

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

Amendment No. Barcode 732328

<u>Senate</u>	CHAMBER ACTION	<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

15 and insert:

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

18 220.187 Credits for contributions to nonprofit
19 scholarship-funding organizations.--

- 20
- 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. The credit granted by
4 this section shall be reduced, if necessary, so that the
5 reduction in federal corporate income taxes and the reduction
6 in taxes imposed pursuant to this chapter as a result of this
7 section and s. 220.13(1)(a)11. will not exceed the amount of
8 the contribution to the nonprofit scholarship-funding
9 organization.

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

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

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

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

26 (b) An eligible nonprofit scholarship-funding
27 organization shall give priority to qualified students who
28 received a scholarship from an eligible nonprofit
29 scholarship-funding organization during the previous school
30 year.

31 (c) The amount of a scholarship provided by the

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1 eligible nonprofit scholarship-funding organization from
2 eligible contributions may not exceed \$3,500 annually for a
3 scholarship awarded to a student enrolled in an eligible
4 nonpublic school.

5 (d) The amount of an eligible contribution which may
6 be accepted by an eligible nonprofit scholarship-funding
7 organization is limited to the amount needed to provide
8 scholarships for qualified students which the organization has
9 identified and for which vacancies in eligible nonpublic
10 schools have been identified.

11 (e) An eligible nonprofit scholarship-funding
12 organization that receives an eligible contribution must spend
13 100 percent of the eligible contribution to provide
14 scholarships in the same state fiscal year in which the
15 contribution was received. No portion of eligible
16 contributions may be used for administrative expenses.

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

28 (g) Payment of the scholarship by the eligible
29 nonprofit scholarship-funding organization shall be by
30 individual warrant made payable to the student's parent or
31 guardian and mailed by the eligible nonprofit

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1 scholarship-funding organization to the nonpublic school of
2 the parent's or guardian's choice, and the parent or guardian
3 shall restrictively endorse the warrant to the nonpublic
4 school. An eligible nonprofit scholarship-funding organization
5 shall ensure that, upon receipt of a scholarship warrant, the
6 parent or guardian to whom the warrant is made restrictively
7 endorses the warrant to the nonpublic school of the parent's
8 or guardian's choice for deposit into the account of the
9 nonpublic school.

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

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

23 (b) Notify the Department of Education of its intent
24 to participate in the program under this section by May 1 of
25 the school year preceding the school year in which it intends
26 to participate. The notice must specify the grade levels and
27 services that the nonpublic school has available for students
28 who are participating in the scholarship program.

29 (c) Comply with the antidiscrimination provisions of
30 42 U.S.C. s. 2000d.

31 (d) Meet state and local health and safety laws and

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1 codes.

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

4 (f) Employ or contract with teachers who hold
5 baccalaureate or higher degrees; or have at least 3 years of
6 teaching experience in public or private schools; or have
7 special skills, knowledge, or expertise that qualifies them to
8 provide instruction in subjects taught.

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

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

13 (6) ADMINISTRATION; RULES.--

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

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

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

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

4 (d) The department shall adopt rules necessary to
5 administer this section, including rules establishing
6 application forms and procedures and governing the allocation
7 of tax credits under this section on a first-come,
8 first-served basis.

9 (e) The Department of Education shall adopt rules
10 necessary to determine eligibility of nonprofit
11 scholarship-funding organizations and identify qualified
12 students.

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

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

19 220.02 Legislative intent.--

20 (8) It is the intent of the Legislature that credits
21 against either the corporate income tax or the franchise tax
22 be applied in the following order: those enumerated in s.
23 631.828, those enumerated in s. 220.191, those enumerated in
24 s. 220.181, those enumerated in s. 220.183, those enumerated
25 in s. 220.182, those enumerated in s. 220.1895, those
26 enumerated in s. 221.02, those enumerated in s. 220.184, those
27 enumerated in s. 220.186, those enumerated in s. 220.1845,
28 those enumerated in s. 220.19, ~~and~~ those enumerated in s.
29 220.185, and those enumerated in s. 220.187.

30 Section 3. Paragraph (a) of subsection (1) of section
31 220.13, Florida Statutes, is amended to read:

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1 220.13 "Adjusted federal income" defined.--
2 (1) The term "adjusted federal income" means an amount
3 equal to the taxpayer's taxable income as defined in
4 subsection (2), or such taxable income of more than one
5 taxpayer as provided in s. 220.131, for the taxable year,
6 adjusted as follows:
7 (a) Additions.--There shall be added to such taxable
8 income:
9 1. The amount of any tax upon or measured by income,
10 excluding taxes based on gross receipts or revenues, paid or
11 accrued as a liability to the District of Columbia or any
12 state of the United States which is deductible from gross
13 income in the computation of taxable income for the taxable
14 year.
15 2. The amount of interest which is excluded from
16 taxable income under s. 103(a) of the Internal Revenue Code or
17 any other federal law, less the associated expenses disallowed
18 in the computation of taxable income under s. 265 of the
19 Internal Revenue Code or any other law, excluding 60 percent
20 of any amounts included in alternative minimum taxable income,
21 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
22 taxpayer pays tax under s. 220.11(3).
23 3. In the case of a regulated investment company or
24 real estate investment trust, an amount equal to the excess of
25 the net long-term capital gain for the taxable year over the
26 amount of the capital gain dividends attributable to the
27 taxable year.
28 4. That portion of the wages or salaries 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. 220.181.
31 The provisions of this subparagraph shall expire and be void

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1 on June 30, 2005.

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

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

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

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

19 9. The amount taken as a credit for the taxable year
20 under s. 220.1895.

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

24 11. The amount taken as a credit for the taxable year
25 under s. 220.187.

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

28 213.053 Confidentiality and information sharing.--

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

31 (u) Information relative to s. 220.187 to the

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1 Department of Education in the conduct of its official
2 business.

3
4 Disclosure of information under this subsection shall be
5 pursuant to a written agreement between the executive director
6 and the agency. Such agencies, governmental or
7 nongovernmental, shall be bound by the same requirements of
8 confidentiality as the Department of Revenue. Breach of
9 confidentiality is a misdemeanor of the first degree,
10 punishable as provided by s. 775.082 or s. 775.083.

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

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

16 And the title is amended as follows:

17 Delete everything before the enacting clause

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19 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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1 contributions; providing duties of the
2 Department of Revenue and Department of
3 Education; establishing criteria for nonpublic
4 school eligibility; providing for rules;
5 amending s. 220.02, F.S.; providing order of
6 credits against the tax; amending s. 220.13,
7 F.S.; providing for the inclusion of amounts
8 taken as credit under s. 220.187, F.S., in
9 determining a taxpayer's adjusted federal
10 income; amending s. 213.053, F.S.; authorizing
11 information-sharing with the Department of
12 Education; providing an effective date.

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