

By Representatives Negron, Melvin and Diaz de la Portilla

1 A bill to be entitled
2 An act relating to corporate income tax;
3 creating s. 220.187, F.S.; providing purpose;
4 providing definitions; providing a credit
5 against said tax for contributions to a
6 nonprofit scholarship funding organization;
7 providing limitations; providing for use of
8 such contributions by such organizations for
9 scholarships for certain children and providing
10 requirements and limitations with respect
11 thereto; providing for annual funding through
12 the General Appropriations Act; providing for
13 allocation; providing duties of the Department
14 of Revenue and Department of Education;
15 providing for rules; amending s. 220.02, F.S.;
16 providing order of credits against the tax;
17 amending s. 220.13, F.S.; providing for the
18 inclusion of amounts taken as credit under s.
19 220.187, F.S., in determining a taxpayer's
20 adjusted federal income; providing an effective
21 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:

6 (a) "Eligible contribution" means a monetary
7 contribution from a Florida corporation, subject to the
8 restrictions provided in this section, to an eligible
9 nonprofit scholarship funding organization, if the taxpayer
10 making the contribution does not designate a specific child as
11 the beneficiary of the contribution.

12 (b) "Eligible nonpublic school" means a nonpublic
13 primary or secondary school located in Florida that offers a
14 general education to primary or secondary students and does
15 not discriminate on the basis of race, color, or national
16 origin.

17 (c) "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 (3) AMOUNT OF CREDIT.--A corporate taxpayer shall be
23 allowed a credit equal to 100 percent of all eligible
24 contributions made during a taxable year against any tax due
25 for that taxable year under this chapter. However, such a
26 credit shall not exceed 75 percent of the tax due under this
27 chapter for the taxable year after the application of any
28 other allowable credits by the taxpayer.

29 (4) ELIGIBLE NONPROFIT SCHOLARSHIP FUNDING
30 ORGANIZATION OBLIGATIONS.--

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- 1 (a) An eligible nonprofit scholarship funding
2 organization shall provide scholarships from eligible
3 contributions to children that qualify for the federal free or
4 reduced price lunch program for:
- 5 1. Tuition or textbook expenses for, or transportation
6 to, an eligible nonpublic school;
- 7 2. Instructional expenses for participation in a home
8 education program as defined in s. 232.0201; or
- 9 3. Transportation expenses to a Florida public school
10 that is located outside of the district in which the student
11 resides.
- 12 (b) The amount of a scholarship provided by the
13 eligible nonprofit scholarship funding organization from
14 eligible contributions shall not exceed the following annual
15 limits:
- 16 1. \$4,000 for a scholarship awarded to a student
17 enrolled in an eligible nonpublic school.
- 18 2. \$1,000 for a scholarship awarded to a student
19 enrolled in a home education program as defined in s.
20 232.0201.
- 21 3. \$500 for a scholarship awarded to a student
22 enrolled in a Florida public school that is located outside of
23 the district in which the student resides.
- 24 (c) An eligible nonprofit scholarship funding
25 organization shall allocate over a 5-year period 100 percent
26 of the annual eligible contributions received for scholarships
27 awarded pursuant to this subsection. At least 20 percent of
28 the eligible contributions received by the organization must
29 be disbursed each year. No portion of eligible contributions
30 may be used for administrative expenses.
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1 (5) FUNDING.--The total statewide amount authorized
2 for the tax credit provided by this section shall be annually
3 established in the General Appropriations Act and shall be
4 allocated to corporations on a first-come, first-served basis.
5 If on any day the amount of tax credits applied for and
6 qualified for approval exceeds the funding provided pursuant
7 to this subsection that remains available to be allocated, the
8 Department of Revenue shall prorate the credits among all
9 corporations applying during that day, as evidenced by the
10 postmark or other identification of the application date,
11 which are qualified for approval, and inform each corporation
12 of the approved amount.

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 of Revenue on
22 forms established by rule of the Department of Revenue.

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

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1 (d) The Department of Revenue shall adopt rules
2 necessary to administer this section, including rules
3 establishing application forms and procedures.

4 (e) The Department of Education shall adopt rules
5 necessary to determine eligibility of nonprofit scholarship
6 funding organizations.

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

9 220.02 Legislative intent.--

10 (8) It is the intent of the Legislature that credits
11 against either the corporate income tax or the franchise tax
12 be applied in the following order: those enumerated in s.
13 631.828, those enumerated in s. 220.191, those enumerated in
14 s. 220.181, those enumerated in s. 220.183, those enumerated
15 in s. 220.182, those enumerated in s. 220.1895, those
16 enumerated in s. 221.02, those enumerated in s. 220.184, those
17 enumerated in s. 220.186, those enumerated in s. 220.1845,
18 those enumerated in s. 220.19, ~~and~~ those enumerated in s.
19 220.185, and those enumerated in s. 220.187.

20 Section 3. Paragraph (a) of subsection (1) of section
21 220.13, Florida Statutes, is amended to read:

22 220.13 "Adjusted federal income" defined.--

23 (1) The term "adjusted federal income" means an amount
24 equal to the taxpayer's taxable income as defined in
25 subsection (2), or such taxable income of more than one
26 taxpayer as provided in s. 220.131, for the taxable year,
27 adjusted as follows:

28 (a) Additions.--There shall be added to such taxable
29 income:

30 1. The amount of any tax upon or measured by income,
31 excluding taxes based on gross receipts or revenues, paid or

1 accrued as a liability to the District of Columbia or any
2 state of the United States which is deductible from gross
3 income in the computation of taxable income for the taxable
4 year.

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

13 3. In the case of a regulated investment company or
14 real estate investment trust, an amount equal to the excess of
15 the net long-term capital gain for the taxable year over the
16 amount of the capital gain dividends attributable to the
17 taxable year.

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

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

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

- 1 7. That portion of assessments to fund a guaranty
2 association incurred for the taxable year which is equal to
3 the amount of the credit allowable for the taxable year.
- 4 8. In the case of a nonprofit corporation which holds
5 a pari-mutuel permit and which is exempt from federal income
6 tax as a farmers' cooperative, an amount equal to the excess
7 of the gross income attributable to the pari-mutuel operations
8 over the attributable expenses for the taxable year.
- 9 9. The amount taken as a credit for the taxable year
10 under s. 220.1895.
- 11 10. Up to nine percent of the eligible basis of any
12 designated project which is equal to the credit allowable for
13 the taxable year under s. 220.185.
- 14 11. The amount taken as a credit for the taxable year
15 under s. 220.187.

16 Section 4. This act shall take effect January 1, 2002.

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HOUSE SUMMARY

Provides a credit against the corporate income tax in an amount equal to a taxpayer's contributions to an eligible nonprofit scholarship funding organization. Provides limitations. Requires the nonprofit scholarship funding organization to use such contributions for scholarships for children who qualify for the federal free or reduced lunch program and provides requirements and limitations for such scholarships. Provides for annual funding through the General Appropriations Act and provides for allocation. Provides for administration by the Department of Revenue and Department of Education.