

STORAGE NAME: h1159a.ei.doc
DATE: March 28, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION INNOVATION
ANALYSIS**

BILL #: HB 1159
RELATING TO: Corporate Income Tax
SPONSOR(S): Representative(s) Connie Mack & Renier Diaz de la Portilla
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION INNOVATION YEAS 13 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL
 - (3) COUNCIL FOR LIFELONG LEARNING
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides a business with a corporate income tax credit if it donates qualified computer equipment to any public elementary or secondary school, community college, area technical center, or university within the state. The Department of Education is required to distribute the donated equipment and give preference to those recipients specifically identified by the donor.

The amount of the tax credit that this bill provides is based on the age and purchase price of the donated qualified computer equipment. If the donated computer equipment is one year old or less, the amount of the tax credit must be equal to 50 percent of the purchase price of the equipment paid by the business, not exceeding \$300. If the donated computer equipment is more than one year old but less than two years old, the amount of the tax credit must be equal to 40 percent of the purchase price of the equipment paid by the business, not exceeding \$200. If the donated computer equipment is two years old or more, the amount of the tax credit must be equal to 30 percent of the purchase price of the equipment paid by the business, not exceeding \$100. If the granted tax credit is not fully used in the first year for which it becomes available, the unused amount may not be carried forward. Additionally, a granted tax credit may be conveyed, assigned, or transferred to another entity if all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction.

This bill authorizes the Department of Education to adopt rules in order to implement the provisions of the tax credit granted for the donation of qualified computer equipment, including rules relating to receiving and distributing computer equipment and determining the age and purchase price of the computer equipment. This bill also authorizes the Department of Revenue to adopt rules in order to implement the provisions of the tax credit granted for the donation of qualified computer equipment.

This bill may have a negative fiscal impact on state revenues because it appears that the amount of state revenues generated will decrease as a result of the credit against the corporate income tax that the bill provides to businesses that donate computer equipment to certain educational institutions.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill may not support the principle of less government because it requires the Department of Education to distribute donated computer equipment to public elementary or secondary schools, community colleges, area technical centers, and universities within the state and give preference to those recipients specifically identified by the donor.

B. PRESENT SITUATION:

INSTRUCTION AND COMPUTER TECHNOLOGY

Subsection 229.8041(1), Florida Statutes, declares it is state policy to use computers and related technology in order to provide instruction in a more effective and efficient manner, link educational programs to contemporary society in a more relevant manner, and reduce the paperwork and data collection requirements placed on classroom teachers.

Subsection 229.8041(2), Florida Statutes, authorizes and encourages the Department of Education to assist school districts, community colleges, and state universities in the appropriate use of computing. When providing this assistance, the Department of Education may provide information and consultation on computing for education, establish agreements with computer hardware and software vendors in order to allow districts and institutions to purchase the hardware and software at favorable prices, survey districts and institutions in order to determine how available resources for educational computing can be used most effectively, and conduct evaluations of available equipment or programs in order to determine the effectiveness or cost-effectiveness of the equipment or programs.

The 2000 Legislature provided a specific appropriation of \$62.4 million for public school technology to be used during the 2000-2001 fiscal year. Furthermore, the 2000 Legislature provided lump-sum funds to the Community College System and the State University System to be used during the 2000-2001 fiscal year for various purposes, including technology.

LEARNING TOOLS ACQUISITION PROGRAM

The 2000 Legislature created the Learning Tools Acquisition Program within the General Appropriations Act in order to permit school districts and other public agencies to purchase refurbished technology equipment at prices that are substantially below market value. Specifically, the Department of Education is responsible for securing donations of computers and other computer technology equipment and having the equipment refurbished and/or upgraded. Once the equipment is refurbished and/or upgraded, it is distributed to school districts and other public agencies at a price that is substantially below the market value.

Proviso Language within the 2000-2001 General Appropriations Act requires, by July 1, 2005, the administrative costs of the Learning Tools Acquisition Program to be self-funded from the charges assessed to school districts and other public agencies that purchase the refurbished and/or upgraded computer equipment. The 2000 Legislature appropriated \$123,567 to the Department of Education in order to implement the Learning Tools Acquisition Program.

CORPORATE INCOME TAX AND CREDITS

Subsection 220.02(1), Florida Statutes, expresses that it is the intent of the Legislature to "impose a tax upon all corporations, organizations, associations, and other artificial entities which derive from this state or from any other jurisdiction permanent and inherent attributes not inherent in or available to all natural persons, such as perpetual life, transferable ownership represented by shares or certificates, and limited liability for all owners . . . It is the intent of the Legislature to subject such corporations and other entities to taxation hereunder for the privilege of conducting business, deriving income, or existing within this state."

However, chapter 220, Florida Statutes, establishes various tax credits that can be applied against the corporate income tax including: the enterprise zone job credit; enterprise zone property tax credit; community contribution tax credit; hazardous waste facility tax credit; contaminated site rehabilitation tax credit; state housing tax credit; credit for Florida alternative minimum tax; rural job credit and urban high-crime area job tax credit; child care tax credit; and capital investment tax credit. Subsection 220.02(8), Florida Statutes, specifies the order in which credits are to be applied against either the corporate income tax or the franchise tax.

According to the Department of Revenue, Florida will collect \$1.5 billion in corporate income taxes during the current fiscal year.

C. EFFECT OF PROPOSED CHANGES:

ACCESS TO TECHNOLOGY

By providing an incentive, in the form of a corporate income tax credit, to a business that donates qualified computer equipment to a public elementary or secondary school, community college, area technical center, or university within the state, this bill may increase the number of students and educators that have access to computer technology in classrooms. The effective use of this computer technology in classrooms may enhance student performance by enabling students to access and analyze information, solve problems, stimulate their critical thinking, collaborate with others, and effectively communicate their thoughts and ideas.

DISTRIBUTION OF COMPUTER EQUIPMENT

Provisions within the bill require the Department of Education to distribute the donated computer equipment to public elementary or secondary schools, community colleges, area technical centers, and universities within the state and give preference to those recipients specifically identified by the donor. Although the Department of Education may have to distribute computer equipment statewide, the bill may not significantly increase the Department of Education's administrative responsibilities, may not require the department to hire additional staff members in order to administer the distribution of the computer equipment, and may not require the department to purchase/lease storage space in order to house the computer equipment until it is distributed to the appropriate educational institution because the Department of Education indicates that the administration of the distribution of the computer equipment can occur with the same resources used to administer the current Learning Tools Acquisition Program.

QUALIFIED COMPUTER EQUIPMENT

HB 1159 provides a business with a corporate income tax credit if it donates qualified computer equipment to any public elementary or secondary school, community college, area technical center, or university within the state. However, the bill does not define the term "qualified computer equipment" and appears to allow a taxpayer to donate one piece of equipment at a time in order to receive as many separate tax credits as possible.

CORPORATE TAX CREDIT

HB 1159 specifies that if the donated computer equipment is one year old or less, the amount of the tax credit must be equal to 50 percent of the purchase price of the equipment paid by the business, not exceeding \$300. If the donated computer equipment is more than one year old but less than two years old, the amount of the tax credit must be equal to 40 percent of the purchase price of the equipment paid by the business, not exceeding \$200. If the donated computer equipment is two years old or more, the amount of the tax credit must be equal to 30 percent of the purchase price of the equipment paid by the business, not exceeding \$100. If the granted tax credit is not fully used in the first year for which it becomes available, the unused amount may not be carried forward. Additionally, a granted tax credit may be conveyed, assigned, or transferred to another entity if all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. Lastly, the bill places the granted tax credit at the end of the specific order in which credits against the corporate income tax or the franchise tax can be applied.

The tax credit that the bill provides contains some similarities to other corporate income tax credits authorized in chapter 220, Florida Statutes. The tax credit that HB 1159 provides is based on a percentage of the cost a corporation incurs as a result of purchasing computer equipment. Similarly, other authorized tax credits are also limited to a percentage of the cost a corporation incurs. For instance, section 220.19, Florida Statutes, limits a childcare tax credit to 50% of the start-up costs of childcare facilities operated by a corporation for its employees.

It should be noted that the tax credit that the bill provides does differ from other authorized corporate income tax credits in that the total credit is not annually capped and the total credit a corporation may receive is not annually capped. For instance, section 220.19, Florida Statutes, limits the total amount of the annual childcare tax credit to \$2 million and limits the annual childcare tax credit that a corporation may receive to \$50,000. HB 1159 does not contain similar provisions.

Additionally, the tax credit that the bill establishes is not added back to a corporation's taxable income for the purpose of determining its "adjusted federal income." Consequently, the Department of Revenue indicates that adding the tax credit back to a corporation's taxable income for the purpose of determining its "adjusted federal income" is a common practice that can prevent the taxpayer from receiving both a tax credit and a tax deduction for the donation of the same computer equipment.

RULE-MAKING AUTHORITY

Lastly, this bill authorizes the Department of Education to adopt rules in order to implement the provisions of the tax credit granted for the donation of qualified computer equipment, including rules relating to receiving and distributing computer equipment and determining the age and purchase price of the computer equipment. This bill also authorizes the Department of Revenue to adopt rules in order to implement the provisions of the tax credit granted for the donation of qualified computer equipment.

D. SECTION-BY-SECTION ANALYSIS:

SECTION 1: Creates section 220.187, Florida Statutes, in order to (1) provide a business with a corporate income tax credit if it donates qualified computer equipment to any public elementary or

secondary school, community college, area technical center, or university within the state; (2) establish the amount of the tax credit based on the age and purchase price of the donated computer equipment; (3) require the Department of Education to distribute the donated computer equipment; (4) authorize the Department of Education and the Department of Revenue to adopt rules to implement the provisions of this section; and (5) specify that the amount equal to the amount of a credit that is not fully used in the first year for which it becomes available may not be carried forward.

SECTION 2: Amends subsection 220.02(8), Florida Statutes, in order to place the tax credit granted for the donation of qualified computer equipment at the end of the specific order in which credits against the corporate income tax or the franchise tax can be applied.

SECTION 3: Establishes an effective date of January 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The amount of state revenues generated may decrease as a result of the credit against the corporate income tax that the bill provides to businesses that donate qualified computer equipment to public elementary or secondary schools, community colleges, area technical centers, or universities within the state.

2. Expenditures:

The amount of funds that the state expends for educational technology may decrease as a result of a potential increase in the number of businesses that donate computer equipment to public elementary or secondary schools, community colleges, area technical centers, or universities within the state.

According to the Department of Education, it does not require additional funds to administer the distribution of donated computer equipment because it can use the same resources that are used to administer the current Learning Tools Acquisition Program. Consequently, this bill appears to not have a fiscal impact on state expenditures because the state does not have to provide additional monies in order to fund the Department of Education's administrative responsibilities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a significant fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a significant fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill appears to have a direct economic impact on the private sector because it provides an incentive, in the form of a corporate income tax credit, to a business that donates qualified

computer equipment to a public elementary or secondary school, community college, area technical center, or university within the state

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action that requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties and municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional issues.

B. RULE-MAKING AUTHORITY:

This bill authorizes the Department of Education to adopt rules in order to implement the provisions of section 220.187, Florida Statutes, including rules relating to receiving and distributing computer equipment and determining the age and purchase price of the computer equipment. This bill also authorizes the Department of Revenue to adopt rules in order to implement the provisions of section 220.187, Florida Statutes.

C. OTHER COMMENTS:

The Department of Revenue recommends the following changes be made to HB 1159:

- Require the Department of Education to provide each taxpayer that donates qualified computer equipment with a certification letter describing the donated equipment and specifying the total tax credit available to the taxpayer for the donation.
- Add the tax credit that the bill establishes back to a corporation's taxable income for the purpose of determining its "adjusted federal income."
- Authorize the Department of Revenue to provide information relating to section 220.187, Florida Statutes, to the Department of Education in the conduct of its official business.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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On March 28, 2001, the Committee on Education Innovation adopted a strike-everything amendment that is traveling with the bill. The amendment clarifies that donations of qualified computer equipment must be made to public educational institutions; specifies that donated qualified computer equipment must at least consist of an operating central processing unit, monitor, and keyboard; requires that all donated pieces of qualified computer equipment must be compatible with each other and must be of the same age; prevents a taxpayer from receiving a tax credit for the donation of computer equipment that is more than three years old; provides an additional responsibility to the Department of Education; and adds the earned tax credit back to a taxpayer's taxable income for the purpose of determining its adjusted federal income.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Daniel Furman

Daniel Furman