

By Senator Siplin

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1 A bill to be entitled
2 An act relating to corporate income tax credits;
3 creating s. 220.1877, F.S.; providing legislative
4 findings and purposes; providing definitions;
5 establishing the Florida Public School Tax Credit
6 Program; providing for credits against the corporate
7 income tax for contributions to public schools for
8 certain purposes; providing limitations; authorizing
9 public schools to determine how to use undesignated
10 contributions; requiring public schools to report
11 certain information to the Department of Revenue;
12 limiting the total annual amount of credits; requiring
13 the department to apportion a dollar amount of tax
14 credits to each school board receiving eligible
15 contributions; providing a formula for apportioning
16 the dollar amount of tax credits to each school board
17 for allocation by the department to taxpayers applying
18 for corporate income tax credits; providing
19 requirements for taxpayers filing consolidated
20 returns; providing procedures and requirements for
21 rescinding credits; providing for use of rescinded
22 credits by other taxpayers; specifying certain
23 taxpayers as ineligible to receive the corporate tax
24 credit; specifying administrative rules for use and
25 application of the credit; requiring the Department of
26 Revenue and the State Board of Education to adopt
27 rules; providing requirements for deposits of eligible
28 contributions; providing criteria for preservation of
29 tax credits under certain circumstances; providing a

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30 limitation; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Section 220.1877, Florida Statutes, is created
35 to read:

36 220.1877 Credits for contributions to public schools for
37 public school expenses.-

38 (1) FINDINGS AND PURPOSE.-

39 (a) The Legislature finds that:

40 1. It has the inherent power to determine subjects of
41 taxation for general or particular public purposes.

42 2. Expanding educational opportunities and improving the
43 quality of educational services within the state are valid
44 public purposes that the Legislature may promote using its
45 sovereign power to determine subjects of taxation and exemptions
46 from taxation.

47 3. Expanding educational opportunities and the healthy
48 competition they promote are critical to improving the quality
49 of education in the state and to ensuring that all children
50 receive the high-quality education to which they are entitled.

51 (b) The purpose of this section is to:

52 1. Enable taxpayers to make private, voluntary
53 contributions to public schools in order to promote the general
54 welfare.

55 2. Enable children in this state to achieve a greater level
56 of excellence in their education.

57 3. Improve the quality of education in this state, both by
58 expanding educational opportunities for children and by creating

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59 incentives for public schools to achieve excellence.

60 4. Allow corporations to claim education tax credits for
61 direct payments to public schools for educational expenses,
62 special assistance, tutoring, Foundation for Florida's Future,
63 mentoring, extracurricular activities, character education
64 programs, and pay-to-play fees associated with mental and
65 physical student development.

66 (2) DEFINITIONS.—As used in this section, the term:

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

68 (b) "Eligible contribution" means a monetary contribution
69 from a taxpayer, subject to the restrictions provided in this
70 section, to a public school.

71 (c) "Public school" means a school in this state that
72 provides education to students in any grades K-12 in a public
73 school district.

74 (3) PROGRAM.—The Florida Public School Tax Credit Program
75 is established.

76 (4) AUTHORIZATION TO GRANT PUBLIC SCHOOL FUNDING TAX
77 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

78 (a)1. There is allowed a credit of 100 percent of an
79 eligible contribution against any tax due for a taxable year
80 under this chapter. The credit is allowed against the taxes
81 imposed by this chapter for the amount of any fees paid or cash
82 contributions made by a taxpayer during the taxable year to a
83 public school located in this state for the support of
84 educational expenses, special assistance, tutoring, the
85 Foundation for Florida's Future, mentoring, extracurricular
86 activities, character education programs, and pay-to-play fees.
87 The taxpayer may designate the specific use to which the

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88 contribution must be applied. However, such a credit may not
89 exceed 75 percent of the tax due under this chapter for the
90 taxable year, after the application of any other allowable
91 credits by the taxpayer. The credit granted by this section
92 shall be reduced by the difference between the amount of federal
93 corporate income tax taking into account the credit granted by
94 this section and the amount of federal corporate income tax
95 without application of the credit granted by this section.

96 2. Each public school that receives contributions that are
97 not designated for a specific purpose shall determine how the
98 contributions are used. The school advisory council may make
99 recommendations as to how best to apply undesignated
100 contributions.

101 3. A public school that receives fees or a cash
102 contribution shall report to the department, in a form
103 prescribed by the department:

104 a. The total number of fee and cash contribution payments
105 received during the previous calendar year.

106 b. The total dollar amount of fees and contributions
107 received during the previous calendar year.

108 c. The total dollar amount from fees and contributions
109 received that were spent by the public school during the
110 previous calendar year.

111 (b) For each state fiscal year, the total amount of tax
112 credits and carryforward of tax credits which may be granted
113 under this section and s. 624.51055 is \$118 million. The
114 department shall apportion to each district school board the
115 total dollar amount of tax credits available to taxpayers who
116 make eligible contributions to a public school in the school

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117 board's district pursuant to subparagraph (a)1. The dollar
118 amount apportioned to each school board shall be calculated by
119 multiplying each school district's percentage of the previous
120 fiscal year's statewide total number of unweighted full-time
121 equivalent students times \$118 million. The applicable dollar
122 amount resulting from the calculation for each school district
123 shall be apportioned to the school board for allocation by the
124 department to taxpayers in accordance with rules adopted under
125 subsection (5).

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

131 (d) Effective for tax years beginning January 1, 2012, a
132 taxpayer may rescind all or part of its allocated tax credit
133 under this section. The amount rescinded shall become available
134 for purposes of the cap for that state fiscal year under this
135 section to an eligible taxpayer as approved by the department if
136 the taxpayer receives notice from the department that the
137 rescission has been accepted by the department and the taxpayer
138 has not previously rescinded any or all of its tax credit
139 allocation under this section more than once in the previous 3
140 tax years. Any amount rescinded under this paragraph shall
141 become available to an eligible taxpayer on a first-come, first-
142 served basis based on tax credit applications received after the
143 date the rescission is accepted by the department.

144 (e) A taxpayer who is eligible to receive the credit
145 provided for in s. 624.51055 is not eligible to receive the

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146 credit provided by this section.

147 (5) ADMINISTRATION; RULES.—

148 (a) If the credit granted pursuant to this section is not
149 fully used in any one year because of insufficient tax liability
150 on the part of the corporation, the unused amount may be carried
151 forward for a period not to exceed 3 years; however, any
152 taxpayer that seeks to carry forward an unused amount of tax
153 credit must submit an application for allocation of tax credits
154 or carryforward credits as required in paragraph (d) in the year
155 that the taxpayer intends to use the carryforward. This
156 carryforward applies to all approved contributions made after
157 January 1, 2012. A taxpayer may not convey, assign, or transfer
158 the credit authorized by this section to another entity unless
159 all of the assets of the taxpayer are conveyed, assigned, or
160 transferred in the same transaction.

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

164 (c) The department and the Department of Education shall
165 develop a cooperative agreement to assist in the administration
166 of this section.

167 (d) The department shall adopt rules necessary to
168 administer this section, including rules establishing
169 application forms and procedures and governing the allocation of
170 tax credits and carryforward credits under this section on a
171 first-come, first-served basis.

172 (e) The State Board of Education shall adopt rules to
173 administer this section as it relates to the roles of the
174 Department of Education and the Commissioner of Education.

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175 (6) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
176 contributions received by a public school shall be deposited in
177 a manner consistent with s. 17.57(2).

178 (7) PRESERVATION OF CREDIT.—If any provision or portion of
179 subsection (4) or the application thereof to any person or
180 circumstance is held unconstitutional by any court or is
181 otherwise declared invalid, the unconstitutionality or
182 invalidity shall not affect any credit earned under subsection
183 (4) by any taxpayer with respect to any contribution paid to a
184 public school before the date of a determination of
185 unconstitutionality or invalidity. Such credit shall be allowed
186 at such time and in such a manner as if a determination of
187 unconstitutionality or invalidity had not been made, provided
188 that nothing in this subsection by itself or in combination with
189 any other provision of law shall result in the allowance of any
190 credit to any taxpayer in excess of one dollar of credit for
191 each dollar paid to a public school.

192 Section 2. This act shall take effect July 1, 2011.