an employee of the taxpayer in this state whose
13 child attends the child care facility during the employee's
14 working hours. The credit shall be an amount equal to 50
15 percent of the amount of such child care payments.

16 (b) A corporation may not receive more than \$50,000 in
17 annual tax credits for all approved child care costs that the
18 corporation incurs in any one year.

19 (c) The total amount of tax credits which may be
20 granted for all programs approved under this section and s.
21 624.5107 is \$2 million annually.

22 (d) An application for tax credit under this section
23 must be approved by the secretary of the department.

24 (e) If the credit granted under this section is not
25 fully used in any one year because of insufficient tax
26 liability on the part of the corporation, the unused amount
27 may be carried forward for a period not to exceed 5 years.
28 The carryover credit may be used in a subsequent year when the
29 tax imposed by this chapter for that year exceeds the credit
30 for which the corporation is eligible in that year under this

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1 section after applying the other credits and unused carryovers
2 in the order provided by s. 220.02(10).

3 (f) If a corporation receives a credit for child care
4 facility startup costs, and the facility fails to operate for
5 at least 5 years, a pro rata share of the credit must be
6 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
7 where:

8 1. "A" is the amount in dollars of the required
9 repayment.

10 2. "C" is the total credits taken by the corporation
11 for child care facility startup costs.

12 3. "N" is the number of months the facility was in
13 operation.

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15 This repayment requirement is inapplicable if the corporation
16 goes out of business or can demonstrate to the department that
17 its employees no longer want to have a child care facility.

18 (g) A taxpayer that files a consolidated return in
19 this state as a member of an affiliated group under s.
20 220.131(1) may be allowed the credit on a consolidated return
21 basis.

22 (h) A taxpayer that is eligible to receive credit
23 under s. 624.5107 is ineligible to receive credit under this
24 section.

25 (2) ELIGIBILITY REQUIREMENTS.--

26 (a) A child care facility with respect to which a
27 corporation claims a child care tax credit must be a child
28 care facility as defined by s. 402.302 and must be licensed in
29 accordance with s. 402.305, or must be a facility providing
30 daily care to children who are mildly ill.

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1 (b) The services of a child care facility for which a
2 corporation claims a child care tax credit under subparagraph
3 (1)(a)1. must be available to all employees of the
4 corporation, or must be allocated on a first-come,
5 first-served basis, and must be used by employees of the
6 taxpayer.

7 (c) Two or more corporations may join together to
8 start and to operate a child care facility according to the
9 provisions of this section. If two or more corporations choose
10 to jointly operate a child care facility, or cause a
11 not-for-profit corporation to operate the child care facility,
12 the corporations must file a joint application or the
13 not-for-profit corporation may file the application with the
14 department, pursuant to subsection (3), setting forth their
15 proposal. The participating corporations may proportion the
16 credits for annual child care costs in any manner they choose
17 as appropriate, but a jointly operated corporate child care
18 facility established under this section may not receive more
19 than \$50,000 in annual tax credits for all approved child care
20 costs that the participating corporations incur in any one
21 year.

22 (d) Child care payments for which a corporation claims
23 a credit under subparagraph (1)(a)2. must not exceed the
24 amount charged by the child care facility to other children of
25 like age and abilities whose parents or guardians are not
26 employed by the corporation.

27 (3) APPLICATION REQUIREMENTS.--Any corporation that
28 wishes to participate in this program must submit to the
29 department an application for tax credit which sets forth the
30 proposal for establishing a child care facility for the use of
31 its employees or for payment of the cost of child care for its

1 employees. This application must state the anticipated
2 startup costs and the number of children to be enrolled, if
3 credit is claimed under subparagraph (1)(a)1., or the number
4 of children for whom child care costs will be paid, if credit
5 is claimed under subparagraph (1)(a)2.

6 (4) ADMINISTRATION.--

7 (a) The Department of Children and Family Services may
8 adopt all rules necessary to administer this section,
9 including rules for the approval or disapproval of proposals
10 submitted by corporations and rules to provide for cooperative
11 arrangements between profit and nonprofit corporations.

12 (b) The secretary's decision to approve or disapprove
13 a proposal must be in writing, and, if the proposal is
14 approved, the decision must state the maximum credit allowable
15 to the corporation.

16 (5) EXPIRATION.--This section expires June 30, 2008,
17 except that paragraph (1)(e), which relates to carryover
18 credits, and paragraph (1)(f), which relates to repaying tax
19 credits in specified circumstances, do not expire on that
20 date.

21 (6) MEANING OF CORPORATION.--As used in this section,
22 the term "corporation" includes all general partnerships,
23 limited partnerships, unincorporated businesses, and all other
24 business entities that are owned or controlled by the parent
25 corporation.

26 Section 5. Section 624.5107, Florida Statutes, is
27 created to read:

28 624.5107 Child care tax credits; definitions;
29 authorization; limitations; eligibility and application
30 requirements; administration; expiration.--

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

1 (a) "Child care facility startup costs" means
2 expenditures for substantial renovation; for equipment,
3 including playground equipment and kitchen appliances and
4 cooking equipment; for real property, including land and
5 improvements; and for reduction of debt made in connection
6 with the establishment of a child care facility as defined by
7 s. 402.302, or any facility providing daily care to children
8 who are mildly ill, which is located in this state on the
9 insurer's premises and which is used by the employees of the
10 insurer.

11 (b) "Operation of a child care facility" means
12 operation of a child care facility as defined by s. 402.302,
13 or any facility providing daily care to children who are
14 mildly ill, which is located in this state within 5 miles of
15 at least one place of business of the insurer and which is
16 used by the employees of the insurer.

17 (c) "Department" means the Department of Children and
18 Family Services.

19 (d) "Secretary" means the secretary of the Department
20 of Children and Family Services.

21 (2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

22 (a)1. A credit of 50 percent of the startup costs of
23 child care facilities operated by an insurer for its employees
24 is allowed against any tax due for a taxable year under s.
25 624.509 or s. 624.510. A credit against such tax is also
26 allowed for the operation of a child care facility by an
27 insurer for its employees, which credit is in the amount of
28 \$50 per month for each child enrolled in the facility.

29 2. A credit is allowed against any tax due for a
30 taxable year under s. 624.509 or s. 624.510 for any insurer
31 that makes payments directly to a child care facility as

1 defined by s. 402.302 which is licensed in accordance with s.
2 402.305, or to any facility providing daily care to children
3 who are mildly ill, which payments are made in the name of and
4 for the benefit of an employee of the insurer in this state
5 whose child attends the child care facility during the
6 employee's working hours. The credit is to be an amount equal
7 to 50 percent of the amount of such child care payments.

8 (b) An insurer may not receive more than \$50,000 in
9 annual tax credits for all approved child care costs that the
10 insurer incurs in any one year.

11 (c) The total amount of tax credits which may be
12 granted for all programs approved under this section and s.
13 220.19 is \$2 million annually.

14 (d) An application for tax credit under this section
15 must be approved by the secretary.

16 (e) If the credit granted under this section is not
17 fully used in any one year because of insufficient tax
18 liability on the part of the insurer, the unused amount may be
19 carried forward for a period not to exceed 5 years. The
20 carryover credit may be used in a subsequent year when the tax
21 imposed by s. 624.509 or s. 624.510 for that year exceeds the
22 credit for which the insurer is eligible in that year under
23 this section.

24 (f) If an insurer receives a credit for child care
25 facility startup costs, and the facility fails to operate for
26 at least 5 years, a pro rata share of the credit must be
27 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
28 where:

29 1. "A" is the amount in dollars of the required
30 repayment.

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1 2. "C" is the total credits taken by the insurer for
2 child care facility startup costs.

3 3. "N" is the number of months the facility was in
4 operation.

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6 This repayment requirement is inapplicable if the insurer goes
7 out of business or can demonstrate to the department that its
8 employees no longer want to have a child care facility.

9 (3) ELIGIBILITY REQUIREMENTS.--

10 (a) A child care facility with respect to which an
11 insurer claims a child care tax credit must be a child care
12 facility as defined by s. 402.302 and must be licensed in
13 accordance with s. 402.305, or must be a facility providing
14 daily care to children who are mildly ill.

15 (b) The services of a child care facility for which an
16 insurer claims a child care tax credit under subparagraph
17 (2)(a)1. must be available to all employees of the insurer or
18 must be allocated on a first-come, first-served basis, and
19 must be used by employees of the insurer.

20 (c) Child care payments for which an insurer claims a
21 credit under subparagraph (2)(a)2. must not exceed the amount
22 charged by the child care facility to other children of like
23 age and abilities whose parents or guardians are not employed
24 by the insurer.

25 (4) APPLICATION REQUIREMENTS.--Any insurer that wishes
26 to participate in this program must submit to the department
27 an application for tax credit which sets forth the proposal
28 for establishing a child care facility for the use of its
29 employees or for payment of the cost of child care for its
30 employees. This application must state the anticipated startup
31 costs and the number of children to be enrolled, if credit is

1 claimed under subparagraph (2)(a)1., or the number of children
2 for whom child care costs will be paid, if credit is claimed
3 under subparagraph (2)(a)2.

4 (5) ADMINISTRATION.--

5 (a) The Department of Children and Family Services may
6 adopt all rules necessary to administer this section,
7 including rules for the approval or disapproval of proposals
8 submitted by insurers and rules to provide for cooperative
9 arrangements between profit and nonprofit entities.

10 (b) The secretary's decision to approve or disapprove
11 a proposal must be in writing, and, if the proposal is
12 approved, the decision must state the maximum credit allowable
13 to the insurer.

14 (6) EXPIRATION.--This section expires June 30, 2008,
15 except that paragraph (2)(e), which relates to carryover
16 credits, and paragraph (2)(f), which relates to repaying tax
17 credits in specified circumstances, do not expire on that
18 date.

19 Section 6. This act shall take effect December 31,
20 1998.

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SENATE SUMMARY

Pertains to credits against taxes. Provides the order of credits against the corporate income tax or franchise tax. Amends the definition of the term "child care facility startup costs" and defines the term "operation of a child care facility." Revises the definition of a taxpayer's net income for corporate income tax purposes to delete the deduction of child care facility startup costs.

Authorizes a credit against the corporate income tax for child care facility startup costs and operation, and for payment of an employee's child care costs. Provides limitations. Requires a recipient to refund a portion of tax credits received under certain conditions. Provides eligibility and application requirements. Provides for administration by the Department of Children and Family Services. Provides for future expiration. Defines the term "corporation."

Authorizes a credit against insurance premium taxes for child care facility startup costs and operation, and for payment of an employee's child care costs. Provides definitions. Provides limitations. Requires a recipient to refund a portion of tax credits received under certain conditions. Provides eligibility and application requirements. Provides for administration by the Department of Children and Family Services. Provides for future expiration.