

By the Committee on Finance and Taxation; and Senators Pruitt and Sullivan

314-1578C-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 defining terms; providing a credit against the
5 tax for contributions to a nonprofit
6 scholarship-funding organization; providing
7 limitations; providing for use of such
8 contributions by such organizations for
9 scholarships for certain students 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, the term:

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

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

13 (c) "Eligible nonpublic school" means a nonpublic
14 school located in Florida that offers an education to students
15 in any grades K-12 and does not discriminate on the basis of
16 race, color, religion, or national origin.

17 (d) "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 (e) "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 counted as a full-time-equivalent student
26 during the previous state fiscal year for purposes of state
27 per-student funding;

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

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

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

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

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

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

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

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

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

30 (c) The amount of an eligible contribution which may
31 be accepted by an eligible nonprofit scholarship-funding

1 organization is limited to the amount needed to provide
2 scholarships for qualified students which the organization has
3 identified and for which vacancies in eligible nonpublic
4 schools have been identified.

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

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

22 (5) ADMINISTRATION; RULES.--

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

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

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

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

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

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

24 220.02 Legislative intent.--

25 (8) It is the intent of the Legislature that credits
26 against either the corporate income tax or the franchise tax
27 be applied in the following order: those enumerated in s.
28 631.828, those enumerated in s. 220.191, those enumerated in
29 s. 220.181, those enumerated in s. 220.183, those enumerated
30 in s. 220.182, those enumerated in s. 220.1895, those
31 enumerated in s. 221.02, those enumerated in s. 220.184, those

1 enumerated in s. 220.186, those enumerated in s. 220.1845,
2 those enumerated in s. 220.19, ~~and~~ those enumerated in s.
3 220.185, and those enumerated in s. 220.187.

4 Section 3. Paragraph (a) of subsection (1) of section
5 220.13, Florida Statutes, is amended to read:

6 220.13 "Adjusted federal income" defined.--

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

12 (a) Additions.--There shall be added to such taxable
13 income:

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

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

28 3. In the case of a regulated investment company or
29 real estate investment trust, an amount equal to the excess of
30 the net long-term capital gain for the taxable year over the
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1 amount of the capital gain dividends attributable to the
2 taxable year.

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

8 5. That portion of the ad valorem school taxes 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. 220.182.
11 The provisions of this subparagraph shall expire and be void
12 on June 30, 2005.

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

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

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

25 9. The amount taken as a credit for the taxable year
26 under s. 220.1895.

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

30 11. The amount taken as a credit for the taxable year
31 under s. 220.187.

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

3 213.053 Confidentiality and information sharing.--

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

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

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

17 Section 5. This act shall take effect January 1, 2002,
18 and shall apply to tax years beginning on or after that date.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1048

The committee substitute provides scholarships only for tuition, transportation, and books for students attending eligible private schools, and removes the \$500 scholarship for transportation to out-of-district public schools. It removes the \$200,000 per taxpayer limit on credits and replaces it with a provision that a taxpayer may not receive credits in excess of 75 percent of tax liability after all other credits have been taken. It allows scholarship-funding organizations to accept eligible donations only to provide scholarships for identified qualified students for whom vacancies in eligible private schools have been identified, and all eligible contributions must be spent on scholarships in the same year they are received. It requires each scholarship-funding organization to be audited annually by an independent certified public accountant, and the annual audit reports must be submitted to the Auditor General and the Department of Education. The committee substitute provides that the bill applies to tax years beginning on or after January 1, 2002, the effective date of the bill.