

Amendment No.      (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Negrón and Melvin offered the following:

**Amendment to Senate Amendment (732328) (with title amendment)**

On page 1, line 17, through page 10, line 12, remove from the amendment: all of said lines

and insert in lieu thereof:

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

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

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

(a) Encourage private, voluntary contributions to nonprofit scholarship-funding organizations.

(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 an eligible nonprofit  
4 scholarship-funding organization. The taxpayer making the  
5 contribution may not designate a specific child as the  
6 beneficiary of the contribution. The taxpayer may not  
7 contribute more than \$5 million to any single eligible  
8 nonprofit scholarship-funding organization.

9           (c) "Eligible nonpublic school" means a nonpublic  
10 school located in Florida that offers an education to students  
11 in any grades K-12 and that meets the requirements in  
12 subsection (5).

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

18           (e) "Qualified student" means a student from a family  
19 that meets the income eligibility guidelines for free or  
20 reduced-price school lunches under the National School Lunch  
21 Act and who:

22           1. Was counted as a full-time equivalent student  
23 during the previous state fiscal year for purposes of state  
24 per-student funding; or

25           2. Is eligible to enter kindergarten or first grade;  
26 or

27           3. Was enrolled in a nonpublic school in the previous  
28 year; or

29           4. Received a scholarship from an eligible nonprofit  
30 scholarship-funding organization during the previous school  
31 year.

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 shall 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. The credit granted by this section shall be  
9 reduced by the difference between the amount of federal  
10 corporate income tax taking into account the credit granted by  
11 this section and the amount of federal corporate income tax  
12 without application of the credit granted by this section.

13           (b) The total amount of tax credit which may be  
14 granted each state fiscal year under this section is \$50  
15 million. However, at least five percent of the total statewide  
16 amount authorized for the tax credit shall be reserved for  
17 taxpayers who meet the definition of a small business as  
18 defined in s. 288.703(1), F.S., at the time of application.

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 ELIGIBLE NONPROFIT  
25 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

26           (a) An eligible nonprofit scholarship-funding  
27 organization shall provide scholarships, from eligible  
28 contributions, to qualified students for:

29           1. Tuition or textbook expenses for, or transportation  
30 to, an eligible nonpublic school. At least 75 percent of the  
31 scholarship funding must be used to pay tuition expenses; or

1           2. Transportation expenses to a Florida public school  
2 that is located outside the district in which the student  
3 resides.

4           (b) An eligible nonprofit scholarship-funding  
5 organization shall give priority to qualified students who  
6 received a scholarship from an eligible nonprofit  
7 scholarship-funding organization during the previous school  
8 year.

9           (c) The amount of a scholarship provided to any child  
10 for any single school year by all eligible nonprofit  
11 scholarship-funding organizations from eligible contributions  
12 shall not exceed the following annual limits:

13           1. \$3,500 for a scholarship awarded to a student  
14 enrolled in an eligible nonpublic school.

15           2. \$500 for a scholarship awarded to a student  
16 enrolled in a Florida public school that is located outside  
17 the district in which the student resides.

18           (d) An eligible nonprofit scholarship-funding  
19 organization must allocate and disburse at least eighty  
20 percent of the annual eligible contributions received each  
21 year for scholarships to qualified students as defined in  
22 subparagraph (2)(e)1. or for such students whose scholarships  
23 are being renewed. Twenty percent of the annual eligible  
24 contributions received each year may be provided for  
25 single-year or multi-year scholarships to any qualified  
26 students as defined in paragraph (2)(e). However, this twenty  
27 percent must be disbursed for scholarships within a 5-year  
28 period of the initial receipt of the contribution. No portion  
29 of eligible contributions may be used for administrative  
30 expenses. All interest accrued from contributions must be used  
31 for scholarships.

1           (e) An eligible nonprofit scholarship-funding  
2 organization that receives eligible contributions must provide  
3 to the Auditor General an annual financial and compliance  
4 audit of its accounts and records conducted by an independent  
5 certified public accountant in accordance with rules adopted  
6 by the Auditor General.

7           (f) Payment of the scholarship by the eligible  
8 nonprofit scholarship-funding organization shall be by  
9 individual warrant or check made payable to the student's  
10 parent. If the parent chooses for their child to attend an  
11 eligible nonpublic school, the warrant or check must be mailed  
12 by the eligible nonprofit scholarship funding organization to  
13 the nonpublic school of the parent's choice, and the parent  
14 shall restrictively endorse the warrant or check to the  
15 nonpublic school. An eligible nonprofit scholarship-funding  
16 organization shall ensure that, upon receipt of a scholarship  
17 warrant or check, the parent to whom the warrant or check is  
18 made restrictively endorses the warrant or check to the  
19 nonpublic school of the parent's choice for deposit into the  
20 account of the nonpublic school.

21           (g) An eligible nonprofit scholarship-funding  
22 organization shall report annually to the Department of  
23 Education on the number of students participating in this  
24 program, the type of student, and the school in which they are  
25 attending.

26           (5) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An  
27 eligible nonpublic school must:

28           (a) Demonstrate fiscal soundness by being in operation  
29 for one school year or provide the Department of Education  
30 with a statement by a certified public accountant confirming  
31 that the nonpublic school is insured and the owner or owners

1 have sufficient capital or credit to operate the school for  
2 the upcoming year serving the number of students anticipated  
3 with expected revenues from tuition and other sources that may  
4 be reasonably expected. In lieu of such a statement, a surety  
5 bond or letter of credit for the amount equal to the  
6 scholarship funds for any quarter may be filed with the  
7 department.

8 (b) Comply with the antidiscrimination provisions of  
9 42 U.S.C. s. 2000d.

10 (c) Meet state and local health and safety laws and  
11 codes.

12 (d) Comply with all state laws relating to general  
13 regulation of nonpublic schools.

14 (6) 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 on forms  
23 established by rule of the department.

24 (c) The department and the Department of Education  
25 shall develop a cooperative agreement to assist in the  
26 administration of this section. The Department of Education  
27 shall be responsible for annually submitting, by March 15, to  
28 the department a list of eligible nonprofit  
29 scholarship-funding organizations that meet the requirements  
30 of paragraph (2)(d).

31 (d) The department shall adopt rules necessary to

1 administer this section, including rules establishing  
2 application forms and procedures and governing the allocation  
3 of tax credits under this section on a first-come,  
4 first-served basis.

5 (e) The Department of Education shall adopt rules  
6 necessary to confirm compliance of nonprofit  
7 scholarship-funding organizations.

8 (7) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible  
9 contributions received by an eligible nonprofit  
10 scholarship-funding organization shall be deposited in a  
11 manner consistent with s. 18.10(2).

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

14 220.02 Legislative intent.--

15 (8) It is the intent of the Legislature that credits  
16 against either the corporate income tax or the franchise tax  
17 be applied in the following order: those enumerated in s.  
18 631.828, those enumerated in s. 220.191, those enumerated in  
19 s. 220.181, those enumerated in s. 220.183, those enumerated  
20 in s. 220.182, those enumerated in s. 220.1895, those  
21 enumerated in s. 221.02, those enumerated in s. 220.184, those  
22 enumerated in s. 220.186, those enumerated in s. 220.1845,  
23 those enumerated in s. 220.19, ~~and~~ those enumerated in s.  
24 220.185, and those enumerated in s. 220.187.

25 Section 3. Paragraph (a) of subsection (1) of section  
26 220.13, Florida Statutes, is amended to read:

27 220.13 "Adjusted federal income" defined.--

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

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1 adjusted as follows:

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

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

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

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

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

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



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1 on June 30, 2005.

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

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

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

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

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

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

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

23 213.053 Confidentiality and information sharing.--

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

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

29  
30 Disclosure of information under this subsection shall be  
31 pursuant to a written agreement between the executive director

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

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

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9  
10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 On page 10, line 20 through page 11, line 12, of the  
13 amendment

14 remove: all of said lines

15  
16 and insert in lieu thereof:

17 An act relating to corporate income tax;  
18 creating s. 220.187, F.S.; providing purpose;  
19 defining terms; providing a credit against the  
20 tax for contributions to a nonprofit  
21 scholarship-funding organization; providing  
22 limitations; providing for use of such  
23 contributions by such organizations for  
24 scholarships for certain students and providing  
25 requirements and limitations with respect  
26 thereto; providing for allocation; providing  
27 for payment provisions; providing for an audit;  
28 providing for a report; establishing criteria  
29 for nonpublic school eligibility; providing  
30 duties of the Department of Revenue and  
31 Department of Education; providing for rules;

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1 providing for deposits of eligible  
2 contributions; amending s. 220.02, F.S.;  
3 providing order of credits against the tax;  
4 amending s. 220.13, F.S.; providing for the  
5 inclusion of amounts taken as credit under s.  
6 220.187, F.S., in determining a taxpayer's  
7 adjusted federal income; amending s. 213.053,  
8 F.S.; authorizing information-sharing with the  
9 Department of Education; providing an effective  
10 date.

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