

Bill No. CS for SB 1048

Amendment No. Barcode 121662

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Geller moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 220.187, Florida Statutes, is created to read:

220.187 Credits for contributions to district school board direct-support organizations, charter schools, and nonprofit scholarship-funding organizations.--

(1) PURPOSE.--The purpose of this section is to:

(a) Provide a tax credit for certain contributions to a nonprofit direct-support organization or charter school.

(b) Enable children in this state to achieve a greater level of excellence in their education.

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

(a) "Department" means the Department of Revenue.

(b) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to a district school board

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1 direct-support organization or charter school. The taxpayer
2 making the contribution may not designate a specific child or
3 group of children as the beneficiaries of the contribution.

4 (c) "Direct-support organization" means a district
5 school board direct-support organization created pursuant to
6 s. 237.40(1)(a).

7 (3) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
8 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

9 (a) There is allowed a credit of 100 percent of an
10 eligible contribution against any tax due for a taxable year
11 under this chapter. However, such a credit may not exceed 75
12 percent of the tax due under this chapter for the taxable
13 year, after the application of any other allowable credits by
14 the taxpayer. However, the total state and federal tax credits
15 and deductions may not exceed the amount of the contribution.

16 (b) The total amount of tax credit which may be
17 granted each state fiscal year under this section is \$50
18 million.

19 (c) A taxpayer who files a Florida consolidated return
20 as a member of an affiliated group pursuant to s. 220.131(1)
21 may be allowed the credit on a consolidated return basis;
22 however, the total credit taken by the affiliated group is
23 subject to the limitation established under paragraph (a).

24 (4) OBLIGATIONS OF DIRECT-SUPPORT ORGANIZATIONS OR
25 CHARTER SCHOOLS.--Contributions received by a direct-support
26 organization or charter school shall be acted upon pursuant to
27 s. 237.40, except that a contributor may designate a
28 particular school or schools as recipients of the
29 contribution.

30 (5) ADMINISTRATION; RULES.--

31 (a) If the credit granted pursuant to this section is

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1 not fully used in any one year, the unused amount may not be
2 carried forward. A taxpayer may not convey, assign, or
3 transfer the credit authorized by this section to another
4 entity unless all of the assets of the taxpayer are conveyed,
5 assigned, or transferred in the same transaction.

6 (b) An application for a tax credit pursuant to this
7 section shall be submitted to the department on forms
8 established by rule of the department.

9 (c) The department and the Department of Education
10 shall develop a cooperative agreement to assist in the
11 administration of this section. The Department of Education
12 shall be responsible for annually submitting, by June 15, to
13 the department a list of eligible nonprofit
14 scholarship-funding organizations that meet the requirements
15 of paragraph (2)(d) and for monitoring eligibility of
16 nonprofit scholarship-funding organizations that meet the
17 requirements of paragraph (2)(d) and eligibility of
18 expenditures under this section as provided in subsection (4).

19 (d) The department shall adopt rules necessary to
20 administer this section, including rules establishing
21 application forms and procedures and governing the allocation
22 of tax credits under this section on a first-come,
23 first-served basis.

24 (e) The Department of Education shall adopt rules
25 necessary to determine eligibility of nonprofit
26 scholarship-funding organizations and charter schools and
27 identify qualified students.

28 Section 2. Subsection (8) of section 220.02, Florida
29 Statutes, is amended to read:

30 220.02 Legislative intent.--

31 (8) It is the intent of the Legislature that credits

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1 against either the corporate income tax or the franchise tax
2 be applied in the following order: those enumerated in s.
3 631.828, those enumerated in s. 220.191, those enumerated in
4 s. 220.181, those enumerated in s. 220.183, those enumerated
5 in s. 220.182, those enumerated in s. 220.1895, those
6 enumerated in s. 221.02, those enumerated in s. 220.184, those
7 enumerated in s. 220.186, those enumerated in s. 220.1845,
8 those enumerated in s. 220.19, ~~and~~ those enumerated in s.
9 220.185, and those enumerated in s. 220.187.

10 Section 3. Paragraph (a) of subsection (1) of section
11 220.13, Florida Statutes, is amended to read:

12 220.13 "Adjusted federal income" defined.--

13 (1) The term "adjusted federal income" means an amount
14 equal to the taxpayer's taxable income as defined in
15 subsection (2), or such taxable income of more than one
16 taxpayer as provided in s. 220.131, for the taxable year,
17 adjusted as follows:

18 (a) Additions.--There shall be added to such taxable
19 income:

20 1. The amount of any tax upon or measured by income,
21 excluding taxes based on gross receipts or revenues, paid or
22 accrued as a liability to the District of Columbia or any
23 state of the United States which is deductible from gross
24 income in the computation of taxable income for the taxable
25 year.

26 2. The amount of interest which is excluded from
27 taxable income under s. 103(a) of the Internal Revenue Code or
28 any other federal law, less the associated expenses disallowed
29 in the computation of taxable income under s. 265 of the
30 Internal Revenue Code or any other law, excluding 60 percent
31 of any amounts included in alternative minimum taxable income,

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1 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
2 taxpayer pays tax under s. 220.11(3).

3 3. In the case of a regulated investment company or
4 real estate investment trust, an amount equal to the excess of
5 the net long-term capital gain for the taxable year over the
6 amount of the capital gain dividends attributable to the
7 taxable year.

8 4. That portion of the wages or salaries paid or
9 incurred for the taxable year which is equal to the amount of
10 the credit allowable for the taxable year under s. 220.181.
11 The provisions of this subparagraph shall expire and be void
12 on June 30, 2005.

13 5. That portion of the ad valorem school taxes paid or
14 incurred for the taxable year which is equal to the amount of
15 the credit allowable for the taxable year under s. 220.182.
16 The provisions of this subparagraph shall expire and be void
17 on June 30, 2005.

18 6. The amount of emergency excise tax paid or accrued
19 as a liability to this state under chapter 221 which tax is
20 deductible from gross income in the computation of taxable
21 income for the taxable year.

22 7. That portion of assessments to fund a guaranty
23 association incurred for the taxable year which is equal to
24 the amount of the credit allowable for the taxable year.

25 8. In the case of a nonprofit corporation which holds
26 a pari-mutuel permit and which is exempt from federal income
27 tax as a farmers' cooperative, an amount equal to the excess
28 of the gross income attributable to the pari-mutuel operations
29 over the attributable expenses for the taxable year.

30 9. The amount taken as a credit for the taxable year
31 under s. 220.1895.

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1 10. Up to nine percent of the eligible basis of any
2 designated project which is equal to the credit allowable for
3 the taxable year under s. 220.185.

4 11. The amount taken as a credit for the taxable year
5 under s. 220.187.

6 Section 4. Paragraph (u) is added to subsection (7) of
7 section 213.053, Florida Statutes, to read:

8 213.053 Confidentiality and information sharing.--

9 (7) Notwithstanding any other provision of this
10 section, the department may provide:

11 (u) Information relative to s. 220.187 to the
12 Department of Education in the conduct of its official
13 business.

14
15 Disclosure of information under this subsection shall be
16 pursuant to a written agreement between the executive director
17 and the agency. Such agencies, governmental or
18 nongovernmental, shall be bound by the same requirements of
19 confidentiality as the Department of Revenue. Breach of
20 confidentiality is a misdemeanor of the first degree,
21 punishable as provided by s. 775.082 or s. 775.083.

22 Section 5. Section 237.40, Florida Statutes, is
23 republished to read:

24 237.40 Direct-support organization; use of property;
25 board of directors; audit.--

26 (1) DEFINITIONS.--For the purposes of this section,
27 the term:

28 (a) "District school board direct-support
29 organization" means an organization which:

30 1. Is approved by the district school board;

31 2. Is a Florida corporation not for profit,

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1 incorporated under the provisions of chapter 617 and approved
2 by the Department of State; and

3 3. Is organized and operated exclusively to receive,
4 hold, invest, and administer property and to make expenditures
5 to or for the benefit of public prekindergarten through 12th
6 grade education and adult vocational and community education
7 programs in this state.

8 (b) "Personal services" includes full-time or
9 part-time personnel, as well as payroll processing.

10 (2) USE OF PROPERTY.--A district school board:

11 (a) Is authorized to permit the use of property,
12 facilities, and personal services of the district by a
13 direct-support organization, subject to the provisions of this
14 section.

15 (b) Shall prescribe by rule conditions with which a
16 district school board direct-support organization must comply
17 in order to use property, facilities, or personal services of
18 the district. Promulgation of such rules shall be coordinated
19 with the Department of Education. The rules shall provide for
20 budget and audit review and oversight by the district school
21 board and the department.

22 (c) Shall not permit the use of property, facilities,
23 or personal services of a direct-support organization if such
24 organization does not provide equal employment opportunities
25 to all persons, regardless of race, color, religion, sex, age,
26 or national origin.

27 (3) BOARD OF DIRECTORS.--The board of directors of the
28 district school board direct-support organization shall be
29 approved by the district school board.

30 (4) ANNUAL AUDIT.--The direct-support organization
31 shall make provisions for an annual postaudit of its financial

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1 accounts, to be conducted by the district auditor in
2 accordance with rules to be adopted by the Commissioner of
3 Education. The annual audit report shall include a management
4 letter and shall be filed as a public record in the district.
5 The Commissioner of Education and the Auditor General have the
6 authority to require and receive from the organization or the
7 district auditor any detail or supplemental data relative to
8 the operation of the organization. The identity of donors and
9 all information identifying donors and prospective donors are
10 confidential and exempt from the provisions of s. 119.07(1),
11 and that anonymity shall be maintained in the auditor's
12 report. All other records and information are considered
13 public records for the purposes of chapter 119.

14 Section 6. This act shall take effect January 1, 2002,
15 and shall apply to tax years beginning on or after that date.
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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21
22 and insert:

23 A bill to be entitled
24 An act relating to corporate income tax;
25 creating s. 220.187, F.S.; providing purpose;
26 defining terms; providing a credit against the
27 tax for contributions to a nonprofit
28 direct-support organization, charter school, or
29 scholarship-funding organization; providing
30 limitations; providing for use of such
31 contributions for scholarships for certain

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1 students and providing requirements and
2 limitations with respect thereto; providing for
3 allocation; providing requirements for
4 direct-support organizations; providing duties
5 of the Department of Revenue and Department of
6 Education; providing for rules; amending s.
7 220.02, F.S.; providing order of credits
8 against the tax; amending s. 220.13, F.S.;
9 providing for the inclusion of amounts taken as
10 credit under s. 220.187, F.S., in determining a
11 taxpayer's adjusted federal income; amending s.
12 213.053, F.S.; authorizing information-sharing
13 with the Department of Education; republishing
14 s. 237.40, F.S., relating to direct-support
15 organizations; providing an effective date.

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