

By Representative Lynn

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 revising the definition of "child care facility
7 startup costs" and defining "operation of a
8 child care facility"; amending s. 220.12, F.S.;
9 revising the definition of a taxpayer's net
10 income for corporate income tax purposes to
11 delete the deduction of child care facility
12 startup costs; creating s. 220.19, F.S.;
13 authorizing a credit against the corporate
14 income tax for child care facility startup
15 costs and operation, and for payment of an
16 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; creating s.
23 624.5107, F.S.; authorizing a credit against
24 insurance premium taxes for child care facility
25 startup costs and operation, and for payment of
26 an employee's child care costs; providing
27 definitions; providing limitations; requiring a
28 recipient to refund a portion of tax credits
29 received under certain conditions; providing
30 eligibility and application requirements;
31 providing for administration by the Department

1 of Revenue; providing for future expiration;
2 providing an effective date.

3

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

5

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

8 220.02 Legislative intent.--

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

19 Section 2. Paragraph (cc) of subsection (1) of section
20 220.03, Florida Statutes, 1996 Supplement, is amended, and
21 paragraph (gg) is added to said subsection, to read:

22 220.03 Definitions.--

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

27 (cc) "Child care facility startup costs" means
28 expenditures for equipment, including playground equipment and
29 kitchen appliances and cooking equipment, and real property,
30 including land and improvements, used to establish a child
31 care facility as defined by s. 402.302(4) which is located in

1 ~~this the~~ state on the taxpayer's premises ~~or within 5 miles of~~
2 ~~the employees' workplace~~ and used exclusively by the employees
3 of the taxpayer.

4 (gg) "Operation of a child care facility" means
5 operation of a child care facility as defined by s. 402.302(4)
6 which is located in this state on the taxpayer's premises and
7 used exclusively by the employees of the taxpayer.

8 Section 3. Section 220.12, Florida Statutes, 1996
9 Supplement, is amended to read:

10 220.12 "Net income" defined.--For purposes of this
11 code, a taxpayer's net income for a taxable year shall be its
12 adjusted federal income, or that share of its adjusted federal
13 income for such year which is apportioned to this state under
14 s. 220.15, plus nonbusiness income allocated to this state
15 pursuant to s. 220.16, ~~less child care facility startup costs~~
16 ~~as defined by s. 220.03(1)(dd)~~, less the exemption allowed by
17 s. 220.14.

18 Section 4. Section 220.19, Florida Statutes, is
19 created to read:

20 220.19 Child care tax credits.--

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

22 (a)1. A credit of 50 percent of the startup costs of
23 child care facilities is allowed against any tax due for a
24 taxable year under this chapter. A credit against such tax is
25 also allowed for the operation of a child care facility, which
26 credit is in the amount of \$50 per month for each child
27 enrolled in the facility.

28 2. A credit is allowed against any tax due for a
29 taxable year under this chapter for any taxpayer that makes
30 payments directly to a child care facility as defined by s.
31 402.302 which is licensed in accordance with s. 402.305, which

1 payments are made in the name of and for the benefit of an
2 employee of the taxpayer in this state whose child attends the
3 child care facility during the employee's working hours. The
4 credit shall be an amount equal to 50 percent of the amount of
5 such child care payments.

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

9 (c) The total amount of tax credits which may be
10 granted for all programs approved under this section and s.
11 624.5107 is \$2 million annually.

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

14 (e) If the credit granted under this section is not
15 fully used in any one year because of insufficient tax
16 liability on the part of the corporation, the unused amount
17 may be carried forward for a period not to exceed 5 years.
18 The carryover credit may be used in a subsequent year when the
19 tax imposed by this chapter for that year exceeds the credit
20 for which the corporation is eligible in that year under this
21 section after applying the other credits and unused carryovers
22 in the order provided by s. 220.02(10).

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

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

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

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

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

7 (g) A taxpayer that files a consolidated return in
8 this state as a member of an affiliated group under s.
9 220.131(1) may be allowed the credit on a consolidated return
10 basis.

11 (h) A taxpayer that is eligible to receive credit
12 under s. 624.5107 is ineligible to receive credit under this
13 section.

14 (2) ELIGIBILITY REQUIREMENTS.--

15 (a) A child care facility with respect to which a
16 corporation claims a child care tax credit must be a child
17 care facility as defined by s. 402.302 and must be licensed in
18 accordance with s. 402.305.

19 (b) The services of a child care facility for which a
20 corporation claims a child care tax credit under subparagraph
21 (1)(a)1. must be available to all employees of the corporation
22 whose workplace is within 5 miles of the child care facility,
23 or must be allocated on a first-come, first-served basis, and
24 must be used exclusively by employees of the taxpayer.

25 (c) Two or more corporations may join together to
26 start and to operate a child care facility according to the
27 provisions of this section. If two or more corporations
28 choose to jointly operate a child care facility, the facility
29 must be used exclusively by the employees of the cooperating
30 corporations and the corporations must file a joint
31 application with the department, pursuant to subsection (3),

1 setting forth their proposal. The participating corporations
2 may proportion the annual child care costs credits in any
3 manner they choose as appropriate, but no jointly operated
4 corporate child care facility established under this section
5 may receive more than \$50,000 in annual tax credits for all
6 approved child care costs that the participating corporations
7 incur in any one year.

8 (d) Child care payments for which a corporation claims
9 a credit under subparagraph (1)(a)2. shall not exceed the
10 amount charged by the child care facility to other children of
11 like age and abilities of persons not employed by the
12 corporation.

13 (3) APPLICATION REQUIREMENTS.--Any corporation that
14 wishes to participate in this program must submit to the
15 department an application for tax credit which sets forth the
16 proposal for establishing a child care facility for the
17 exclusive use of its employees or for payment of the cost of
18 child care for its employees. This application must state the
19 anticipated startup costs and the number of children to be
20 enrolled, in the case of credit claimed under subparagraph
21 (1)(a)1., or the number of children for whom child care costs
22 will be paid, in the case of credit claimed under subparagraph
23 (1)(a)2.

24 (4) ADMINISTRATION.--

25 (a) The Department of Revenue may adopt all rules
26 necessary to administer this section, including rules for the
27 approval or disapproval of proposals submitted by
28 corporations.

29 (b) The executive director's decision to approve or
30 disapprove a proposal must be in writing, and, if the proposal
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1 is approved, the decision must state the maximum credit
2 allowable to the corporation.

3 (5) EXPIRATION.--This section expires on June 30,
4 2007, except that paragraph (1)(e), which relates to carryover
5 credits, and paragraph (1)(f), which relates to repaying tax
6 credits in specified circumstances, do not expire on that
7 date.

8 Section 5. Section 624.5107, Florida Statutes, is
9 created to read:

10 624.5107 Child care tax credits; definitions;
11 authorization; limitations; eligibility and application
12 requirements; administration; expiration.--

13 (1) DEFINITIONS.--As used in this section:

14 (a) "Child care facility startup costs" means
15 expenditures for equipment, including playground equipment and
16 kitchen appliances and cooking equipment, and for real
17 property, including land and improvements, used to establish a
18 child care facility as defined by s. 402.302 which is located
19 in this state on the insurer's premises and used exclusively
20 by the employees of the insurer.

21 (b) "Operation of a child care facility" means
22 operation of a child care facility as defined by s. 402.302
23 which is located in this state on the insurer's premises and
24 used exclusively by the employees of the insurer.

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

26 (d) "Executive director" means the executive director
27 of the Department of Revenue.

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

29 (a)1. A credit of 50 percent of child care facility
30 startup costs is allowed against any tax due for a taxable
31 year under s. 624.509 or s. 624.510. A credit against such

1 tax is also allowed for the operation of a child care
2 facility, which credit is in the amount of \$50 per month for
3 each child enrolled in the facility.

4 2. A credit is allowed against any tax due for a
5 taxable year under s. 624.509 or s. 624.510 for any insurer
6 that makes payments directly to a child care facility as
7 defined by s. 402.302 which is licensed in accordance with s.
8 402.305, which payments are made in the name of and for the
9 benefit of an employee of the insurer in this state whose
10 child attends the child care facility during the employee's
11 working hours. The credit shall be an amount equal to 50
12 percent of the amount of such child care payments.

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

16 (c) The total amount of tax credits which may be
17 granted for all programs approved under this section and s.
18 220.19 is \$2 million annually.

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

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

29 (f) If an insurer that receives a credit for child
30 care facility startup costs fails to operate that facility for
31 at least 5 years, a pro rata share of the credit must be

1 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
2 where:

3 1. "A" is the amount in dollars of the required
4 repayment.

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

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

9
10 This repayment requirement is inapplicable if the insurer goes
11 out of business or can demonstrate to the department that its
12 employees no longer want to have a child care facility.

13 (3) ELIGIBILITY REQUIREMENTS.--

14 (a) A child care facility with respect to which an
15 insurer claims a child care tax credit must be a child care
16 facility as defined by s. 402.302 and must be licensed in
17 accordance with s. 402.305.

18 (b) The services of a child care facility for which an
19 insurer claims a child care tax credit under subparagraph
20 (2)(a)1. must be available to all employees of the insurer
21 whose workplace is within 5 miles of the child care facility,
22 or must be allocated on a first-come, first-served basis, and
23 must be used exclusively by employees of the insurer.

24 (c) Child care payments for which an insurer claims a
25 credit under subparagraph (2)(a)2. shall not exceed the amount
26 charged by the child care facility to other children of like
27 age and abilities of persons not employed by the insurer.

28 (4) APPLICATION REQUIREMENTS.--Any insurer that wishes
29 to participate in this program must submit to the department
30 an application for tax credit which sets forth the proposal
31 for establishing a child care facility for the exclusive use

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

7 (5) ADMINISTRATION.--

8 (a) The Department of Revenue may adopt all rules
9 necessary to administer this section, including rules for the
10 approval or disapproval of proposals submitted by insurers.

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

15 (6) EXPIRATION.--This section expires on June 30,
16 2007, except that paragraph (2)(e), which relates to carryover
17 credits, and paragraph (2)(f), which relates to repaying tax
18 credits in specified circumstances, do not expire on that
19 date.

20 Section 6. This act shall take effect June 30, 1997.

21 *****

22 HOUSE SUMMARY

23 Provides a credit against the corporate income tax or
24 insurance premium taxes for 50 percent of child care
25 facility startup costs and for operation of the facility
26 in the amount of \$50 per month per child enrolled in the
27 facility, and for 50 percent of payments made to a child
28 care facility on behalf of an employee for care of the
29 employee's child. Provides limitations and requires
30 refund of a pro rata portion of the startup credit if the
31 facility is not operated for 5 years. Provides for
administration by the Department of Revenue and for
expiration of the credits in 10 years.