

Bill No. CS/HB 271, 1st Eng.

Amendment No.      Barcode 463418

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

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11 Senator Pruitt moved the following amendment:

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13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

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16 and insert:

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

19 220.187 Credits for contributions to nonprofit  
20 scholarship-funding organizations.--

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

22 (a) Provide a tax credit for certain contributions to  
23 a nonprofit scholarship-funding organization.

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

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

28 (2) DEFINITIONS.--As used in this section, the term:

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

30 (b) "Eligible contribution" means a monetary  
31 contribution from a taxpayer, subject to the restrictions

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1 provided in this section, to an eligible nonprofit  
 2 scholarship-funding organization. The taxpayer making the  
 3 contribution may not designate a specific child or group of  
 4 children as the beneficiaries of the contribution.

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

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

14 (e) "Qualified student" means a student who qualifies  
 15 for free or reduced-price school lunches under the National  
 16 School Lunch Act and who:

17 1. Was counted as a full-time-equivalent student  
 18 during the previous state fiscal year for purposes of state  
 19 per-student funding;

20 2. Received a scholarship from an eligible nonprofit  
 21 scholarship-funding organization during the previous school  
 22 year; or

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

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

26 (a) There is allowed a credit of 100 percent of an  
 27 eligible contribution against any tax due for a taxable year  
 28 under this chapter. However, such a credit may not exceed 75  
 29 percent of the tax due under this chapter for the taxable  
 30 year, after the application of any other allowable credits by  
 31 the taxpayer. However, 5 percent of the total statewide amount

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1 authorized for the tax credit shall be reserved for taxpayers  
2 who meet the definition of a small business provided in s.  
3 288.703(1) at the time of application.

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

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

12 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT  
13 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

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

20 (b) An eligible nonprofit scholarship-funding  
21 organization shall give priority to qualified students who  
22 received a scholarship from an eligible nonprofit  
23 scholarship-funding organization during the previous school  
24 year.

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

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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 (e) 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 (f) 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 (g) Payment of the scholarship by the eligible  
23 nonprofit scholarship-funding organization shall be by  
24 individual warrant made payable to the student's parent or  
25 guardian and mailed by the eligible nonprofit  
26 scholarship-funding organization to the nonpublic school of  
27 the parent's or guardian's choice, and the parent or guardian  
28 shall restrictively endorse the warrant to the nonpublic  
29 school. An eligible nonprofit scholarship-funding organization  
30 shall ensure that, upon receipt of a scholarship warrant, the  
31 parent or guardian to whom the warrant is made restrictively

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1 endorses the warrant to the nonpublic school of the parent's  
2 or guardian's choice for deposit into the account of the  
3 nonpublic school.

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

6 (a) Demonstrate fiscal soundness by being in operation  
7 for one school year or provide the Department of Education  
8 with a statement by a certified public accountant confirming  
9 that the nonpublic school desiring to participate is insured  
10 and the owner or owners have sufficient capital or credit to  
11 operate the school for the upcoming year serving the number of  
12 students anticipated with expected revenues from tuition and  
13 other sources that may be reasonably expected. In lieu of such  
14 a statement, a surety bond or letter of credit for the amount  
15 equal to the scholarship funds for any quarter may be filed  
16 with the department.

17 (b) Notify the Department of Education of its intent  
18 to participate in the program under this section by May 1 of  
19 the school year preceding the school year in which it intends  
20 to participate. The notice must specify the grade levels and  
21 services that the nonpublic school has available for students  
22 who are participating in the scholarship program.

23 (c) Comply with the antidiscrimination provisions of  
24 42 U.S.C. s. 2000d.

25 (d) Meet state and local health and safety laws and  
26 codes.

27 (e) Be academically accountable to the parent or  
28 guardian for meeting the educational needs of the student.

29 (f) Employ or contract with teachers who hold  
30 baccalaureate or higher degrees; or have at least 3 years of  
31 teaching experience in public or private schools; or have

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1 special skills, knowledge, or expertise that qualifies them to  
2 provide instruction in subjects taught.

3 (g) Comply with all state laws relating to general  
4 regulation of nonpublic schools.

5 (h) Adhere to the tenets of its published disciplinary  
6 procedures prior to the expulsion of a scholarship student.

7 (6) ADMINISTRATION; RULES.--

8 (a) If the credit granted pursuant to this section is  
9 not fully used in any one year, the unused amount may not be  
10 carried forward. A taxpayer may not convey, assign, or  
11 transfer the credit authorized by this section to another  
12 entity unless all of the assets of the taxpayer are conveyed,  
13 assigned, or transferred in the same transaction.

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

17 (c) The department and the Department of Education  
18 shall develop a cooperative agreement to assist in the  
19 administration of this section. The Department of Education  
20 shall be responsible for annually submitting, by March 15, to  
21 the department a list of eligible nonprofit  
22 scholarship-funding organizations that meet the requirements  
23 of paragraph (2)(d) and for monitoring eligibility of  
24 nonprofit scholarship-funding organizations that meet the  
25 requirements of paragraph (2)(d), eligibility of nonpublic  
26 schools that meet the requirements of paragraph (2)(c), and  
27 eligibility of expenditures under this section as provided in  
28 subsection (4).

29 (d) The department shall adopt rules necessary to  
30 administer this section, including rules establishing  
31 application forms and procedures and governing the allocation

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1 of tax credits under this section on a first-come,  
2 first-served basis.

3 (e) The Department of Education shall adopt rules  
4 necessary to determine eligibility of nonprofit  
5 scholarship-funding organizations and identify qualified  
6 students.

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

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

13 220.02 Legislative intent.--

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

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

26 220.13 "Adjusted federal income" defined.--

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



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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.

28  
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

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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,  
6 and shall apply to tax years beginning on or after that date.

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

10 And the title is amended as follows:

11 Delete everything before the enacting clause

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13 and insert:

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A bill to be entitled

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An act relating to corporate income tax;

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creating s. 220.187, F.S.; providing purpose;

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defining terms; providing a credit against the

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tax for contributions to a nonprofit

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scholarship-funding organization; providing

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limitations; providing for use of such

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contributions by such organizations for

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scholarships for certain students and providing

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requirements and limitations with respect

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thereto; providing for allocation; providing

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requirements for deposit of eligible

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contributions; providing duties of the

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Department of Revenue and Department of

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Education; establishing criteria for nonpublic

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school eligibility; providing for rules;

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amending s. 220.02, F.S.; providing order of

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credits against the tax; amending s. 220.13,

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1 F.S.; providing for the inclusion of amounts  
2 taken as credit under s. 220.187, F.S., in  
3 determining a taxpayer's adjusted federal  
4 income; amending s. 213.053, F.S.; authorizing  
5 information-sharing with the Department of  
6 Education; providing an effective date.  
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