

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20          providing for use of rescinded credits by other taxpayers;  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

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

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

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

(1) FINDINGS AND PURPOSE.-

(a) The Legislature finds that:

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

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

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

(b) The purpose of this section is to:

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

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

55 3. Improve the quality of education in this state, both by  
 56 expanding educational opportunities for children and by creating  
 57 incentives for public schools to achieve excellence.

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

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

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

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

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

72 (3) PROGRAM.—The Florida Public School Tax Credit Program  
 73 is established.

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

76 (a)1. There is allowed a credit of 100 percent of an  
 77 eligible contribution against any tax due for a taxable year  
 78 under this chapter. The credit is allowed against the taxes  
 79 imposed by this chapter for the amount of any fees paid or cash  
 80 contributions made by a taxpayer during the taxable year to a  
 81 public school located in this state for the support of  
 82 educational expenses, special assistance, tutoring, the

83 Foundation for Florida's Future, mentoring, extracurricular  
84 activities, character education programs, and pay-to-play fees.  
85 The taxpayer may designate the specific use to which the  
86 contribution must be applied. However, such a credit may not  
87 exceed 75 percent of the tax due under this chapter for the  
88 taxable year, after the application of any other allowable  
89 credits by the taxpayer. The credit granted by this section  
90 shall be reduced by the difference between the amount of federal  
91 corporate income tax taking into account the credit granted by  
92 this section and the amount of federal corporate income tax  
93 without application of the credit granted by this section.

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

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

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

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

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

109 (b) For each state fiscal year, the total amount of tax  
110 credits and carryforward of tax credits which may be granted

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111 under this section and s. 624.51055 is \$118 million. The  
112 department shall apportion to each district school board the  
113 total dollar amount of tax credits available to taxpayers who  
114 make eligible contributions to a public school in the school  
115 board's district pursuant to subparagraph (a)1. The dollar  
116 amount apportioned to each school board shall be calculated by  
117 multiplying each school district's percentage of the previous  
118 fiscal year's statewide total number of unweighted full-time  
119 equivalent students times \$118 million. The applicable dollar  
120 amount resulting from the calculation for each school district  
121 shall be apportioned to the school board for allocation by the  
122 department to taxpayers in accordance with rules adopted under  
123 subsection (5).

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

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

139 become available to an eligible taxpayer on a first-come, first-  
 140 served basis based on tax credit applications received after the  
 141 date the rescission is accepted by the department.

142 (e) A taxpayer who is eligible to receive the credit  
 143 provided for in s. 624.51055 is not eligible to receive the  
 144 credit provided by this section.

145 (5) ADMINISTRATION; RULES.-

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

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

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

165 (d) The department shall adopt rules necessary to  
 166 administer this section, including rules establishing

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167 application forms and procedures and governing the allocation of  
168 tax credits and carryforward credits under this section on a  
169 first-come, first-served basis.

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

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

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

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