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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/27/2024	.	
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The Committee on Appropriations (Grall) recommended the following:

1 **Senate Amendment to Amendment (724408) (with title**
2 **amendment)**

3
4 Delete lines 2556 - 2561
5 and insert:

6 Section 56. Section 211.0254, Florida Statutes, is created
7 to read:

8 211.0254 Child care tax credits.—Beginning January 1, 2025,
9 there is allowed a credit pursuant to s. 402.261 against any tax
10 imposed by the state due under s. 211.02 or s. 211.025. However,



11 the combined credit allowed under this section and ss. 211.0251,
12 211.0252, and 211.0253 may not exceed 50 percent of the tax due
13 on the return on which the credit is taken. If the combined
14 credit allowed under the foregoing sections exceeds 50 percent
15 of the tax due on the return, the credit must first be taken
16 under s. 211.0251, then under s. 211.0253, then under s.
17 211.0252. Any remaining liability must be taken under this
18 section but may not exceed 50 percent of the tax due. For
19 purposes of the distributions of tax revenue under s. 211.06,
20 the department shall disregard any tax credits allowed under
21 this section to ensure that any reduction in tax revenue
22 received which is attributable to the tax credits results only
23 in a reduction in distributions to the General Revenue Fund. The
24 provisions of s. 402.261 apply to the credit authorized by this
25 section.

26 Section 57. Section 212.1835, Florida Statutes, is created
27 to read:

28 212.1835 Child care tax credits.—Beginning January 1, 2025,
29 there is allowed a credit pursuant to s. 402.261 against any tax
30 imposed by the state and due under this chapter from a direct
31 pay permitholder as a result of the direct pay permit held
32 pursuant to s. 212.183. For purposes of the dealer's credit
33 granted for keeping prescribed records, filing timely tax
34 returns, and properly accounting and remitting taxes under s.
35 212.12, the amount of tax due used to calculate the credit must
36 include any expenses or payments from a direct pay permitholder
37 which give rise to a credit under s. 402.261. For purposes of
38 the distributions of tax revenue under s. 212.20, the department
39 shall disregard any tax credits allowed under this section to



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40 ensure that any reduction in tax revenue received which is
41 attributable to the tax credits results only in a reduction in
42 distributions to the General Revenue Fund. The provisions of s.
43 402.261 apply to the credit authorized by this section. A dealer
44 who claims a tax credit under this section must file his or her
45 tax returns and pay his or her taxes by electronic means under
46 s. 213.755.

47 Section 58. Section 220.19, Florida Statutes, is amended to
48 read:

49 220.19 Child care tax credits.—

50 (1) For taxable years beginning on or after January 1,
51 2025, there is allowed a credit pursuant to s. 402.261 against
52 any tax due for a taxable year under this chapter after the
53 application of any other allowable credits by the taxpayer. The
54 credit must be earned pursuant to s. 402.261 on or before the
55 date the taxpayer is required to file a return pursuant to s.
56 220.222. ~~If the credit granted under this section is not fully~~
57 ~~used in any one year because of insufficient tax liability on~~
58 ~~the part of the corporation, the unused amount may be carried~~
59 ~~forward for a period not to exceed 5 years. The carryover credit~~
60 ~~may be used in a subsequent year when the tax imposed by this~~
61 ~~chapter for that year exceeds the credit for which the~~
62 ~~corporation is eligible in that year under this section after~~
63 ~~applying the other credits and unused carryovers in the order~~
64 ~~provided by s. 220.02(8).~~

65 (2) A taxpayer that files a consolidated return in this
66 state as a member of an affiliated group under s. 220.131(1) may
67 be allowed the credit on a consolidated return basis; however,
68 the total credit taken by the affiliated group is subject to the



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69 ~~limitation established under s. 402.261(2) (d). If a corporation~~
70 ~~receives a credit for child care facility startup costs, and the~~
71 ~~facility fails to operate for at least 5 years, a pro rata share~~
72 ~~of the credit must be repaid, in accordance with the formula:~~

$$A = C \times (1 - (N/60))$$

74 ~~Where:~~

75 ~~(a) "A" is the amount in dollars of the required repayment.~~

76 ~~(b) "C" is the total credits taken by the corporation for~~
77 ~~child care facility startup costs.~~

78 ~~(c) "N" is the number of months the facility was in~~
79 ~~operation.~~

80
81 ~~This repayment requirement is inapplicable if the corporation~~
82 ~~goes out of business or can demonstrate to the department that~~
83 ~~its employees no longer want to have a child care facility.~~

84 (3) The provisions of s. 402.261 apply to the credit
85 authorized by this section.

86 (4) If a taxpayer applies and is approved for a credit
87 under s. 402.261 after timely requesting an extension to file
88 under s. 220.222(2):

89 (a) The credit does not reduce the amount of tax due for
90 purposes of the department's determination as to whether the
91 taxpayer was in compliance with the requirement to pay tentative
92 taxes under ss. 220.222 and 220.32.

93 (b) The taxpayer's noncompliance with the requirement to
94 pay tentative taxes shall result in the revocation and
95 rescindment of any such credit.

96 (c) The taxpayer shall be assessed for any taxes,
97 penalties, or interest due from the taxpayer's noncompliance



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98 with the requirement to pay tentative taxes.

99 (5) For purposes of calculating the underpayment of
100 estimated corporate income taxes under s. 220.34, the final
101 amount due is the amount after credits earned under this section
102 are deducted. For purposes of determining if a penalty or
103 interest under s. 220.34(2)(d)1. will be imposed for
104 underpayment of estimated corporate income tax, a taxpayer may,
105 after earning a credit under this section, reduce any estimated
106 payment in that taxable year by the amount of the credit.

107 Section 59. Section 402.261, Florida Statutes, is created
108 to read:

109 402.261 Child care tax credits.—

110 (1) For purposes of this section, the term:

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

112 (b) "Division" means the Division of Alcoholic Beverages
113 and Tobacco of the Department of Business and Professional
114 Regulation.

115 (c) "Eligible child" means the child or grandchild of an
116 employee of a taxpayer, if such employee is the child or
117 grandchild's caregiver as defined in s. 39.01.

118 (d) "Eligible child care facility" means a child care
119 facility that:

120 1. Is licensed under s. 402.305; or

121 2. Is exempt from licensure under s. 402.316.

122 (e) "Employee" includes full-time employees and part-time
123 employees who work an average of at least 20 hours per week.

124 (f) "Maximum annual tax credit amount" means, for any state
125 fiscal year, the sum of the amount of tax credits approved under
126 this section, including tax credits to be taken under s.



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127 211.0254, s. 212.1835, s. 220.19, s. 561.1214, or s. 624.5107,
128 which are approved for taxpayers whose taxable years begin on or
129 after January 1 of the calendar year preceding the start of the
130 applicable state fiscal year.

131 (g) "Tax due" means any tax required under chapter 211,
132 chapter 220, chapter 561, or chapter 624, or due under chapter
133 212 from a direct pay permit holder as a result of a direct pay
134 permit held pursuant to s. 212.183.

135 (2) (a) A taxpayer who operates an eligible child care
136 facility for the taxpayer's employees is allowed a credit of 50
137 percent of the startup costs of such facility against any tax
138 due for the taxable year such facility begins operation as an
139 eligible child care facility. The maximum credit amount a
140 taxpayer may be granted in a taxable year under this paragraph
141 is based on the average number of employees employed by the
142 taxpayer during such year. For an employer that employed:

143 1. One to nineteen employees, the maximum credit is \$1
144 million.

145 2. Twenty to two hundred fifty employees, the maximum
146 credit is \$500,000.

147 3. More than 250 employees, the maximum credit is \$250,000.

148 (b) A taxpayer who operates an eligible child care facility
149 for the taxpayer's employees is allowed a credit of \$300 per
150 month for each eligible child enrolled in such facility against
151 any tax due for the taxable year. The maximum credit amount a
152 taxpayer may be granted in a taxable year under this paragraph
153 is based on the average number of employees employed by the
154 taxpayer during such year. For an employer that employed:

155 1. One to nineteen employees, the maximum credit is



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156 \$50,000.

157 2. Twenty to two hundred fifty employees, the maximum
158 credit is \$500,000.

159 3. More than 250 employees, the maximum credit is \$1
160 million.

161 (c) A taxpayer who makes payments to an eligible child care
162 facility in the name and for the benefit of an employee employed
163 by the taxpayer whose eligible child attends such facility is
164 allowed a credit of 100 percent of the amount of such payments
165 against any tax due for the taxable year up to a maximum credit
166 of \$3,600 per child per taxable year. The taxpayer may make
167 payments directly to the eligible child care facility or
168 contract with an early learning coalition to process payments.
169 The maximum credit amount a taxpayer may be granted in a taxable
170 year under this paragraph is based on the average number of
171 employees employed by the taxpayer during such year. For an
172 employer that employed:

173 1. One to nineteen employees, the maximum credit is
174 \$50,000.

175 2. Twenty to two hundred fifty employees, the maximum
176 credit is \$500,000.

177 3. More than 250 employees, the maximum credit is \$1
178 million.

179 (d) A taxpayer may qualify for a tax credit under more than
180 one paragraph of this subsection; however, the total credit
181 taken by such taxpayers in a single taxable year may not exceed
182 the sum total of the maximum credit they are granted under each
183 applicable paragraph.

184 (e) For fiscal year 2024-2025, the maximum annual tax



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185 credit amount is \$5 million.

186 (3) (a) If the credit granted under this section is not
187 fully used within the specified state fiscal year for credits
188 under s. 211.0254, s. 212.1835, or s. 561.1214, or against taxes
189 due for the specified taxable year for credits under s. 220.19
190 or s. 624.5107, because of insufficient tax liability on the
191 part of the taxpayer, the unused amount may be carried forward
192 for a period not to exceed 5 years. For purposes of s. 220.19, a
193 credit carried forward may be used in a subsequent year after
194 applying the other credits and unused carryovers in the order
195 provided by s. 220.02(8).

196 (b)1. If a taxpayer receives a credit for startup costs
197 pursuant to paragraph (2) (a), and the eligible child care
198 facility fails to operate for at least 5 years, a pro rata share
199 of the credit must be repaid, in accordance with the formula:

$$A = C \times (1 - (N/60))$$

200
201 Where:

202 a. "A" is the amount, in dollars, of the required
203 repayment.

204 b. "C" is the total credits taken by the taxpayer for
205 eligible child care facility startup costs against a tax due
206 under this section.

207 c. "N" is the number of months the eligible child care
208 facility was in operation.

209 2. A taxpayer who is required to repay a pro rata share of
210 the credit under this paragraph shall file an amended return
211 with the department, or such other report as the department
212 prescribes by rule, and pay such amount within 60 days after the
213 last day of operation of the eligible child care facility. The



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214 department shall distribute such funds in accordance with the
215 applicable statutory provision for the tax against which such
216 credit was taken by that taxpayer.

217 (4) (a) A taxpayer may claim a credit only for the creation
218 or operation of, or payments to, an eligible child care
219 facility.

220 (b) The services of an eligible child care facility for
221 which a taxpayer claims a credit under paragraph (2) (b) must be
222 available to all employees employed by the taxpayer, or must be
223 allocated on a first-come, first-served basis, and must be used
224 by at least one eligible child.

225 (c) Two or more taxpayers may jointly establish and operate
226 an eligible child care facility according to the provisions of
227 this section. If two or more taxpayers choose to jointly
228 establish and operate an eligible child care facility, or cause
229 a not-for-profit taxpayer to establish and operate an eligible
230 child care facility, the taxpayers must file a joint
231 application, or the not-for-profit taxpayer may file an
232 application, pursuant to subsection (5) setting forth the
233 taxpayers' proposal. The participating taxpayers may proportion
234 the available credits in any manner they choose. In the event
235 the child care facility does not operate for 5 years, the
236 repayment required under paragraph (3) (b) must be allocated
237 among, and apply to, the participating taxpayers in the
238 proportion that such taxpayers received the credit under this
239 section.

240 (d) Child care payments for which a taxpayer claims a
241 credit under paragraph (2) (c) may not exceed the amount charged
242 by the eligible child care facility for other children of like



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243 age and ability of persons not employed by the taxpayer.
244 (5) Beginning October 1, 2024, a taxpayer may submit an
245 application to the department for the purposes of determining
246 qualification for a credit under this section to be applied to a
247 taxable year beginning on or after January 1, 2025. The
248 department must approve the application for the credit before
249 the taxpayer is authorized to claim the credit on a return.
250 (a) The application must include:
251 1.a. For a credit under paragraph (2) (a), a proposal for
252 establishing an eligible child care facility for use by its
253 employees, the number of eligible children expected to be
254 enrolled, and the expected date operations will begin. A credit
255 may not be claimed on a return until operations have begun.
256 b. For a credit under paragraph (2) (b), the total number of
257 eligible children for whom child care will be provided at the
258 eligible child care facility and the total number of months the
259 facility is expected to operate during the taxable year in which
260 the credit will be earned.
261 c. For a credit under paragraph (2) (c), the total number of
262 eligible children for whom child care payments will be paid and
263 the estimated total annual amount of such payments during the
264 taxable year in which the credit will be earned.
265 2. The taxable year in which the credit is expected to be
266 earned. A taxpayer may apply for a credit to be used for a prior
267 taxable year at any time before the date on which the taxpayer
268 is required to file a return for that year pursuant to s.
269 220.222.
270 3. For a credit under paragraph (2) (a) or paragraph (2) (b),
271 a statement signed by a person authorized to sign on behalf of



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272 the taxpayer that the facility meets the definition of eligible
273 child care facility and otherwise qualifies for the credit under
274 this section. Such statement must be attached to the
275 application.

276 (b) The department shall approve tax credits on a first-
277 come, first-served basis, and must obtain the division's
278 approval before approving a tax credit under s. 561.1214. Within
279 10 days after approving or denying an application, the
280 Department of Revenue shall provide a copy of its approval or
281 denial letter to the taxpayer.

282 (6) (a) A taxpayer may not convey, transfer, or assign an
283 approved tax credit or a carryforward tax credit to another
284 entity unless all of the assets of the taxpayer are conveyed,
285 assigned, or transferred in the same transaction. However, a tax
286 credit under s. 211.0254, s. 212.1835, s. 220.19, s. 561.1214,
287 or s. 624.5107 may be conveyed, transferred, or assigned between
288 members of an affiliated group of taxpayers if the type of tax
289 credit under s. 211.0254, s. 212.1835, s. 220.19, s. 561.1214,
290 or s. 624.5107 remains the same. A taxpayer shall notify the
291 department of its intent to convey, transfer, or assign a tax
292 credit to another member within an affiliated group of
293 corporations as defined in s. 220.03(1)(b). The amount conveyed,
294 transferred, or assigned is available to another member of the
295 affiliated group of corporations upon approval by the
296 department. The department shall obtain the division's approval
297 before approving a conveyance, transfer, or assignment of a tax
298 credit under s. 561.1214.

299 (b) Within any state fiscal year, a taxpayer may rescind
300 all or part of a tax credit approved under subsection (5). The



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301 amount rescinded shall become available for that state fiscal
302 year to another taxpayer approved by the department under this
303 section. The department must obtain the division's approval
304 before accepting the rescindment of a tax credit under s.
305 561.1214. Any amount rescinded under this paragraph must become
306 available to a taxpayer on a first-come, first-served basis
307 based on tax credit applications received after the date the
308 rescindment is accepted by the department.

309 (c) Within 10 days after approving or denying the
310 conveyance, transfer, or assignment of a tax credit under
311 paragraph (a), or the rescindment of a tax credit under
312 paragraph (b), the department shall provide a copy of its
313 approval or denial letter to the taxpayer requesting the
314 conveyance, transfer, assignment, or rescindment.

315 (7) (a) The department may adopt rules to administer this
316 section, including rules for the approval or disapproval of
317 proposals submitted by taxpayers and rules to provide for
318 cooperative arrangements between for-profit and not-for-profit
319 taxpayers.

320 (b) The department's decision to approve or disapprove a
321 proposal must be in writing, and, if the proposal is approved,
322 the decision must state the maximum credit authorized for the
323 taxpayer.

324 (c) In addition to its existing audit and investigation
325 authority, the department may perform any additional financial
326 and technical audits and investigations, including examining the
327 accounts, books, or records of the tax credit applicant, which
328 are necessary to verify the costs included in a credit
329 application and to ensure compliance with this section.



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330 (d) It is grounds for forfeiture of previously claimed and
331 received tax credits if the department determines that a
332 taxpayer received tax credits pursuant to this section to which
333 the taxpayer was not entitled.

334 Section 60. Section 561.1214, Florida Statutes, is created
335 to read:

336 561.1214 Child care tax credits.—Beginning January 1, 2025,
337 there is allowed a credit pursuant to s. 402.261 against any tax
338 due under s. 563.05, s. 564.06, or s. 565.12, except excise
339 taxes imposed on wine produced by manufacturers in this state
340 from products grown in this state. However, a credit allowed
341 under this section may not exceed 90 percent of the tax due on
342 the return on which the credit is taken. For purposes of the
343 distributions of tax revenue under ss. 561.121 and 564.06(10),
344 the division shall disregard any tax credits allowed under this
345 section to ensure that any reduction in tax revenue received
346 which is attributable to the tax credits results only in a
347 reduction in distributions to the General Revenue Fund. The
348 provisions of s. 402.261 apply to the credit authorized by this
349 section.

350 Section 61. Subsection (7) of section 624.509, Florida
351 Statutes, is amended to read:

352 624.509 Premium tax; rate and computation.—

353 (7) Credits and deductions against the tax imposed by this
354 section shall be taken in the following order: deductions for
355 assessments made pursuant to s. 440.51; credits for taxes paid
356 under ss. 175.101 and 185.08; credits for income taxes paid
357 under chapter 220 and the credit allowed under subsection (5),
358 as these credits are limited by subsection (6); the credit



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359 allowed under s. 624.51057; the credit allowed under s.
360 624.51058; the credit allowed under s. 624.5107; all other
361 available credits and deductions.

362 Section 62. Section 624.5107, Florida Statutes, is amended
363 to read:

364 624.5107 Child care tax credits.—

365 (1) For taxable years beginning on or after January 1,
366 2025, there is allowed a credit pursuant to s. 402.261 against
367 any tax due for a taxable year under s. 624.509(1) after
368 deducting from such tax deductions for assessments made pursuant
369 to s. 440.51; credits for taxes paid under ss. 175.101 and
370 185.08; credits for income taxes paid under chapter 220; and the
371 credit allowed under s. 624.509(5), as such credit is limited by
372 s. 624.509(6). An insurer claiming a credit against premium tax
373 liability under this section is not required to pay any
374 additional retaliatory tax levied under s. 624.5091 as a result
375 of claiming such credit. Section 624.5091 does not limit such
376 credit in any manner. If the credit granted under this section
377 is not fully used in any one year because of insufficient tax
378 liability on the part of the insurer, the unused amount may be
379 carried forward for a period not to exceed 5 years. The
380 carryover credit may be used in a subsequent year when the tax
381 imposed by s. 624.509 or s. 624.510 for that year exceeds the
382 credit for which the insurer is eligible in that year under this
383 section.

384 (2) For purposes of determining if a penalty under s.
385 624.5092 will be imposed, an insurer, after earning a credit
386 under s. 624.5107 for a taxable year, may reduce any installment
387 payment for such taxable year of 27 percent of the amount of the



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388 ~~net tax due as reported on the return for the preceding year~~
389 ~~under s. 624.5092(2)(b) by the amount of the credit. If an~~
390 ~~insurer receives a credit for child care facility startup costs,~~
391 ~~and the facility fails to operate for at least 5 years, a pro~~
392 ~~rata share of the credit must be repaid, in accordance with the~~
393 ~~formula: $A = C \times (1 - (N/60))$, where:~~

- 394 ~~(a) "A" is the amount in dollars of the required repayment.~~
395 ~~(b) "C" is the total credits taken by the insurer for child~~
396 ~~care facility startup costs.~~
397 ~~(c) "N" is the number of months the facility was in~~
398 ~~operation.~~

399
400 ~~This repayment requirement is inapplicable if the insurer goes~~
401 ~~out of business or can demonstrate to the department that its~~
402 ~~employees no longer want to have a child care facility.~~

403 (3) The provisions of s. 402.261 apply to the credit
404 authorized by this section.

405 Section 63. (1) The Department of Revenue is authorized,
406 and all conditions are deemed met, to adopt emergency rules
407 pursuant to s. 120.54(4), Florida Statutes, to implement the
408 amendments made by this act to ss. 206.9931, 212.05, 212.054,
409 213.21, 213.67, 220.03, 220.19, 220.1915, 624.5107, and 624.509,
410 Florida Statutes, and the creation by this act of ss. 211.0254,
411 212.1835, 220.1992, 402.261, and 561.1214, Florida Statutes.

412
413 ===== T I T L E A M E N D M E N T =====

414 And the title is amended as follows:

415 Delete line 2827

416 and insert:



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417 department to adopt emergency rules; creating s.
418 211.0254, F.S.; authorizing the use of credits against
419 certain taxes beginning on a specified date; providing
420 a limitation on such credits; providing construction;
421 providing applicability; creating s. 212.1835, F.S.;
422 authorizing the use of credits against certain taxes
423 beginning on a specified date; authorizing certain
424 expenses and payments to count toward the tax due;
425 providing construction; providing applicability;
426 requiring electronic filing of returns and payment of
427 taxes; amending s. 220.19, F.S.; authorizing the use
428 of credits against certain taxes beginning on a
429 specified date; revising obsolete provisions;
430 authorizing certain taxpayers to use the credit in a
431 specified manner; providing applicability; creating s.
432 402.261, F.S.; defining terms; authorizing certain
433 taxpayers to receive tax credits for certain actions;
434 providing requirements for such credits; specifying
435 the maximum tax credit that may be granted;
436 authorizing tax credits be carried forward; requiring
437 repayment of tax credits under certain conditions and
438 using a specified formula; requiring certain taxpayers
439 to file specified returns and reports; requiring
440 certain funds be redistributed; requiring taxpayers to
441 submit applications beginning on a specified date to
442 receive tax credits; requiring the application to
443 include certain information; requiring the Department
444 of Revenue to approve tax credits in a specified
445 manner; prohibiting the transfer of a tax credit;



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446 providing an exception; requiring the department to
447 approve certain transfers; requiring a specified
448 approval before the transfer of certain credits;
449 authorizing credits to be rescinded during a specified
450 time period; requiring specified approval before
451 certain credits may be rescinded; requiring rescinded
452 credits to be made available for use in a specified
453 manner; requiring the department to provide specified
454 letters in a certain time period with certain
455 information; authorizing the department to adopt
456 rules; creating s. 561.1214, F.S.; authorizing the use
457 of credits against certain taxes beginning on a
458 specified date; providing a limitation on such
459 credits; providing applicability; providing
460 construction; amending s. 624.509, F.S.; revising the
461 order in which certain credits and deductions may be
462 taken to incorporate changes made by this act;
463 amending s. 624.5107, F.S.; authorizing the use of
464 credits against certain taxes beginning on a specified
465 date; providing a limitation; providing construction;
466 providing applicability; authorizing the