

By Senator Pruitt

27-593B-01

1 A bill to be entitled
2 An act relating to corporate income tax;
3 creating s. 220.187, F.S.; providing purpose;
4 providing definitions; providing a credit
5 against said tax for contributions to a
6 nonprofit scholarship funding organization;
7 providing limitations; providing for use of
8 such contributions by such organizations for
9 scholarships for certain children and providing
10 requirements and limitations with respect
11 thereto; providing for allocation; providing
12 duties of the Department of Revenue and
13 Department of Education; providing for rules;
14 amending s. 220.02, F.S.; providing order of
15 credits against the tax; amending s. 220.13,
16 F.S.; providing for the inclusion of amounts
17 taken as credit under s. 220.187, F.S., in
18 determining a taxpayer's adjusted federal
19 income; amending s. 213.053, F.S.; authorizing
20 information-sharing with the Department of
21 Education; providing an effective date.

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

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

27 220.187 Credits for contributions to nonprofit
28 scholarship funding organizations.--

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

30 (a) Provide a tax credit for certain contributions to
31 a nonprofit scholarship funding organization.

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

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

5 (2) DEFINITIONS.--As used in this section:

6 (a) "Eligible contribution" means a monetary
7 contribution from a taxpayer, subject to the restrictions
8 provided in this section, to an eligible nonprofit scholarship
9 funding organization. The taxpayer making the contribution may
10 not designate a specific child or group of children as the
11 beneficiaries of the contribution.

12 (b) "Eligible nonpublic school" means a nonpublic
13 primary or secondary school located in Florida that offers a
14 general education to primary or secondary students and does
15 not discriminate on the basis of race, color, religion, or
16 national origin.

17 (c) "Eligible nonprofit scholarship funding
18 organization" means a charitable organization that is exempt
19 from federal income tax pursuant to s. 501(c)(3) of the
20 Internal Revenue Code and that complies with the provisions of
21 subsection (4).

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

25 1. Was enrolled in a public school in this state
26 during the previous school year;

27 2. Received a scholarship from an eligible nonprofit
28 scholarship funding organization during the previous school
29 year; or

30 3. Is eligible to enter kindergarten or first grade.

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

3 (a) There shall be allowed a credit of 100 percent of
4 an eligible contribution against any tax due for a taxable
5 year under this chapter.

6 (b) A taxpayer may not receive more than \$200,000 in
7 annual tax credits for all approved eligible contributions
8 made in any one year.

9 (c) The total amount of tax credit which may be
10 granted under this section is \$50 million annually.

11 (d) A taxpayer who files a Florida consolidated return
12 as a member of an affiliated group pursuant to s. 220.131(1)
13 may be allowed the credit on a consolidated return basis;
14 however, the total credit taken by the affiliated group is
15 subject to the \$200,000 limitation established under paragraph
16 (b).

17 (4) ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING
18 ORGANIZATION OBLIGATIONS.--

19 (a) An eligible nonprofit scholarship funding
20 organization shall provide scholarships from eligible
21 contributions to qualified students for:

22 1. Tuition or textbook expenses for, or transportation
23 to, an eligible nonpublic school; or

24 2. Transportation expenses to a Florida public school
25 that is located outside of the district in which the student
26 resides.

27 (b) The amount of a scholarship provided by the
28 eligible nonprofit scholarship funding organization from
29 eligible contributions shall not exceed the following annual
30 limits:

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1 1. Three thousand five hundred dollars for a
2 scholarship awarded to a student enrolled in an eligible
3 nonpublic school.

4 2. Five hundred dollars for a scholarship awarded to a
5 student enrolled in a Florida public school that is located
6 outside of the district in which the student resides.

7 (c) An eligible nonprofit scholarship funding
8 organization shall allocate over a 5-year period 100 percent
9 of the annual eligible contributions received for scholarships
10 awarded pursuant to this subsection. At least 20 percent of
11 the eligible contributions received by the organization must
12 be disbursed each year. No portion of eligible contributions
13 may be used for administrative expenses.

14 (5) ADMINISTRATION; RULES.--

15 (a) If the credit granted pursuant to this section is
16 not fully used in any one year, the unused amount may not be
17 carried forward. A taxpayer may not convey, assign, or
18 transfer the credit authorized by this section to another
19 entity unless all of the assets of the taxpayer are conveyed,
20 assigned, or transferred in the same transaction.

21 (b) An application for a tax credit pursuant to this
22 section shall be submitted to the Department of Revenue on
23 forms established by rule of the Department of Revenue.

24 (c) The Department of Revenue and the Department of
25 Education shall develop a cooperative agreement to assist in
26 the administration of this section. The Department of
27 Education shall be responsible for annually submitting to the
28 Department of Revenue a list of eligible nonprofit scholarship
29 funding organizations that meet the requirements of paragraph
30 (2)(c) and for monitoring eligibility of nonprofit scholarship
31 funding organizations that meet the requirements of paragraph

1 (2)(c), eligibility of nonpublic schools that meet the
2 requirements of paragraph (2)(b), and eligibility of
3 expenditures under this section as provided in subsection (4).

4 (d) The Department of Revenue shall adopt rules
5 necessary to administer this section, including rules
6 establishing application forms and procedures.

7 (e) The Department of Education shall adopt rules
8 necessary to determine eligibility of nonprofit scholarship
9 funding organizations.

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

12 220.02 Legislative intent.--

13 (8) It is the intent of the Legislature that credits
14 against either the corporate income tax or the franchise tax
15 be applied in the following order: those enumerated in s.
16 631.828, those enumerated in s. 220.191, those enumerated in
17 s. 220.181, those enumerated in s. 220.183, those enumerated
18 in s. 220.182, those enumerated in s. 220.1895, those
19 enumerated in s. 221.02, those enumerated in s. 220.184, those
20 enumerated in s. 220.186, those enumerated in s. 220.1845,
21 those enumerated in s. 220.19, ~~and~~ those enumerated in s.
22 220.185, and those enumerated in s. 220.187.

23 Section 3. Paragraph (a) of subsection (1) of section
24 220.13, Florida Statutes, is amended to read:

25 220.13 "Adjusted federal income" defined.--

26 (1) The term "adjusted federal income" means an amount
27 equal to the taxpayer's taxable income as defined in
28 subsection (2), or such taxable income of more than one
29 taxpayer as provided in s. 220.131, for the taxable year,
30 adjusted as follows:

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1 (a) Additions.--There shall be added to such taxable
2 income:

3 1. The amount of any tax upon or measured by income,
4 excluding taxes based on gross receipts or revenues, paid or
5 accrued as a liability to the District of Columbia or any
6 state of the United States which is deductible from gross
7 income in the computation of taxable income for the taxable
8 year.

9 2. The amount of interest which is excluded from
10 taxable income under s. 103(a) of the Internal Revenue Code or
11 any other federal law, less the associated expenses disallowed
12 in the computation of taxable income under s. 265 of the
13 Internal Revenue Code or any other law, excluding 60 percent
14 of any amounts included in alternative minimum taxable income,
15 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
16 taxpayer pays tax under s. 220.11(3).

17 3. In the case of a regulated investment company or
18 real estate investment trust, an amount equal to the excess of
19 the net long-term capital gain for the taxable year over the
20 amount of the capital gain dividends attributable to the
21 taxable year.

22 4. That portion of the wages or salaries paid or
23 incurred for the taxable year which is equal to the amount of
24 the credit allowable for the taxable year under s. 220.181.
25 The provisions of this subparagraph shall expire and be void
26 on June 30, 2005.

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

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

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

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

13 9. The amount taken as a credit for the taxable year
14 under s. 220.1895.

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

18 11. The amount taken as a credit for the taxable year
19 under s. 220.187.

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

22 213.053 Confidentiality and information sharing.--

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

25 (u) Information relative to s. 220.187 to the
26 Department of Education in the conduct of its official
27 business.

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29 Disclosure of information under this subsection shall be
30 pursuant to a written agreement between the executive director
31 and the agency. Such agencies, governmental or

1 nongovernmental, shall be bound by the same requirements of
2 confidentiality as the Department of Revenue. Breach of
3 confidentiality is a misdemeanor of the first degree,
4 punishable as provided by s. 775.082 or s. 775.083.

5 Section 5. This act shall take effect January 1, 2002.

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8 SENATE SUMMARY

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10 Provides a credit against the corporate income tax in an
11 amount equal to a taxpayer's contributions to an eligible
12 nonprofit scholarship funding organization. Provides
13 limitations. Requires the nonprofit scholarship funding
14 organization to use such contributions for scholarships
15 for children who qualify for the federal free or reduced
16 lunch program and provides requirements and limitations
17 for such scholarships. Provides for allocation. Provides
18 for administration by the Department of Revenue and
19 Department of Education. Authorizes the sharing of
20 certain information with the Department of Education.
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