

Bill No. CS for SB 1048

Amendment No.      Barcode 633794

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Dyer 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 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 a scholarship-funding organization.

(b) Expand educational opportunities for children of families that have limited financial resources.

(c) 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.

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1           (b) "Eligible contribution" means a monetary  
2 contribution from a taxpayer, subject to the restrictions  
3 provided in this section, to a district school board  
4 direct-support organization or an eligible nonprofit  
5 scholarship-funding organization. The taxpayer making the  
6 contribution may not designate a specific child or group of  
7 children as the beneficiaries of the contribution.

8           (c) "Eligible nonpublic school" means a nonpublic  
9 school located in this state which offers an education to  
10 students in any grades K-12 and does not discriminate on the  
11 basis of race, color, religion, or national origin.

12           (d) "Eligible nonprofit scholarship-funding  
13 organization" means a charitable organization that is exempt  
14 from federal income tax pursuant to s. 501(c)(3) of the  
15 Internal Revenue Code and that complies with the provisions of  
16 subsection (4).

17           (e) "Direct-support organization" means a district  
18 school board direct-support organization created pursuant to  
19 s. 237.40(1)(a).

20           (f) "Qualified student" means a student who qualifies  
21 for free or reduced-price school lunches under the National  
22 School Lunch Act and who:

- 23           1. Was counted as a full-time-equivalent student
- 24 during the previous state fiscal year for purposes of state
- 25 per-student funding;
- 26           2. Received a scholarship from an eligible nonprofit
- 27 scholarship-funding organization during the previous school
- 28 year; or
- 29           3. Is eligible to enter kindergarten or first grade.

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

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1           (a) There is allowed a credit of 100 percent of an  
2 eligible contribution against any tax due for a taxable year  
3 under this chapter. However, such a credit may not exceed 75  
4 percent of the tax due under this chapter for the taxable  
5 year, after the application of any other allowable credits by  
6 the taxpayer.

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

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

15           (4) OBLIGATIONS OF ELIGIBLE NONPROFIT  
16 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

17           (a) An eligible nonprofit scholarship-funding  
18 organization shall provide scholarships, from eligible  
19 contributions, to qualified students for tuition or textbook  
20 expenses for, or transportation to, an eligible nonpublic  
21 school. At least 75 percent of the scholarship funding must be  
22 used to pay tuition expenses.

23           (b) The amount of a scholarship provided by the  
24 eligible nonprofit scholarship-funding organization from  
25 eligible contributions may not exceed \$3,500 annually for a  
26 scholarship awarded to a student enrolled in an eligible  
27 nonpublic school.

28           (c) The amount of an eligible contribution which may  
29 be accepted by an eligible nonprofit scholarship-funding  
30 organization is limited to the amount needed to provide  
31 scholarships for qualified students which the organization has

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1 identified and for which vacancies in eligible nonpublic  
2 schools have been identified.

3 (d) An eligible nonprofit scholarship-funding  
4 organization that receives an eligible contribution must spend  
5 100 percent of the eligible contribution to provide  
6 scholarships in the same state fiscal year in which the  
7 contribution was received. No portion of eligible  
8 contributions may be used for administrative expenses.

9 (e) An eligible nonprofit scholarship-funding  
10 organization that receives eligible contributions must be  
11 audited annually by an independent certified public accountant  
12 in accordance with rules adopted by the Department of  
13 Education. The annual audit report must be submitted to the  
14 Auditor General and the Department of Education for review.  
15 The Auditor General and the Department of Education are each  
16 authorized to require and obtain from the eligible nonprofit  
17 scholarship-funding organization, or from its certified public  
18 accountant, any data regarding the provision of scholarships  
19 to qualified students or the uses of eligible contributions.

20 (5) OBLIGATIONS OF DIRECT-SUPPORT  
21 ORGANIZATIONS.--Contributions received by a direct-support  
22 organization shall be acted upon pursuant to s. 237.40, except  
23 that a contributor may designate a particular school or  
24 schools as recipients of the contribution.

25 (6) ADMINISTRATION; RULES.--

26 (a) If the credit granted pursuant to this section is  
27 not fully used in any one year, the unused amount may not be  
28 carried forward. A taxpayer may not convey, assign, or  
29 transfer the credit authorized by this section to another  
30 entity unless all of the assets of the taxpayer are conveyed,  
31 assigned, or transferred in the same transaction.

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

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

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

21           (e) The Department of Education shall adopt rules  
22 necessary to determine eligibility of nonprofit  
23 scholarship-funding organizations and identify qualified  
24 students.

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

27           220.02 Legislative intent.--

28           (8) It is the intent of the Legislature that credits  
29 against either the corporate income tax or the franchise tax  
30 be applied in the following order: those enumerated in s.  
31 631.828, those enumerated in s. 220.191, those enumerated in

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1 s. 220.181, those enumerated in s. 220.183, those enumerated  
2 in s. 220.182, those enumerated in s. 220.1895, those  
3 enumerated in s. 221.02, those enumerated in s. 220.184, those  
4 enumerated in s. 220.186, those enumerated in s. 220.1845,  
5 those enumerated in s. 220.19, ~~and~~ those enumerated in s.  
6 220.185, and those enumerated in s. 220.187.

7 Section 3. Paragraph (a) of subsection (1) of section  
8 220.13, Florida Statutes, is amended to read:

9 220.13 "Adjusted federal income" defined.--

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

15 (a) Additions.--There shall be added to such taxable  
16 income:

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

23 2. The amount of interest which is excluded from  
24 taxable income under s. 103(a) of the Internal Revenue Code or  
25 any other federal law, less the associated expenses disallowed  
26 in the computation of taxable income under s. 265 of the  
27 Internal Revenue Code or any other law, excluding 60 percent  
28 of any amounts included in alternative minimum taxable income,  
29 as defined in s. 55(b)(2) of the Internal Revenue Code, if the  
30 taxpayer pays tax under s. 220.11(3).

31 3. In the case of a regulated investment company or

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1 real estate investment trust, an amount equal to the excess of  
2 the net long-term capital gain for the taxable year over the  
3 amount of the capital gain dividends attributable to the  
4 taxable year.

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

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

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

19 7. That portion of assessments to fund a guaranty  
20 association incurred for the taxable year which is equal to  
21 the amount of the credit allowable for the taxable year.

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

27 9. The amount taken as a credit for the taxable year  
28 under s. 220.1895.

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

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1           11. The amount taken as a credit for the taxable year  
2 under s. 220.187.

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

5           213.053 Confidentiality and information sharing.--

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

8           (u) Information relative to s. 220.187 to the  
9 Department of Education in the conduct of its official  
10 business.

11  
12 Disclosure of information under this subsection shall be  
13 pursuant to a written agreement between the executive director  
14 and the agency. Such agencies, governmental or  
15 nongovernmental, shall be bound by the same requirements of  
16 confidentiality as the Department of Revenue. Breach of  
17 confidentiality is a misdemeanor of the first degree,  
18 punishable as provided by s. 775.082 or s. 775.083.

19           Section 5. Section 237.40, Florida Statutes, is  
20 republished to read:

21           237.40 Direct-support organization; use of property;  
22 board of directors; audit.--

23           (1) DEFINITIONS.--For the purposes of this section,  
24 the term:

25           (a) "District school board direct-support  
26 organization" means an organization which:

- 27           1. Is approved by the district school board;  
28           2. Is a Florida corporation not for profit,  
29 incorporated under the provisions of chapter 617 and approved  
30 by the Department of State; and  
31           3. Is organized and operated exclusively to receive,



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1 hold, invest, and administer property and to make expenditures  
2 to or for the benefit of public prekindergarten through 12th  
3 grade education and adult vocational and community education  
4 programs in this state.

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

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

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

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

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

24 (3) BOARD OF DIRECTORS.--The board of directors of the  
25 district school board direct-support organization shall be  
26 approved by the district school board.

27 (4) ANNUAL AUDIT.--The direct-support organization  
28 shall make provisions for an annual postaudit of its financial  
29 accounts, to be conducted by the district auditor in  
30 accordance with rules to be adopted by the Commissioner of  
31 Education. The annual audit report shall include a management

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

11 Section 6. This act shall take effect January 1, 2002,  
 12 and shall apply to tax years beginning on or after that date.

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 14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete everything before the enacting clause

18

19 and insert:

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

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

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