

CHAMBER ACTION

1 The Tourism Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the corporate income tax; providing a  
7 credit against the tax for contributions to nonprofit  
8 cultural organizations; providing legislative purpose;  
9 defining terms; providing limitations on individual  
10 credits; providing that the unused amount of a credit may  
11 not be carried forward; prohibiting conveying, assigning,  
12 or transferring the credit to another entity except as  
13 specified; providing for administration by the Department  
14 of Revenue and the Division of Cultural Affairs of the  
15 Department of State; requiring the department to adopt  
16 rules; authorizing the division to adopt rules; providing  
17 a tax credit for donations to the Fine Arts Trust Fund;  
18 providing that the unused amount of a credit may not be  
19 carried forward; prohibiting conveying, assigning, or  
20 transferring the credit to another entity, except as  
21 specified; providing written request procedures; providing  
22 for rulemaking by the Department of Revenue and the  
23 Division of Cultural Affairs of the Department of State;

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24 providing legislative intent with respect to the order in  
 25 which credits may be applied; providing for an addition to  
 26 taxable income for purposes of computing adjusted federal  
 27 income, to conform; specifying the maximum amount of  
 28 annual tax credits which may be granted under the act;  
 29 providing for expiration of the act; providing an  
 30 effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Credits for contributions to nonprofit cultural  
 35 organizations.--

36 (1) PURPOSE.--The purpose of this section is to encourage  
 37 private, voluntary contributions to organizations that promote  
 38 cultural activities by encouraging the talents of creative  
 39 individuals or by helping to provide an audience for cultural  
 40 activities.

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

42 (a) "Cultural activities" means dance, music, theater,  
 43 visual arts, literature, media arts, museum programs, and  
 44 activities that combine two or more of those disciplines.

45 (b) "Department" means the Department of Revenue.

46 (c) "Division" means the Division of Cultural Affairs of  
 47 the Department of State.

48 (d) "Eligible contribution" means a monetary contribution  
 49 from a taxpayer, subject to the restrictions provided in this  
 50 section, to an eligible cultural organization.

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51 (e) "Eligible cultural organization" means a nonprofit  
 52 cultural organization that provides cultural programs within the  
 53 state and is:

54 1. Exempt from federal income tax under s. 501(c)(3) of  
 55 the Internal Revenue Code, as amended.

56 2. Incorporated pursuant to and in compliance with chapter  
 57 617, Florida Statutes.

58 3. Determined to be eligible to receive funding from  
 59 programs administered under Rule 1T-1.001, Florida  
 60 Administrative Code.

61  
 62 The term includes educational institutions that are also  
 63 presenters or producers of cultural activities in this state  
 64 which otherwise meet these requirements.

65 (3) AUTHORIZATION TO GRANT CULTURAL ORGANIZATIONS TAX  
 66 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS.--

67 (a) There is allowed a credit of 50 percent of the amount  
 68 of an eligible contribution, which contribution is in the amount  
 69 of \$60,000 or more, against any tax due for a taxable year under  
 70 chapter 220, Florida Statutes. However, such a credit is  
 71 inapplicable to a particular corporation after the aggregate  
 72 amount of the contributions to eligible cultural organizations  
 73 given by the corporation in any one taxable year exceeds  
 74 \$600,000.

75 (b) A taxpayer who files a Florida consolidated return as  
 76 a member of an affiliated group under s. 220.131(1), Florida  
 77 Statutes, may be allowed the credit on a consolidated return

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78 basis; however, the total credit taken by the affiliated group  
 79 is subject to the limitation established under paragraph (a).

80 (4) ADMINISTRATION; RULES.--

81 (a) If the credit granted under this section is not fully  
 82 used in any one year, the unused amount may not be carried  
 83 forward. A taxpayer may not convey, assign, or transfer the  
 84 credit authorized by this section to another entity unless all  
 85 of the assets of the taxpayer are conveyed, assigned, or  
 86 transferred in the same transaction.

87 (b) A written request for a tax credit pursuant to this  
 88 section must be submitted to the division on taxpayer letterhead  
 89 and signed by an authorized official of the corporation. Written  
 90 requests shall be accepted on a first-come, first-served basis  
 91 beginning July 1, 2005. Submission by facsimile is permissible;  
 92 however, requests transmitted by electronic mail shall not be  
 93 accepted. The sequence of request submissions shall be  
 94 determined by the time and date received by the division within  
 95 normal business hours. Any request submitted after hours or on a  
 96 weekend or a holiday shall be considered received at 8 a.m. on  
 97 the next regular business day.

98 (c) A taxpayer must submit a separate written request for  
 99 each individual contribution that it makes to an eligible  
 100 cultural organization. To retain each request's acceptance time  
 101 status pursuant to paragraph (b), written confirmation of  
 102 receipt of such contribution by the cultural organization must  
 103 be received by the division no later than 4 p.m. on the third  
 104 business day following the receipt of the taxpayer's written  
 105 request for tax credit. Requests that fail to comply with this

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106 deadline shall be considered received by the division at the  
 107 date and time the written confirmation of such contribution is  
 108 received.

109 (d) The verification of tax credit eligibility by the  
 110 division must be in writing and must state the maximum credit  
 111 allowable to the business firm. A copy of the verification of  
 112 tax credit eligibility must be transmitted to the executive  
 113 director of the Department of Revenue, who shall apply such  
 114 credit to the tax liability of the business firm.

115 (e) The department shall adopt rules necessary to  
 116 administer this section, including rules establishing forms and  
 117 procedures.

118 (f) The division may adopt rules necessary to determine  
 119 the eligibility of nonprofit cultural organizations.

120 Section 2. Cultural contributions tax credit.--

121 (1) AUTHORIZATION TO GRANT CULTURAL CONTRIBUTIONS TAX  
 122 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS.--

123 (a) There shall be allowed a credit of 50 percent of any  
 124 monetary contribution made to the Division of Cultural Affairs  
 125 of the Department of State for deposit into the Fine Arts Trust  
 126 Fund against any tax due for a taxable year under chapter 220,  
 127 Florida Statutes.

128 (b) If the credit granted under this section is not fully  
 129 used in any one year, the unused amount may not be carried  
 130 forward. A taxpayer may not convey, assign, or transfer the  
 131 credit authorized by this section to another entity unless all  
 132 of the assets of the taxpayer are conveyed, assigned, or  
 133 transferred in the same transaction.

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134        (2) WRITTEN REQUEST REQUIREMENTS.--

135        (a) Any business wishing to participate in this program  
136 must submit a written request for the tax credit to the division  
137 on taxpayer letterhead and signed by an authorized official of  
138 the corporation. Written requests shall be accepted on a first-  
139 come, first-served basis beginning July 1, 2005. Submission by  
140 facsimile is permissible; however, requests transmitted by  
141 electronic mail shall not be accepted. The sequence of request  
142 submissions shall be determined by the time and date received by  
143 the division within normal business hours. Any request submitted  
144 after hours or on a weekend or a holiday shall be considered  
145 received at 8 a.m. on the next regular business day.

146        (b) The business firm must submit a separate written  
147 request for tax credit for each individual contribution that it  
148 makes to the Fine Arts Trust Fund. To retain each request's  
149 acceptance date and time status pursuant to paragraph (a), the  
150 funds to be contributed must be received by the division no  
151 later than 4 p.m. on the second business day following the  
152 receipt of the taxpayer's written request for tax credit.  
153 Requests that fail to comply with this deadline shall be  
154 considered received by the division at the date and time the  
155 written confirmation of such contribution is received.

156        (3) ADMINISTRATION.--

157        (a) The division may adopt rules under ss. 120.536(1) and  
158 120.54, Florida Statutes, to administer this section.

159        (b) The verification of tax credit eligibility by the  
160 division must be in writing and must state the maximum credit  
161 allowable to the business firm. A copy of the verification of

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162 tax credit eligibility must be transmitted to the executive  
 163 director of the Department of Revenue, who shall apply such  
 164 credit to the tax liability of the business firm.

165 (c) The Department of Revenue may adopt rules under ss.  
 166 120.536(1) and 120.54, Florida Statutes, to administer this  
 167 section.

168 Section 3. It is the intent of the Legislature that  
 169 credits against the corporate income tax granted under section 1  
 170 or section 2 be applied subsequent to those enumerated in s.  
 171 220.187, Florida Statutes.

172 Section 4. In computing adjusted federal income under s.  
 173 220.13, Florida Statutes, there shall be added to such taxable  
 174 income the amount taken as a credit for the taxable year under  
 175 sections 1 and 2.

176 Section 5. The total amount of tax credit which may be  
 177 granted for all programs approved under sections 1 and 2 is \$5  
 178 million annually.

179 Section 6. Sections 1-5 expire June 30, 2006.

180 Section 7. This act shall take effect July 1, 2005.