

By the Committee on Ways and Means; and Senator Harris

301-2033A-98

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 Revenue;  
22          providing for future expiration; defining the  
23          term "corporation"; creating s. 624.5107, F.S.;  
24          authorizing a credit against insurance premium  
25          taxes for child care facility startup costs and  
26          operation and for payment of an employee's  
27          child care costs; providing definitions;  
28          providing limitations; requiring a recipient to  
29          refund a portion of tax credits received under  
30          certain conditions; providing eligibility and  
31          application requirements; providing for

1 administration by the Department of Revenue;  
2 providing for future expiration; providing an  
3 effective date.

4  
5 Be It Enacted by the Legislature of the State of Florida:

6  
7 Section 1. Subsection (10) of section 220.02, Florida  
8 Statutes, is amended to read:

9 220.02 Legislative intent.--

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

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

24 220.03 Definitions.--

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

29 (cc) "Child care facility startup costs" means  
30 expenditures for substantial renovation; for equipment,  
31 including playground equipment and kitchen appliances and

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

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

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

17 220.12 "Net income" defined.--For purposes of this  
18 code, a taxpayer's net income for a taxable year shall be its  
19 adjusted federal income, or that share of its adjusted federal  
20 income for such year which is apportioned to this state under  
21 s. 220.15, plus nonbusiness income allocated to this state  
22 pursuant to s. 220.16, ~~less child care facility startup costs~~  
23 ~~as defined by s. 220.03(1)(dd),~~ less the exemption allowed by  
24 s. 220.14.

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

27 220.19 Child care tax credits.--  
28 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--  
29 (a)1. A credit of 50 percent of the startup costs of  
30 child care facilities operated by a corporation for its  
31 employees is allowed against any tax due for a taxable year

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

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

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

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

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

23 (e) If the credit granted under this section is not  
24 fully used in any one year because of insufficient tax  
25 liability on the part of the corporation, the unused amount  
26 may be carried forward for a period not to exceed 5 years.  
27 The carryover credit may be used in a subsequent year when the  
28 tax imposed by this chapter for that year exceeds the credit  
29 for which the corporation is eligible in that year under this  
30 section after applying the other credits and unused carryovers  
31 in the order provided by s. 220.02(10).

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

6           1. "A" is the amount in dollars of the required  
7 repayment.

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

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

12  
13 This repayment requirement is inapplicable if the corporation  
14 goes out of business or can demonstrate to the department that  
15 its employees no longer want to have a child care facility.

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

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

23           (2) ELIGIBILITY REQUIREMENTS.--

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

29           (b) The services of a child care facility for which a  
30 corporation claims a child care tax credit under subparagraph  
31 (1)(a)1. must be available to all employees of the

1 corporation, or must be allocated on a first-come,  
2 first-served basis, and must be used by employees of the  
3 taxpayer.

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

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

24 (3) APPLICATION REQUIREMENTS.--Any corporation that  
25 wishes to participate in this program must submit to the  
26 department an application for tax credit which sets forth the  
27 proposal for establishing a child care facility for the use of  
28 its employees or for payment of the cost of child care for its  
29 employees. This application must state the anticipated  
30 startup costs and the number of children to be enrolled, if  
31 credit is claimed under subparagraph (1)(a)1., or the number

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

3 (4) ADMINISTRATION.--

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

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

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

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

23 Section 5. Section 624.5107, Florida Statutes, is  
24 created to read:

25 624.5107 Child care tax credits; definitions;  
26 authorization; limitations; eligibility and application  
27 requirements; administration; expiration.--

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

29 (a) "Child care facility startup costs" means  
30 expenditures for substantial renovation; for equipment,  
31 including playground equipment and kitchen appliances and

1 cooking equipment; for real property, including land and  
2 improvements; and for reduction of debt made in connection  
3 with the establishment of a child care facility as defined by  
4 s. 402.302, or any facility providing daily care to children  
5 who are mildly ill, which is located in this state on the  
6 insurer's premises and which is used by the employees of the  
7 insurer.

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

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

15 (d) "Executive director" means the executive director  
16 of the Department of Revenue.

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

18 (a)1. A credit of 50 percent of the startup costs of  
19 child care facilities operated by an insurer for its employees  
20 is allowed against any tax due for a taxable year under s.  
21 624.509 or s. 624.510. A credit against such tax is also  
22 allowed for the operation of a child care facility by an  
23 insurer for its employees, which credit is in the amount of  
24 \$50 per month for each child enrolled in the facility.

25 2. A credit is allowed against any tax due for a  
26 taxable year under s. 624.509 or s. 624.510 for any insurer  
27 that makes payments directly to a child care facility as  
28 defined by s. 402.302 which is licensed in accordance with s.  
29 402.305, or to any facility providing daily care to children  
30 who are mildly ill, which payments are made in the name of and  
31 for the benefit of an employee of the insurer in this state



1 whose child attends the child care facility during the  
2 employee's working hours. The credit is to be an amount equal  
3 to 50 percent of the amount of such child care payments.

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

7 (c) The total amount of tax credits which may be  
8 granted for all programs approved under this section and s.  
9 220.19 is \$2 million annually.

10 (d) An application for tax credit under this section  
11 must be approved by the executive director.

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

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

25 1. "A" is the amount in dollars of the required  
26 repayment.

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

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

31

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

4 (3) ELIGIBILITY REQUIREMENTS.--

5 (a) A child care facility with respect to which an  
6 insurer claims a child care tax credit must be a child care  
7 facility as defined by s. 402.302 and must be licensed in  
8 accordance with s. 402.305, or must be a facility providing  
9 daily care to children who are mildly ill.

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

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

20 (4) APPLICATION REQUIREMENTS.--Any insurer that wishes  
21 to participate in this program must submit to the department  
22 an application for tax credit which sets forth the proposal  
23 for establishing a child care facility for the use of its  
24 employees or for payment of the cost of child care for its  
25 employees. This application must state the anticipated startup  
26 costs and the number of children to be enrolled, if credit is  
27 claimed under subparagraph (2)(a)1., or the number of children  
28 for whom child care costs will be paid, if credit is claimed  
29 under subparagraph (2)(a)2.

30 (5) ADMINISTRATION.--  
31

1           (a) The Department of Revenue may adopt all rules  
2 necessary to administer this section, including rules for the  
3 approval or disapproval of proposals submitted by insurers and  
4 rules to provide for cooperative arrangements between profit  
5 and nonprofit entities.

6           (b) The executive director's decision to approve or  
7 disapprove a proposal must be in writing, and, if the proposal  
8 is approved, the decision must state the maximum credit  
9 allowable to the insurer.

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

15           Section 6. This act shall take effect December 31,  
16 1998.

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18           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
19           COMMITTEE SUBSTITUTE FOR  
20           SB 1608

21 This committee substitute provides that the child care tax  
22 credit program shall be administered by the Department of  
23 Revenue instead of the Department of Children and Family  
24 Services.  
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