

HB 0383

2004

A bill to be entitled

An act relating to corporate income tax credit for public education partners; creating s. 220.1875, F.S.; providing purpose to encourage contributions by corporations to public schools or public school programs for which tax credit shall be given; providing definitions; providing authorization to grant tax credits and limitations on credits; providing public school requirements for expenditure and accounting of funds; requiring eligible contributions to be supplemental funds; providing for administration and rulemaking; requiring a cooperative agreement; amending ss. 220.02 and 220.13, F.S., to conform; providing an effective date.

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

Section 1. Section 220.1875, Florida Statutes, is created to read:

220.1875 Credits for contributions by public education partners.--

(1) PURPOSE.--The purpose of this section is to:

(a) Encourage private, voluntary contributions to public schools to enhance educational opportunities for students.

(b) Encourage the formation of partnerships between corporations and public schools.

(c) Enable public school students to achieve a greater level of excellence in their education through contributions by public education partners.

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

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

31 (b) "Eligible contribution" means a monetary contribution  
 32 from a taxpayer to a public school, subject to the restrictions  
 33 provided in this section. The taxpayer making the contribution  
 34 may designate a specific public school or a specific program in  
 35 a public school as the beneficiary of the contribution. The  
 36 taxpayer may not contribute more than \$5 million to any single  
 37 public school.

38 (3) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS ON  
 39 INDIVIDUAL AND TOTAL CREDITS.--

40 (a) There is allowed a credit of 100 percent of an  
 41 eligible contribution against any tax due for a taxable year  
 42 under this chapter. However, such a credit may not exceed 75  
 43 percent of the tax due under this chapter for the taxable year,  
 44 after the application of any other allowable credits by the  
 45 taxpayer. The credit granted by this section shall be reduced by  
 46 the difference between the amount of federal corporate income  
 47 tax taking into account the credit granted by this section and  
 48 the amount of federal corporate income tax without application  
 49 of the credit granted by this section.

50 (b) The total amount of tax credits and carryforward of  
 51 tax credits which may be granted each state fiscal year under  
 52 this section is \$88 million. However, at least 5 percent of the  
 53 total statewide amount authorized for the tax credit shall be  
 54 reserved for taxpayers who meet the definition of a small  
 55 business provided in s. 288.703(1) at the time of application.

56 (c) A taxpayer who files a Florida consolidated return as  
 57 a member of an affiliated group pursuant to s. 220.131(1) may be  
 58 allowed the credit on a consolidated return basis; however, the

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59 total credit taken by the affiliated group is subject to the  
 60 limitation established under paragraph (a).

61 (4) REQUIREMENTS.--

62 (a) A public school that receives an eligible contribution  
 63 must spend 100 percent of the eligible contribution for the  
 64 purpose specified by the contributor. All interest accrued from  
 65 an eligible contribution must be used for the purpose specified  
 66 by the contributor.

67 (b) A public school that receives an eligible contribution  
 68 must maintain a separate account for the eligible contribution  
 69 and must annually provide to the district school board and the  
 70 Department of Education a financial accounting of the use of the  
 71 contribution. A public school shall budget wisely and use sound  
 72 financial practices in the use of an eligible contribution.

73 (c) Payment of an eligible contribution shall be made to a  
 74 public school through the district school board.

75 (d) An eligible contribution shall not replace, but shall  
 76 be supplemental to, funds provided by the state to public school  
 77 districts pursuant to chapter 1011.

78 (5) ADMINISTRATION; RULES.--

79 (a) If the credit granted pursuant to this section is not  
 80 fully used in any one year because of insufficient tax liability  
 81 on the part of the corporation, the unused amount may be carried  
 82 forward for a period not to exceed 3 years; however, any  
 83 taxpayer that seeks to carry forward an unused amount of tax  
 84 credit must submit an application for allocation of tax credits  
 85 or carryforward credits as required in paragraph (b) in the year  
 86 that the taxpayer intends to use the carryforward. A taxpayer  
 87 may not convey, assign, or transfer the credit authorized by

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88 this section to another entity unless all of the assets of the  
 89 taxpayer are conveyed, assigned, or transferred in the same  
 90 transaction.

91 (b) The department shall adopt rules pursuant to ss.  
 92 120.536(1) and 120.54 for the administration of this section,  
 93 including rules establishing application forms and procedures  
 94 and rules governing the allocation of tax credits and  
 95 carryforward credits under this section.

96 (c) The State Board of Education shall adopt rules  
 97 pursuant to ss. 120.536(1) and 120.54 for the distribution and  
 98 use of contributions.

99 (d) The department and the Department of Education shall  
 100 develop a cooperative agreement to assist in the administration  
 101 of this section.

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

104 220.02 Legislative intent.--

105 (8) It is the intent of the Legislature that credits  
 106 against either the corporate income tax or the franchise tax be  
 107 applied in the following order: those enumerated in s. 631.828,  
 108 those enumerated in s. 220.191, those enumerated in s. 220.181,  
 109 those enumerated in s. 220.183, those enumerated in s. 220.182,  
 110 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
 111 those enumerated in s. 220.184, those enumerated in s. 220.186,  
 112 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
 113 those enumerated in s. 220.185, ~~and~~ those enumerated in s.  
 114 220.187, and those enumerated in s. 220.1875.

115 Section 3. Paragraph (a) of subsection (1) of section  
 116 220.13, Florida Statutes, is amended to read:

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117 220.13 "Adjusted federal income" defined.--

118 (1) The term "adjusted federal income" means an amount  
 119 equal to the taxpayer's taxable income as defined in subsection  
 120 (2), or such taxable income of more than one taxpayer as  
 121 provided in s. 220.131, for the taxable year, adjusted as  
 122 follows:

123 (a) *Additions*.--There shall be added to such taxable  
 124 income:

125 1. The amount of any tax upon or measured by income,  
 126 excluding taxes based on gross receipts or revenues, paid or  
 127 accrued as a liability to the District of Columbia or any state  
 128 of the United States which is deductible from gross income in  
 129 the computation of taxable income for the taxable year.

130 2. The amount of interest which is excluded from taxable  
 131 income under s. 103(a) of the Internal Revenue Code or any other  
 132 federal law, less the associated expenses disallowed in the  
 133 computation of taxable income under s. 265 of the Internal  
 134 Revenue Code or any other law, excluding 60 percent of any  
 135 amounts included in alternative minimum taxable income, as  
 136 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
 137 taxpayer pays tax under s. 220.11(3).

138 3. In the case of a regulated investment company or real  
 139 estate investment trust, an amount equal to the excess of the  
 140 net long-term capital gain for the taxable year over the amount  
 141 of the capital gain dividends attributable to the taxable year.

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

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146           5. That portion of the ad valorem school taxes paid or  
 147 incurred for the taxable year which is equal to the amount of  
 148 the credit allowable for the taxable year under s. 220.182. The  
 149 provisions of this subparagraph shall expire and be void on June  
 150 30, 2005.

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

155           7. That portion of assessments to fund a guaranty  
 156 association incurred for the taxable year which is equal to the  
 157 amount of the credit allowable for the taxable year.

158           8. In the case of a nonprofit corporation which holds a  
 159 pari-mutuel permit and which is exempt from federal income tax  
 160 as a farmers' cooperative, an amount equal to the excess of the  
 161 gross income attributable to the pari-mutuel operations over the  
 162 attributable expenses for the taxable year.

163           9. The amount taken as a credit for the taxable year under  
 164 s. 220.1895.

165           10. Up to nine percent of the eligible basis of any  
 166 designated project which is equal to the credit allowable for  
 167 the taxable year under s. 220.185.

168           11. The amount taken as a credit for the taxable year  
 169 under s. 220.187.

170           12. The amount taken as a credit for the taxable year  
 171 under s. 220.1875.

172           Section 4. This act shall take effect July 1, 2004.